[DE] Federal Cartel Office Decides that Marketing Model Infringes Cartel Law

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On 23 July 2008, the Bundeskartellamt (Federal Cartel Office - BKartA) informed the DFL Deutsche Fußball Liga GmbH (German Football League - DFL) that the central marketing model it had proposed for the Bundesliga broadcasting rights covering the period from 2009 to 2015 infringed cartel law because of a lack of appropriate consumer involvement and that, if it were implemented, it could therefore not be approved.

The body responsible for protecting competition recommended that a summary of the matches should be broadcast on a free-to-air TV channel accessible to a large proportion of the viewing public before 8 pm on Saturdays.

In autumn 2007, the DFL had entrusted an agency with the task of selling the rights via a tendering procedure. The agency had guaranteed the DFL total revenue of EUR 3 billion for the period of the deal, a sum which the DFL believes can only be achieved if the rights are sold to a pay-TV channel on an exclusive basis. The DFL therefore fears that the marketing model proposed by the BKartA would result in considerable financial losses.

The DFL is frustrated by the fact that no legal steps can currently be taken against the BKartA in this matter because it has only issued a "recommendation". In order to give the clubs a maximum level of legal certainty vis-à-vis their income, alternative models are therefore being drawn up, meeting as many of the BKartA's demands as possible. A compromise proposal submitted by the DFL to the Cartel Office in mid-July, under which a Sunday match would be broadcast live every other matchday, the Sunday highlights programme covering the top two divisions would be brought forward and prompt highlights of the Friday match would be shown on free-to-air TV, was described in the BKartA's aforementioned decision as insufficient to "limit the scope of pay-TV to increase prices".

The Cartel Office is confident that the DFL will submit a new central marketing model, explaining that the DFL is professional enough to incorporate the requirements it has laid down.

In contrast, media reports suggest that the BKartA has no objections to the central marketing of the DFB Cup, since prompt comprehensive highlights will be broadcast on free-to-air TV. This season, all DFB Cup matches will be shown by

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pay-TV broadcaster Premiere for the first time; in addition, individual matches will be broadcast live in each round and comprehensive coverage of all matches will be shown on free-to-air TV.

Pressemitteilung des BKartA vom 24. Juli 2008 zum Vermarktungsmodell der deutschen Fußballbundesliga

http://www.bundeskartellamt.de/wDeutsch/aktuelles/presse/2008_07_24.php

BKartA press release of 24 July 2008 on the marketing model of the German football league

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