[DE] Cable Network Operators Must Pay Licence Fees to VG Media

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Sebastian Schweda
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a legal dispute between a cable network operator and the *Verwertungsgesellschaft Media* (Media collecting society - VG), the *Kammergericht* (Supreme Court - KG) in Berlin decided on 25 January 2010 that cable network operators are obliged to pay a copyright fee to broadcasters for retransmitting their programmes. It thus upheld the lower instance ruling.

The *Landgericht Berlin* (Berlin District Court - LG) had decided in 2008 that copyright fees were due to VG Media. In its appeal, the cable network operator had argued that the court had not interpreted the concept of cable retransmission in Art. 20, 20b(1) and 87(5) of the *Urheberrechtsgesetz* (Copyright Act - UrhG) in accordance with the Constitution. It claimed that its retransmission activity was merely a reception and forwarding mechanism and was therefore not covered by the definition.

However, the KG dismissed this argument. It held that the legislature had adopted a purely technical definition of broadcasting and clearly classified cable retransmission as a form of exploitation governed by copyright law, to the extent that no other interpretation was possible. Cable network operators were not performing a service for broadcasters by retransmitting their programmes and making them easier to receive; on the contrary, the broadcasters were making their content available to the cable companies for communication to the public.

According to this ruling, cable network operators must conclude a contract with VG Media for the granting of exploitation rights before they are allowed to transmit via their network any radio or television stations operated by broadcasters affiliated to the collecting society. VG Media looks after the copyright-related rights of most private broadcasters in Germany.

The RTL Deutschland broadcasting group announced on 11 March 2010 that the private TV channels it owns will, in future, look after the copyright and related rights for the retransmission of their programmes in Germany and abroad themselves and no longer ask VG Media to protect and exploit those rights. By taking this step, the company said it wanted to take into account "the growing importance [of its] copyright and related rights for the increasingly diverse digital programme distribution platforms".

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Urteil des Kammergerichts Berlin vom 25. Januar 2010, Az. 24 U 16/09

Ruling of the Berlin Supreme Court of 25 January 2010, case no. 24 U 16/09

Pressemitteilung von RTL Deutschland vom 11. März 2010

http://kommunikation.rtl.de/de/pub/aktuell/i14223_1.cfm

RTL Deutschland press release of 11 March 2010

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