[AT] BKS Criticises Advertising Logos Shown With Football Scores

IRIS 2014-1:1/9

Peter Matzneller
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a recently published decision of 11 September 2013, the Austrian Bundeskommunikationssenat (Federal Communications Board - BKS) ruled on the distinction between sponsor references and product placement.

In the case at hand, the Austrian public broadcaster Österreichischer Rundfunk (ORF) had displayed the logo of the Austrian daily newspaper “Kurier” to the right of the match clock on several occasions during a football match when the match score had been shown.

The regulator, KommAustria, had considered the appearance of the advertising logo as a sponsor reference prohibited under Article 17(1) of the ORF-Gesetz (ORF Act), which bans the use of sponsor references during programmes. In its appeal, ORF argued that graphics showing match scores and statistics were part of the action and clearly constituted match-related information. Logos had been shown ever since captions had first been displayed on television. There was no difference between a logo shown on an interview wall or clothing and one that was included along with match information in the television picture. ORF therefore contested the classification of the logo as a sponsor reference. It added that, according to BKS case law, a sponsor reference had to take the form “presented by X” or contain some other reference to the programme. In the present case, there was no such connection.

In the appeal proceedings, the BKS upheld KommAustria’s decision. Referring to recital 91 of the EU Audiovisual Media Services Directive (2010/13/EU), which it considered to be applicable to the Austrian provision, the BKS confirmed that the logo constituted a sponsor reference. Recital 91 stated that, in product placement, the reference to a product was built into the action of the programme. Although sponsor references could be shown during a programme, they were not part of the plot.

In the opinion of the BKS, the logos shown by ORF as part of an additional “graphic overlay” above the pictures of the match did not form part of the action that constituted the subject of the programme. It was therefore irrelevant that the logo appeared at the same time as the information relating to the football match (time, score, goalscorers). Although, like the “Kurier” logo, such additional

© European Audiovisual Observatory (Council of Europe) 2026

information was part of the programme, it was not part of the action depicted by the programme.

For these reasons, ORF's appeal against KommAustria's first-instance decision was dismissed.

Entscheidung des BKS vom 11. September 2013 (GZ 611.009/0004-BKS/2013)

http://www.bundeskanzleramt.at/DocView.axd?CobId=52386

BKS decision of 11 September 2013 (GZ 611.009/0004-BKS/2013)

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026