European Commission: Proceedings Instigated Against Germany for Support of DVB-T in Berlin-Brandenburg

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In July 2004 the European Commission initiated state aid proceedings against the Federal Republic of Germany in accordance with Article 88 (2) of the EC Treaty with respect to the examination of the financing of DVB-T in Berlin-Brandenburg (see IRIS 2004-6: 5) .

The complaint concerns the subsidies (the so-called Ausgleichsgebühr), paid to broadcasters by the Medienanstalt Berlin-Brandenburg (Berlin-Brandenburg media authority - mabb). These subsidies represent 30% of the transmission fee that private broadcasters have to pay to the operator of the DVB-T network (T-Systems). As part of a frequency allocation process, T-Systems, a subsidiary of Deutsche Telekom, was granted a DVB-T licence on condition that it expand the DVB-T network.

In the Commission's opinion, this arrangement has the potential to distort competition because of the direct advantages it gives to private broadcasters and its indirect support for T-Systems. The subsidies paid to private broadcasters mean that T-Systems is able to finance the DVB-T infrastructure from the transmission fee alone. In contrast to digital cable TV, for example, viewers are not required to pay for the service. According to the Commission, without the subsidies it would have been more difficult for T-Systems to set up its service; T-Systems had charged broadcasters a lower fee as an incentive to switch to DVB-T and should have funded the shortfall itself or by charging a subscription fee. The current financing arrangement meant that DVB-T was preferred to digital cable (DVB-C) and digital satellite (DVB-S) television because the latter had not received the corresponding subsidies. Since there was a degree of substitutability between DVB-T, DVB-C and DVB-S in both the upstream and downstream markets, they were competing with one another. There could also therefore be a distortion of competition at infrastructure level.

In the Commission's view, the switch from analogue to digital broadcasting must not involve any discriminatory measures by the Member States and must be completed in a technology-neutral way so that investment in other technological networks is not jeopardised.

Letter from the Commission to the Federal Republic of Germany

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