[DE] Federal Administrative Court declares commercial bumper broadcast by Sat.1 unlawful

IRIS 2016-1:1/6

Peter Matzneller
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a judgment of 14 October 2015 (Case no. 6 C 17.14), the Bundesverwaltungsgericht (Federal Administrative Court - BVerwG) decided that a bumper introducing a block of commercials and linked to a programme announcement was in breach of the rules on separating TV programmes from advertising.

During a break between two early evening programmes, the television broadcaster Sat.1 had broadcast commercial bumpers that included the word “Werbung” (advertisement). The bumpers also contained announcements for the programmes to follow. The *Landeszentrale für Medien und Kommunikation Rheinland-Pfalz* (Rhineland-Palatinate Media and Communication Authority - LMK) considered that this was in breach of Article 7(3) of the *Rundfunkstaatsvertrag* (Inter-State Broadcasting Agreement - RStV) and ordered the broadcaster not to use the bumpers again. The Administrative Court of First Instance dismissed the action brought by the broadcaster and its ruling was later confirmed by the Oberverwaltungsgericht Rheinland-Pfalz (Rhineland-Palatinate Administrative Court of Appeal - OVG).

The BVerwG has now dismissed the appeal lodged on points of law and confirmed the breach of the requirement to separate TV programmes from advertising. In the Court’s opinion, advertising must, according to the relevant provision of the Inter-State Broadcasting Agreement, be kept separate by visual or acoustic means appropriate to the broadcast medium or be clearly separate in terms of space from other parts of the programme. “Other parts of the programme” within the meaning of this provision included announcements concerning the broadcaster’s own programmes to be shown later.

In the Court’s opinion, although the Inter-State Broadcasting Agreement did not call for the visual means separating the programme from advertising (in this case, the display of the word WERBUNG) to be inserted after the last frame of the programme and before the first frame of the advertisement, the design of the word displayed chosen in this case was insufficient to distinguish the advertising clearly from the programme announcement. In view of the visual dominance of that announcement, which was still on screen, the very short display was not sufficient to make it clear enough to the reasonably attentive viewer that advertisements would begin to be shown immediately afterwards.

© European Audiovisual Observatory (Council of Europe) 2026

Urteil vom BVerwG vom 14. Oktober 2015 (Az. 6 C 17.14)

http://www.bverwg.de/entscheidungen/entscheidung.php?ent=141015U6C17.14.0

Judgment of the Federal Administrative Courtof 14 October 2015 (Case no. 6 C 17.14)

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026