[DE] OLG Düsseldorf Rules on Cartel Procedure against SES Astra

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Satellite operator Eutelsat lodged a complaint with the *Oberlandesgericht Düsseldorf* (Düsseldorf Court of Appeal - OLG) concerning a decision of the *Bundeskartellamt* (Federal Cartels Office) at the end of 2004. According to the decision, the acquisition of the company Digital Playout Center (DPC), owned by pay-TV provider Premiere, by satellite operator SES Astra (see IRIS 2005-2: 8), had been authorised. Now, in an interim decision of 22 February 2006, the *1. Kartellsenat* (1st Cartels Court) of the OLG has invited the *Bundeskartellamt* to obtain from market participants additional information that could be used as a basis for its final decision.

DPC, which now trades under the name of Astra Playout Services (APS), provides TV broadcasters and programme providers with technical services linked to broadcasting and digital services. In its decision, the *Kartellamt* had pointed out that the merger would seriously restrict competition in the satellite TV broadcasting market. However, it had based its decision to allow the takeover on the weighing up clause of Art. 36 GWB, because it thought the takeover would stimulate competition in the pay-TV sector. Eutelsat believes that this has not happened and fears restrictions of competition that have resulted from the takeover. It claims that the APS service is very closely linked to the Nagra Aladin encryption system used by Premiere and that the DPC takeover has created an anti-competitive technical access monopoly in the digital pay-TV market. Premiere and SES Astra countered with the argument that APS was an open platform which was also accessible to other providers. A firm date for the court's final decision has yet to be fixed.

Zwischenentscheidung des Oberlandesgerichts Düsseldorf (1. Kartellsenat) vom 22. Februar 2006

Interim decision of the 1st Cartels Court of the Düsseldorf Court of Appeal of 22 February 2006

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