[DE] Takeover of Orion Cable Networks by Kabel Deutschland Approved

IRIS 2008-6:1/32

Nicole Spoerhase-Eisel
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 3 April 2008, the *Bundeskartellamt* (Federal Cartel Office - BKartA) gave the green light for the takeover of seven subsidiary companies owned by cable network operator *Orion Cable* by competitor Kabel Deutschland (KDG).

The companies acquired mainly operate broadband cable networks in the *Bundesländer* of Schleswig-Holstein, Mecklenburg-Vorpommern, Lower Saxony, Rhineland-Palatinate, Saarland and Bavaria and in the city-states of Hamburg and Bremen. They mainly provide level 4 network coverage, i.e. linking the level 3 distribution network to household connection points.

Thanks to this decision, KDG can now access around 1.2 million German homes and thus increase its direct business with end customers.

The Cartel Office explained that, although the takeover would lead to competition distortions in the signal delivery and feed-in markets, it thought the merger would have advantages in the broadband Internet connection markets as well as for narrowband connections. Therefore, in accordance with the so-called "weighing-up clause" of Art. 36.1.2 of the *Gesetz gegen Wettbewerbsbeschränkungen* (Competition Restrictions Act - GWB), it was necessary to approve the takeover. The clause stipulates that a merger, which is likely to create or strengthen a dominant market position should, in principle, be prohibited by the BKartA, unless the companies involved can prove that the merger will also improve competition conditions and that these improvements outweigh the disadvantages created by the dominant position. The BKartA considered it to be a significant advantage in the sense of this provision that KDG would now, for the first time, be able to supply around 800,000 households with Internet and telephone services via the broadband cable.

In parallel to the approval of the takeover, however, KDG became the subject of a BKartA investigation. According to a charge brought by competitor *Wilhelm.Tel* , the operator of a pay-TV platform, *KDG* is alleged to have included exclusivity clauses in contracts with pay-TV providers, obliging broadcasters to broadcast via the Kabel Digital Home pay-TV service to the exclusion of competing platform operators. The result of the investigation remains to be seen.

© European Audiovisual Observatory (Council of Europe) 2026

Genehmigungsentscheidung des Bundeskartellamts, 7. Beschlussabteilung (Az. B7 – 200/07) vom 3. April 2008

http://www.bundeskartellamt.de/wDeutsch/download/pdf/Fusion/Fusion08/B7-200-07.pdf

Approval decision of the Federal Cartel Office, 7th decision department (case no. B7 – 200/07), 3 April 2008

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026