ZAK finds Channel21 guilty of infringing advertising and programming guidelines and Medicinal Product Advertising Act

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At its meeting on 19 November 2019, the Kommission für Zulassung und Aufsicht (Commission on Licensing and Supervision – ZAK), the central organ of the German media authorities with responsibility for monitoring advertising on national television channels, decided that Sport1's teleshopping window, Channel21, had infringed current advertising laws enshrined in Article 7(1)(3) and (4) of the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement – RStV) and Article 41(1)(4) in conjunction with Article 3 of the Heilmittelwerbegesetz (Medicinal Product Advertising Act – HWG).

The case concerned advertising for a so-called 'pain relief pen' known as 'Paingone' in a programme on 11 December 2018. According to the manufacturer, this product, which resembles a pen, offers an alternative to traditional pain relief and has no side effects at all. When applied to the skin, it is said to deliver electronic frequency through the skin into the nervous system in order to relieve pain. The product was advertised as such on the teleshopping window Channel21, with the claim that it had multiple uses, including the relief of muscle pain and headaches, period pain and even rheumatic pain. The pen was also described as a good alternative to traditional pain relief tablets that often had dangerous side effects.

In the ZAK's opinion, channel21 had crossed the boundary of lawful advertising. The claims made in the teleshopping programme about the product's health benefits had created the impression that it could replace the medicinal treatment of painful conditions and, in some cases, was more effective. It had been suggested that the product could relieve headaches and even remove the need for an operation – without medication and its side effects.

Since even the manufacturer itself significantly played down the effectiveness of its product on its website ("For temporary relief of pain as part of current pain medication Paingone will not totally eliminate pain"), the ZAK thought the claims made in the advertisement were misleading and harmful to consumers. Misleading consumers was prohibited under the relevant provisions of both the RStV and the HWG, especially if it promoted behaviour that significantly endangered their health or safety.

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The organiser of the teleshopping programme issued a statement rejecting the allegation, but confirmed that it would no longer advertise the product in the future. Nevertheless, 'Paingone' continues to be offered for sale on channel21's website.

Pressemitteilung der ZAK vom 20.11.2019

https://www.die-medienanstalten.de/service/pressemitteilungen/meldung/news/auf-klick-schmerzfrei-no-pains-gone-mit-paingone/

ZAK press release of 20 November 2019

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