[DE] Advertising breaches by national broadcasters

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Mirjam Kaiser
Institute of European Media Law

In a press release issued on 21 January 2021, the *Direktorenkonferenz der Medienanstalten* (Conference of Regional Media Authority Directors – DLM) announced that, in 2020, the Kommission für Zulassung und Aufsicht (Commission on Licensing and Supervision – ZAK) had investigated a total of 22 infringements of the programming rules contained in the *Rundfunkstaatsvertrag* (State Broadcasting Treaty – RStV), which has now been replaced by the *Medienstaatsvertrag* (State Media Treaty – MStV), by various national television channels.

The ZAK is responsible for supervising national commercial broadcasters insofar as the Kommission zur Ermittlung der Konzentration im Medienbereich (KEK) is not competent (see Article 36(2)(7) RStV, now Article 105(1)(1)(1) MStV).

The individual infringements involved, firstly, breaches of the journalistic principles enshrined in Article 10(1) RStV (now Article 6(1) MStV). In two cases, for example, the ZAK found that national TV programmes had reported on criminal cases in such a way that the victims and perpetrators could be identified. In one of these cases, the rule requiring restraint to be exercised when investigating children as vulnerable persons had also been breached. Furthermore, as part of its analysis of key advertising provisions and programme monitoring activities, the ZAK identified 16 violations of the advertising rules enshrined in Articles 7 *et seq.* RStV (now Articles 8 *et seq*. MStV). As well as the inadequate separation of advertising and programme content, the ZAK found breaches relating to the labelling of so-called split-screen advertising, infomercials and surreptitious advertising. It also criticised excessive product placement. Most of the advertising violations were committed in the run-up to Christmas 2019. The channels concerned were RTL, Sat.1, RTL 2, kabel eins, Tele 5, DMAX, n-tv, Channel21 and 1-2-3 TV.

Under the new MStV, which entered into force on 7 November 2020, the ZAK is now also responsible for telemedia supervision. Article 105(1)(1)(1) MStV requires it to monitor advertising in national telemedia services. The MStV also contains new provisions on the permitted duration of advertising (see Article 39 MStV). The regional media authorities have drawn up a new set of advertising regulations in order to clarify the advertising requirements of the MStV. These are likely to come into force on 15 April 2021 once they have been approved by the boards of the 14 regional media authorities.

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Pressemitteilung der DLM

https://www.die-medienanstalten.de/service/pressemitteilungen/meldung/aufsicht-2020-werbeverstoesse-im-bundesweiten-rundfunk

DLM press release

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