[DE] RTL Judgment Upheld

IRIS 1997-7:1/17

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In the appeal proceedings brought by the television channel RTL against the judgment given by the Hannover District Court (Amtsgericht Hannover) on 22 August 1996 (see IRIS 1996-10: 11), the Court of Appeal in Celle upheld the lower court's judgment on 16 June.

This judgment is now final, which means that RTL will be ordered to pay a fine of close on 20 million DM, representing its earnings from the - in the court's view - unlawful broadcasting of advertising. In the dispute as to whether the programmes broadcast by RTL constituted a "series" within the meaning of the relevant broadcasting laws, and could thus be interrupted more often than cinema or television films, the Court of Appeal agreed with the District Court that the programmes were unconnected in terms of content or plot. On the contrary, RTL had merely chosen a "sufficiently comprehensive" general title for the purpose of linking the individual films. The Court of Appeal saw this as an attempt to evade the regulations designed to protect film culture on television against the commercial interests of broadcasters.

In spite of RTL's claims to the contrary, it was irrelevant that the total length of the commercial breaks had not exceeded the permitted maximum of 12 minutes per hour. RTL had used this argument to show that, even if it were found to have exceeded the permitted number of breaks, it had not, as the court stated, derived additional income from doing so. The Court of Appeal had put its earnings from the illegally shown commercials at some DEM 20 million; as the proceeds of an action punishable by fine, this sum can now be impounded under the law on non-criminal offences.

Oberlandsgericht Celle. Beschluß vom 16. Juni 1997, Az Ss (OWi) 358/96

Court of Appeal of Celle - judgement of 16 June 1997 - File No 2 Ss (OWi) 358/96

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