[AT] KommAustria establishes breach of ORF Act

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Gianna Iacino
Legal expert

On 17 August 2016 the media regulator KommAustria established that the online offering of the public service broadcaster ORF contained elements that could not be regarded as content accompanying a programme, and accordingly breach the ORF Act.

The live-sport portal Laola 1 Multimedia GmbH filed a complaint against the ORF service sport.ORF.at, including its Sports App, and against the online partial service sport.ORF.at/fussball, including its Football App, claiming that both the online reporting and the apps breached the ORF Act.

KommAustria partially upheld the complaint, ruling that several ORF items did not accompany a programme and thus broke the law. The in-depth reporting on European championship matches in the form of a live news ticker, the provision of statistics, the sections “Best of Social” and “Fanfacts” and the TV guide, which also contained information on other broadcasters’ programmes, could neither be categorised as accompanying a broadcast nor as reporting on current affairs, and therefore breached sections 4a(1),(2) and (3) and 5a(4) of the ORF Act. KommAustria also found fault with the marketing of the video included in the ORF online service, pointing out that the frequency of so-called instream video advertisements run as part of the video was higher than that of advertisements shown in connection with the online service Tvthek.ORF.at, so that the limits to ORF’s service plan were exceeded. Apart from assessing the complaint filed, KommAustria established of its own motion that the ORF online service also broke the law outside the period mentioned in the complaint.

ORF was ordered to publicise the decision in the form of an announcement inserted for a period of one week into the homepage of its online services sport.ORF.at and sport.ORF.at/fussball, including the Sports App and Football App, and to do so within six weeks of the date on which the decision becomes legally final. The decision is not yet final, and ORF has announced its intention to appeal against the partially upheld parts of the complaint.

Entscheidung der KommAustria vom 17. August 2016 (Gz. KOA 11.260/16-019)

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