[DE] Federal Cartel Office Expresses Concern over ARD and ZDF Video-on-Demand Platform

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On 11 March 2013, the Bundeskartellamt (Federal Cartel Office) announced that it harboured concerns about the compatibility with competition law of the video-on-demand platform operated by the two public service television broadcasters ARD and ZDF. The broadcasters, together with other production and distribution rights companies, had founded an online platform called “Germany’s Gold” in April 2012.

After an initial examination, the Bundeskartellamt had approved the merger on which the plan was based, on the grounds that it would not create or strengthen a dominant market position.

However, the Bundeskartellamt thought that the joint marketing of pay-per-view videos on the Internet by commercial subsidiaries of ARD and ZDF would lead to coordination of the prices and availability of the videos. It also feared that other platforms would have no, or only restricted, access to the videos.

According to the Bundeskartellamt, the companies have already indicated that they would be prepared to give certain undertakings. In this respect, the Bundeskartellamt hinted at the kind of undertakings that should be given. The broadcasters concerned could allay all competition-related concerns by, for example, abandoning the business model based on joint marketing and limiting the plans to the operation of a purely technical platform.

The Bundeskartellamt had raised similar concerns in 2011 regarding an online platform being planned by ProSiebenSat.1 and RTL (see IRIS 2011-5/15). However, an appeal lodged by the two broadcasters with the Oberlandesgericht Düsseldorf (Düsseldorf Appeal Court) against the decision of the Bundeskartellamt was rejected (see IRIS 2012-8/16).

Pressemitteilung des Bundeskartellamts vom 11. März 2013

http://www.bundeskartellamt.de/wDeutsch/aktuelles/presse/2013_03_11.php

Press release of the Federal Cartel Office of 11 March 2013

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