[AT] BKS Bans ORF World Ski Championships App

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Christian Lewke
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 11 November 2013, the Austrian Bundeskommunikationssenat (Federal Communications Board - BKS) decided that an app launched by the Austrian public broadcaster Österreichischer Rundfunk (ORF) dedicated to the Alpine World Ski Championships in Schladming was illegal. The app enabled users to access data about the championships via mobile devices.

In line with the first-instance decision of the Kommunikationsbehörde Austria (Austrian Communications Authority - KommAustria), against which ORF had appealed, the BKS ruled that the app constituted a "service specifically for mobile devices". Under the list of prohibited activities in Article 4f(2)(28) of the ORF-Gesetz (ORF Act - ORF-G), ORF is not allowed to provide such a service.

The BKS also found, contrary to ORF's claim, that the app represented an editorial or journalistic service in the sense of Article 3(5)(2) ORF-G, since the selection of parts of existing ORF services to which it provided access via mobile devices was based on an editorial decision. This was also the case if some of the services were included in their entirety, since this also required editorial staff to make considered decisions as part of a creative process.

The service had been specifically created for mobile devices because users of ORF's regular online service could not access such a compact collection of information on the World Ski Championships. It therefore constituted an additional service. Since it was not merely an existing service that had been adapted for mobile use, the legislator had wanted to prohibit ORF from offering it, in the interests of publishers.

Bescheid des BKS vom 11. November 2013 (GZ 611.812/0001-BKS/2013)

https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Bundesnormen&Dokumentnummer=NOR40154433

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