# [DE] Cologne Appeal Court Dismisses Tagesschau App Complaint

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In a decision of 20 December 2013, the Oberlandesgericht Köln (Cologne Appeal Court - OLG) rejected a complaint from 11 newspaper publishers about the Tagesschau app (case no. 6 U 188/12), which it ruled was an admissible media service. The Landgericht Köln (Cologne District Court - LG Köln) had upheld the complaint in the first instance (ruling of 27 September 2012, case no. 31 O 360/11, see IRIS 2012-10/8).

The LG Köln had decided that the Tagesschau app was different from the "tagesschau.de" website and that it breached Article 11d(2)(3) of the Rundfunkstaatsvertrag (Inter-State Agreement on Broadcasting - RStV) on account of its press-like nature. The 6th civil chamber of the OLG Köln disagreed, ruling that the Tagesschau app was merely a mobile version of the "tagesschau.de" website, the content of which was identical.

Therefore, the Tagesschau app was covered by the three-step test carried out in 2010 and the approval subsequently granted to the website by the Niedersächsische Staatskanzlei (Lower Saxony State Chancellery). The approval process had included an examination of whether the website was "press-like" and it had been concluded, based on the use of content typically used in the media, such as moving images, interactive services, audio content and dynamic updates, that it was not.

The court had to abide by this legal assessment, since a new examination would call into question the results of the three-step test carried out in 2010 and mean that it could no longer have any effect.

In view of the fundamental importance of Articles 11d and 11f RStV regarding competition law, the court ruled that an appeal could be lodged with the Bundesgerichtshof (Federal Supreme Court).

***Urteil des OLG Köln (Az. 6 U 188/12) vom 20. Dezember 2013***

http://www.justiz.nrw.de/nrwe/olgs/koeln/j2013/6_U_188_12_Urteil_20131220.html

*Decision of the Cologne Appeal Court (case no. 6 U 188/12) of 20 December 2013*

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