[CH] Animal Welfare Advertising - Not a Right

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In January 1994, the Association against Animal Factories (Verein gegen Tierfabriken - VgT) asked The Television Advertising Co. (AG für das Werbefernsehen - AGW), a subsidiary of the Swiss Radio and Television Corporation (SRG) to show a television spot highlighting the cruel conditions in which working animals were kept and urging viewers to eat less meat. But the AGW refused, because of the spot's "political content", and also because the association was not prepared to rework it to bring it into line with the requirements of the Radio and Television Act (Radio- und Fernsehgesetz - RTVG). The association brought an unsuccessful action in the Federal Court (Bundesgericht), protesting at the AGW's refusal to show the spot.

The acquisition of advertising material by the SRG in connection with the programme activities entrusted to it is governed not by public, but essentially by private law. To this extent, there is no "right to air-time" under the RTVG. In the Federal Court's opinion, neither the refusal to broadcast the spot nor the general prohibition on political advertising in Section 18 (5) of the RTVG violates Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. It is true that advertising is generally covered by freedom of opinion, but Article 10 of the Convention does not guarantee the right to use a specific broadcasting station, and the prohibition serves the process of democratic opinion-forming, since it helps, among other things, to forestall undesirable concentrations in the printed media sector by protecting its advertising market. According to press reports, the association means to contest the Federal Court's decision before the European Court of Human Rights.

Bundesgerichtsentscheid vom 20. August 1997; 2A.330/1996

Federal Court Judgment of 20 August 1997; 2A.330/1996

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