[DE] Federal Administrative Court Gives a Decision in the Legal Dispute between Broadcasters and RegTP

IRIS 2002-10:1/33

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On 10 October 2002, in the legal dispute setting broadcasting corporations against the *Regulierungsbehörde für Post und Telekommunikation* (Regulatory Authority for Telecommunications and Post - RegTP), the *Bundesverfassungsgericht* (Federal Administrative Court - BVerwG) dismissed a points-of-law appeal from the broadcasters against a decision given by the court of first instance.

The subject of the original dispute had been an objection raised by the Regulatory Authority against Deutsche Telekom AG (DTAG) on account of the charging of different fees for the feeding-in into cable networks of signals of locally-receivable terrestrial channels, on the one hand, and channels that can be received throughout the country, on the other hand. However, the objection raised by the Regulatory Authority was not directed against the amount of the fees charged for the satellite channels. The broadcasters organisations filed an action against this by administrative legal process, but it was rejected as inadmissible on the ground that the criteria to be considered when setting the fees only served the interests of the general public and DTAG's competitors, and not those of the broadcasters.

The Federal Administrative Court, too, denied a subjective right of action on the part of the broadcasters. According to the court no standard conferring third-party protection, on which the claimants could rely, came into play. In particular, they said, such a right cannot be derived from § 24 (2) no. 1 of the Telecommunications Act (TKG), according to which charges for telecommunications services provided by a market-leader cannot include any supplements. In the view of the court, even this regulation only affords the user protection that is in the public interest. According to the Federal Administrative Court, there is not enough evidence that § 24 (2) no. 1 TKG, grants users their own right to challenge supplements.

Press release from the Federal Administrative Court dated 10 October 2002

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