[DE] ZAK reaches decision on breaches of advertising rules

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At its meeting in Halle on 26 April 2016, the Kommission für Zulassung und Aufsicht (Commission on Licensing and Supervision - ZAK) of the Landesmedienanstalten (Regional Media Authorities) reached a decision on breaches of advertising rules. It criticised three cases of unlawful product placement and two involving the inadequate separation of advertising and programming content.

The three cases of unlawful product placement it criticised were in the TV show “Germany’s Next Topmodel” on the ProSieben channel operated by ProSiebenSat.1 TV Deutschland GmbH. In the media watchdogs’ opinion, the focus in the scenes criticised was not on the action in the programme but on a detailed product presentation.

In two cases, the ZAK criticised the inadequate separation of advertising from other content, which, in its view, must be separated by an unambiguous transition element. This opinion, expressed in decisions of the media authorities, was confirmed by the Bundesverwaltungsgericht (Federal Administrative Court - BVerwG) in a judgment on the separation of advertising of 14 October 2015 (Case 6 C 17.14), according to which the separation is obvious when the average viewer who is not concentrating particularly hard must gain the impression from the design of the element used as a transition and from other circumstances that the following item is advertising.

The ZAK regarded the broadcasting of the “Newtopia” commercial bumper in the programme operated by Sat.1 SatellitenFernsehen GmbH as a breach of the rules, stating that the bumper did not meet the requirements that advertising be easily recognisable as such and clearly distinguishable from editorial content. By mentioning the item title “Newtopia”, showing and mentioning the name of a protagonist and displaying a relatively small and inconspicuous word “Werbung” (Advertising) on the edge of the screen, the connection between the bumper and editorial content was so strong that there was insufficient separation of advertising and programming.

Finally, the Commission also ruled that the broadcasting of the bumper “Von A bis Z” on the sixx channel operated by ProSiebenSat.1 TV Deutschland GmbH was a breach of the requirement to separate advertising and programming. It criticised

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the fact that the overall impression made by the design of the bumper - relevant for determining that the separation was clear and unequivocal - was that the focus of the content was obviously on the sixx programme schedule and not on informing the viewer that advertising was about to follow.

ZAK-Pressemitteilung 04/2016, 27. April 2016

http://www.die-medienanstalten.de/presse/pressemitteilungen/kommission-fuer-zulassung-und-aufsicht/detailansicht/article/zak-pressemitteilung-042016-zak-entscheidet-ueber-werbeverstoesse-bverwg-hat-spruchpraxis-zur.html

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