[DE] No duty under cartel legislation on the part of operators of community aerial equipment to distribute pay-TV channels free of charge

IRIS 1996-5:1/10

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The German Federal Court (BGH) considers that under cartel legislation there is no duty on the part of operators of community antenna installations to distribute pay-TV channels free of charge. This judgment reverses the decision of a lower court. A duty to distribute free of charge is not deemed to arise merely because operators already receive a fee from those households which are connected to the antenna installation.

Nor does the fact that programmes of other television broadcasters are distributed free of charge justify any other decision. The prohibition of different treatment under cartel law does not come into play where this is either arbitrary or based on purely non-economic considerations.

The BGH has referred the matter back to the lower court, which must now determine whether there is a duty to distribute free of charge from the point of view of media law.

Beschluß des BGH vom 19. März 1996 Az.: KZR 1/95.

Decision of the BGH on 19 March 1996, KZR 1/95.

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