[DE] Anti-Competitive Agreement between Private Broadcasters

IRIS 2013-2:1/16

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On 28 December 2012, the Bundeskartellamt (Federal Cartels Office - BKartA) fined Germany's two biggest private broadcasters, the RTL Group and ProSiebenSat.1 Media AG, for entering into anti-competitive agreements under which both companies' digital channels were to be broadcast in encrypted form. Even the main channels of both broadcasting groups would only be available for a monthly subscription fee. The companies were fined a total of around EUR 55 million. As well as the companies themselves, fines were imposed on two of their employees, who were held to be responsible for the agreement.

The BKartA found that in 2005 and 2006 both companies had agreed to encrypt their standard definition (SD) digital free-to-air TV channels, after which these channels would only be available in return for a monthly fee. They had also planned to use so-called signal protection restrictions, i.e., technical measures such as anti-ad blockers and copy protection functions. The BKartA considered this an unlawful restriction of viewers' options for the use of the programme signals. The agreements, which covered the cable, satellite and IPTV transmission paths, therefore violated the ban on anti-competitive agreements and the abuse of a dominant market position under Articles 1 and 19(1) of the Gesetz gegen Wettbewerbsbeschränkungen (Act against restrictions of competition - GWB). The companies had been actively implementing the unlawful agreements at least until the BKartA investigated them in May 2011.

Meanwhile, both companies have promised the BKartA that they will stop the basic encryption of their SD channels until at least 2023. They will therefore not be able to charge subscription fees or use signal protection restrictions (see IRIS 2007-1/14). The BKartA president said that the unencrypted transmission of digital free-to-air TV was therefore guaranteed for the next ten years.

Pressemitteilung des Bundeskartellamts vom 28. Dezember 2012

http://www.bundeskartellamt.de/wDeutsch/download/pdf/Presse/2012/2012-12-28_PM_Grundverschl__sselung.pdf

Federal Cartels Office press release of 28 December 2012

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