[DE] Federal Administrative Court permits regional advertising by national TV broadcaster

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In a ruling of 17 December 2014 (case no. 6 C 32.13), the Bundeswaltungsgericht (Federal Administrative Court - BVerwG) decided that it was not a breach of broadcasting law for advertising spots to be transmitted on a regional basis on a national television channel.

The decision followed an announcement by the provider of the "ProSieben" television channel that it intended to offer regional advertising spots to advertising customers for whom national TV advertising was unattractive. The lower-instance Verwaltungsgericht Berlin (Berlin Administrative Court - VG Berlin), in a decision of 26 September 2013 (case no. 27 K 231.12), ruled that it was not entitled to do so. It considered advertising to be part of the programme, which meant that the holder of a licence to broadcast a national programme was only allowed to transmit advertising on a country-wide basis.

The BVerwG upheld the leapfrog appeal lodged againt this decision by the broadcaster. It found that only editorial content was covered by the broadcasting licence, not advertising. As such,the broadcaster was free to decide whether and how to broadcast advertising, as long as it adhered to advertising regulations. In this regard, the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement - RStV) does not contain any provisions limiting the transmission area of advertising spots.

The BVerwG also examined the objectives of the RStV and noted that the suggestion that such provisions could be a sensible way of protecting the financial future of local or regional media did not appear in the RStV.

Urteil des Bundeswaltungsgerichts (6 C 32.13), 17. Dezember 2014

http://www.bverwg.de/entscheidungen/entscheidung.php?ent=171214U6C32.13.0

Ruling of the Federal Administrative Court of 17 December 2014 (case no. 6 C 32.13)

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