

[DE] Federal Administrative Court rules that “Hasseröder Männercamp” did not breach advertising rules

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In a ruling of 23 July 2014 (case no. 6 C 31.13), which has not yet been published, the Bundesverwaltungsgericht (Federal Administrative Court – BVerwG) decided that the depiction of a brand of beer before and after the live broadcast of a football match on the SAT.1 television channel did not constitute unlawful product placement for the purposes of Article 7(7)(3) of the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement – RStV).

During the broadcast of a football match, in which the use of product placement had been mentioned, the TV broadcaster SAT.1 had twice switched to the so-called “Hasseröder Männercamp”. During conversations between the presenter and an expert, “Hasseröder” beer had been repeatedly mentioned. The brewery’s logo had also been visible many times in the studio, on beer bottles and on other objects.

The first-instance Verwaltungsgericht Neustadt (Neustadt Administrative Court) had found the product placement admissible (decision of 31 October 2012, case no. 5 K 1128/11.NW). However, this ruling was overturned by the Oberverwaltungsgericht Rheinland-Pfalz (Rhineland-Palatinate Administrative Court of Appeal – decision of 22 August 2013, case no. 2 A 10002/13.OVG, see IRIS 2013-10/14).

The BVerwG has, however, ruled that the depiction of a product is not excessive just because it serves a discernible advertising purpose. It only becomes excessive if the commercial element of a programme is more prominent than the editorial part.

In the present case, the BVerwG decided, the interviews with the football expert in the “Hasseröder Männercamp” had mainly concerned the football match being broadcast. The brewery’s name had not been artificially depicted in the foreground and had not overshadowed the interviews in any way. The supposed qualities of the depicted product had not been discussed.

The BVerwG also stressed that it should be borne in mind that viewers of football programmes are always faced with a variety of commercially motivated messages, which means that a lower threshold could be applied to football

programmes than for other programme formats.

For these reasons, the live broadcasts from the “Hasseröder Männercamp” were admissible under broadcasting law.

Urteil des BVerwG vom 23. Juli 2014 (Aktenzeichen: 6 C 31.13)

<http://www.bverwg.de/presse/pressemitteilungen/pressemitteilung.php?jahr=2014&nr=49>

