[DE] Frankfurt Regional Court on Centralised Marketing of Motor Sport Events

IRIS 1998-4:1/9

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In a judgment on 18 March 1998 the Regional Court (Landgericht) in Frankfurt-am-Main set aside a default judgment against the Fédération Internationale de l'Automobile (FIA) and dismissed the claim of a television production and marketing company. The case concerned the FIA's decisions on 20 October 1995 and 11 June 1997 amending the provisions of Article 26 of its "General Prescriptions" to the effect that from 01 January 1997 all broadcasting rights in respect of all motor sport series taking place in more than one country lay with the FIA.

The FIA had entrusted the exclusive marketing of these broadcasting rights to International Sportsworld Communicators Ltd (ISC).

One of the complaints of the plaintiff company concerned the infringement of Articles 85 and 86 of the EC Treaty and of the provision contained in Section 1 of the Act against Restrictions on Competition (Gesetzes gegen Wettbewerbsbeschränkungen - GWB).

The Court held that as joint organiser the FIA was joint original proprietor of broadcasting rights, and that the complainant could not claim that Article 85 or 86 of the Treaty or Section 26, para.3 of the GWB were being infringed on the grounds of insufficient local involvement in economic and decision-making terms on the part of the organiser, as the disputed provisions were not directed against the protection afforded to the complainant, which was only indirectly affected. There were however grounds for a claim based on Section 823, para.2 of the Civil Code (Bürgerliches Gesetzbuch - BGB) or Section 35, para.1 of the GWB.

The Court ignored the question of whether a local organiser who was affected could successfully take action against central marketing. With a decision on 11 December 1997 the Federal High Court (Bundesgerichtshof - BGH) had confirmed a decision of the Federal Cartel Office (Bundeskartellamt) prohibiting the central marketing of football broadcasting rights, on the grounds that central marketing constituted a restriction of competition within the meaning of Section 1, para.1, sentence 1 of the GWB (see IRIS 1998-1: 7). Meanwhile, with the Commission investigating its television practices, the FIA has released 32 out of 36 race series for marketing by their organisers. The financially lucrative Formula 1 and World Championship Rally, however, are not among them.

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Urteil des LG Farnkfurt am Main vom 18. März 1998, Az. 2/6 O 134/97

Decision of the Regional Court in Frankfurt-am-Main on 18 March 1998, ref. No 2/6 O 134/97

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