[DE] Sky Youth Protection Adequate?

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In early July, the LandgerichtDuisburg (Duisburg district court - LG) reinstated a temporary injunction, under which the erotic broadcaster Beate-Uhse.tv was provisionally prohibited from transmitting its programmes via the pay-TV broadcaster Sky before 11 p.m. According to media reports, however, the OberlandesgerichtDüsseldorf (Düsseldorf court of appeal - OLG) lifted this injunction on 21 July 2010. The programmes may now again be shown from 8 p.m. onwards.

The case follows a complaint from a company that itself operates an encrypted online pornography service and believed that the Sky service, whose encryption it considered to be insecure, infringed its rights under competition law.

Before the temporary injunction was granted, the channel was broadcast from 8 p.m. and viewers had to enter a special code ("youth protection code"). For some decoders, this code can be calculated from the decoder's serial number by following instructions available on the Internet. The plaintiff therefore thought that, in contrast to its own service, the youth protection measures associated with the Sky service were not secure or adequate. Sky, however, argued that, since it explicitly instructed its client to change the code regularly, the youth protection measures were sufficient.

The OLG Düsseldorf agreed. Sky's appeal would, in all probability, be successful because the broadcaster's interest in the temporary injunction being lifted outweighed that of the plaintiff to have it maintained.

The plaintiff has announced that, despite the OLG's decision, it will continue to take action against the youth protection mechanism used by Sky.

Beschluss des LG Duisburg vom 4. Mai 2010 (Az.: 21 O 51/10)

http://www.press1.de/wrapper.cgi/www.press1.de/files/press1_erodata_1273429398.pdf

Decision of the Duisburg district court, 4 May 2010 (case no. 21 O 51/10)

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