[AT] Online ads exempt from advertising tax

IRIS 2018-1:1/12

Bianca Borzucki
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a decision of 12 October 2017, the Austrian Verfassungsgerichtshof (Constitutional Court) ruled that the legislator was entitled to exempt Internet advertisers from paying the advertising tax levied on print media and radio ads (case no. E 2025/2016-16).

The decision was taken in response to a total of 23 complaints from newspaper and magazine publishers and radio stations, who had claimed that the advertising tax was discriminatory and that the 2000 Advertising Tax Act was unconstitutional. According to Article 1(1) and (2) of the Act, the advertising tax applies to advertising services provided in Austria in return for payment; radio and television advertising services targeted at an Austrian audience but distributed from abroad are treated as being provided in Austria. Advertising services include the distribution of advertisements in printed works as defined in the Media Act, as well as on radio and television, and the use of surfaces and spaces for the distribution of commercial messages. In the complainants' opinion, the fact that the tax did not apply to Internet advertising was unconstitutional.

However, the Constitutional Court decided that the legislator was entitled to apply an exemption in the case of online advertising, much of which was provided by advertisers abroad. In view of the taxable events covered by the Advertising Act, it was therefore acting within its legislatory remit.

Beschluss des Verfassungsgerichtshofes vom 12. Oktober 2017, Az. E 2025/2016/16

https://www.vfgh.gv.at/downloads/VfGH_E_2025-2016_Entscheidung_Werbeabgabe_anonym.pdf

Decision of the Constitutional Court of 12 October 2017, case no. E 2025/2016/16

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026