[DE] Cable Allocation System Legal

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Max Schönthal
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a ruling of 17 November 2005, the Verwaltungsgericht Berlin (Berlin Administrative Court) decided that the Media Council of the Medienanstalt Berlin-Brandenburg (Berlin and Brandenburg Regional Media Authority - mabb) may continue to decide which TV channels are transmitted via the Berlin cable network that has not yet been converted into a broadband network. It ruled that this procedure was in conformity with the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement) and European law.

The legal dispute was triggered by a complaint lodged by a local cable network operator. The operator wished to force the mabb to allow it to select the channels itself in accordance with the relevant legislative provisions, as it was entitled to do under the terms of the Inter-State Agreement on co-operation between Berlin and Brandenburg in the broadcasting field. Previously, the mabb had only exercised this right in relation to the broadband cable TV service, which can carry 55 channels. It had selected the channels itself for the other part of the network, which has the capacity to carry only 34 channels.

The plaintiff had argued that this situation was in breach of Article 31 of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive). The Court disagreed.

Verwaltungsgericht Berlin, Urteil vom 17. November 2005 (AZ VG 27 A 166.04)

Berlin Administrative Court, ruling of 17 November 2005 (AZ VG 27 A 166.04)

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