[DE] Newspaper publishers bring class action against Rundfunk Berlin Brandenburg online service

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A number of newspaper publishers from Berlin and eastern Germany have brought a class action before the LG Potsdam (Potsdam District Court), claiming that the Internet service of Rundfunk Berlin Brandenburg (Berlin and Brandenburg public service broadcaster) is press-like and, in its current format, infringes the case law of the Bundesgerichtshof (Federal Supreme Court) and the provisions of the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement - RStV).

The second section of the RStV regulates public service broadcasting. Article 11d(1) RStV allows public service broadcasters to offer telemedia that are journalistic and editorial in nature. According to Article 11d(2)(3) RStV, this includes telemedia that are not related to a specific programme, provided they undergo the procedure described in Article 11f RStV. However, the same article prohibits press-like services that are not related to a specific programme.

In its 2015 ruling on the admissibility of the Tagesschau app (judgment of 30 April 2015 - I ZR 13/14 - Tagesschau-App; see IRIS article at http://merlin.obs.coe.int./iris/2015/7/article6.en.html), the Bundesgerichtshof explained that online services should be considered press-like if, when viewed as a whole, they provided press-like services not related to a specific programme. This would be the case if the service mainly comprised written text, for example, but not if only individual pieces of content were considered press-like.

The publishers' latest action against Rundfunk Berlin Brandenburg appears to have been triggered by the broadcaster's refusal to give a cease-and-desist declaration after it had been issued with a written warning. Only after receiving the warning did it begin to establish a link between its online service and its programmes.

Pressemitteilung zu dem Thema

http://www.urheberrecht.org/news/5850/

Press release on this subject

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