[DE] Merger of Super RTL and Nickelodeon aborted due to impact on children's advertising market

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On 17 September 2024, the notification of the planned merger between children's TV channels Super RTL and Nickelodeon was withdrawn. The *Bundeskartellamt* (Federal Cartels Office – BKartA), the competition authority responsible for mergers, had expressed concerns over negative effects on the children's advertising market and was planning to block the merger. The German state media authorities, represented by the *Kommission zur Ermittlung der Konzentration im Medienbereich* (Commission on Concentration in the Media – KEK), were consulted by the Federal Cartels Office for the first time in relation to this case, but had no major concerns about the merger's impact from a diversity perspective.

The proceedings concerned the planned acquisition of the programme rights and satellite broadcasting slot of the Nickelodeon (Paramount) children's channel by Super RTL Fernsehen GmbH, which belongs to the RTL Group. The merger control review focused mainly on the merger's effects on the advertising market. The BKartA's investigations found that there was a special demand from advertisers for video advertising slots in which children aged 3 to 13 could be reached in a targeted and safe manner. Super RTL was by far the leading provider, followed by Disney, which in turn was well ahead of Nickelodeon. The public children's channel (KiKA) did not show any advertising, while streaming services such as Netflix and Amazon were not currently involved in the children's advertising market. The same applied to social media services such as TikTok or Snapchat, which were already very different in terms of their structure and design; they were not aimed at children due to their age limits and therefore did not offer advertising specifically targeting children. Even if the Internet-based YouTube Kids was included in the analysis due to changing viewing habits, Super RTL remained the clearly dominant provider, and would gain significantly by acquiring Nickelodeon. The BKartA therefore planned to prohibit the merger. However, it did not issue a final decision because RTL withdrew the application and abandoned its plans.

According to Article 40(4) sentence 3 of the *Gesetz gegen Wettbewerbsbeschränkungen* (Act against Restraints of Competition – GWB), consultation with the KEK must be established before a ban is imposed in proceedings relating to the nationwide broadcasting of television programmes by private broadcasters. The KEK's opinion had therefore been requested. Although

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the Federal Cartels Office must give particular consideration to the KEK's views regarding diversity of opinion, it remains independent in its decision as to whether to approve or prohibit a merger. The KEK, which mainly looks at the audience share from a diversity perspective, also expressed reservations about the proposed merger. It thought it would further strengthen the RTL Group's position both in the children's and family programmes sector and in terms of linear television usage by children aged 3 to 13. However, since this strengthening would not lead to a significant reduction in diversity, the KEK's concerns were not considered serious. In the linear television sector, there were still several independent providers and a relatively wide range of programmes. In addition, the main content and characters that were very popular with the target group of children were already broadcast on the channels of the acquiring broadcaster. It should also be taken into account that the younger age groups used significantly less linear services, preferring online video offerings. The media repertoire of children in the "video" sector could be seen as broad and diverse. The wide range of providers and offerings in all areas assessed meant that no concerns needed to be raised from a diversity perspective.

Pressemitteilung des BKartA

https://www.bundeskartellamt.de/SharedDocs/Meldung/DE/Pressemitteilungen/2024/17_09_2024_superRTL_Nickelodeon.html

Federal Cartels Office press release

Pressemitteilung der KEK

https://www.kek-online.de/presse/pressemitteilungen/aktuelle-entscheidungen-der-kek-19/

Commission on Concentration in the Media press release

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