[DE] Rhineland-Palatinate Administrative Appeal Court complains about SAT.1 inserts

IRIS 2014-7:1/11

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In a ruling of 29 April 2014, the *Oberverwaltungsgericht Rheinland-Pfalz* (Rhineland-Palatinate Administrative Appeal Court - OVG) decided that an insert used to introduce a commercial break infringed rules on the separation of TV programmes and advertisements because it contained a programme announcement.

During a break between two early evening programmes, TV broadcaster SAT.1 had broadcast inserts that included the word “Werbung” (advertising). The inserts also contained programme announcements for a boxing match and the programme “The Voice of Germany”. The *Landeszentrale für Medien und Kommunikation Rheinland-Pfalz* (Rhineland-Palatinate media and communication office - LMK) considered that this breached Article 7(3) of the *Rundfunkstaatsvertrag* (Inter-State Broadcasting Agreement - RStV) and ordered the broadcaster not to use the inserts again.

The OVG has now rejected the broadcaster’s appeal and upheld the ruling of the first-instance administrative court.

The OVG held that, according to the relevant provisions of the RStV, advertisements should be clearly separated from other programme material by optical or acoustic means, depending on the medium. In the case of television advertising, this meant that the start of the advertisement should be indicated by optical means, usually including the word “Werbung”. As a rule, this could not be linked to a programme announcement. According to the OVG, a programme announcement was an editorial item and therefore formed part of the programme, from which advertisements should be separated.

Since they contained programme announcements, the inserts therefore failed to meet the relevant requirements.

On account of the fundamental importance of the case, the OVG allowed an appeal to the *Bundesverwaltungsgericht* (Federal Administrative Court).

Urteil des OVG Rheinland-Pfalz vom 29. April 2014 (Az.: 2 A 10894/13.OVG)

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http://www3.mjv.rlp.de/rechtspr/DisplayUrteil_neu.asp?rowguid={95EFD55A-CF9E-4337-8C7E-42E618749578}

Decision of the Rhineland-Palatinate Administrative Appeal Court of 29 April 2014 (case no. 2 A 10894/13.OVG)

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