

[DE] Satellite Encryption Agreement

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Satellite operator SES-ASTRA, the RTL broadcasting group and MTV-Networks reached an agreement on 2 August 2006 under which the satellite transmission of the participating broadcasters' programmes will be encrypted and users will be charged a monthly fee of EUR 3.50, officially for the use of a "digital infrastructure". Originally, these measures were due to take effect from the first half of 2007. However, it was recently announced that SES-ASTRA has postponed the launch of encryption until the period between the third quarter of 2007 and the second quarter of 2008 because the co-operation between SES subsidiary SES Digital Distribution Services and programme providers has yet to be approved by the Bundeskartellamt (Federal Cartels Office - BKartA). The competition authority has been investigating for some time whether the RTL group made an arrangement with the ProSiebenSat.1 group to introduce digital encryption of their programmes at the same time. The admissibility of a satellite subscription fee as such is not being investigated. Rather, the authority wishes to discover whether the electronic programme encryption system on which the charge is based has been developed in accordance with the rules of fair competition.

SES-ASTRA is reluctant to abandon its plan to charge its viewers. At present, the digital ASTRA satellite system reaches 16.4 million households in Germany. The encrypted service, which users will only be able to receive if they buy a new set-top box and smart-card, includes the 400 or so TV and radio channels transmitted by SES-ASTRA. It will also be equipped with new services, such as an electronic programme guide (EPG) and personal video recorder. It has not been officially disclosed how SES-ASTRA will divide the money it receives for the encryption service with the participating broadcasters.

The *Direktorenkonferenz der Landesmedienanstalten* (Conference of Directors of Land Media Authorities - DLM) issued a measured response to the plan. Although the digitisation of transmission networks offered new opportunities to increase programme diversity or introduce new funding models - appropriate given the exhaustion of the advertising market and digital storage techniques - there were also regulatory questions surrounding the technical accessibility of the SES-ASTRA platform and its availability to different providers. An open standard for reception devices should be provided, while the monitoring of the platform and the distribution of income from access fees should be disclosed. The acting DLM President has called for the introduction of a "must-free-offer regulation" for certain channels that reach a wide audience. Otherwise, he thinks the EU would

be more likely to hold a frequency auction, since the priority given to broadcasters in the allocation of frequencies would no longer be justified.

