[DE] Distribution System via Press Wholesalers Established in Competition Law

IRIS 2013-9:1/13

Martin Rupp
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 7 June 2013, the Bundesrat (upper house of parliament) adopted the Achtes Gesetz zur Änderung des Gesetzes gegen Wettbewerbsbeschränkungen (Eighth Act Amending the Restraints on Competition Act - 8. GWB-ÄndG) (see IRIS 2012-4/100), which entered into force on 30 June 2013.

Under the new version of the GWB, the ban on anti-competitive agreements does not apply to industry agreements between press publishing houses and press wholesalers. However, a condition of this exemption is that, under the agreements, press wholesalers distribute newspapers and magazines to retailers in a comprehensive, non-discriminatory manner.

In addition, the 8. GWB-ÄndG is supposed to broaden merger opportunities for small and medium-sized press companies through its merger control provisions. To this end, the legal turnover threshold for press merger controls is increased under Article 38(3) GWB. The multiplication factor for the turnover threshold is reduced from 20 to 8. According to the explanatory memorandum, these changes are designed to help press companies to safeguard their economic bases and remain competitive, especially vis-à-vis other media genres. The legislator believes that the relaxing of merger controls will particularly benefit small and medium-sized newspaper publishers.

In future, merger controls by the Bundeskartellamt (Federal Cartel Office) will only apply if the two companies' combined worldwide turnover exceeds EUR 62.5 million, rather than the previous threshold of EUR 25 million. As far as domestic turnover is concerned, thresholds of EUR 3.125 million for one company and EUR 625,000 for the other are applicable.

Achte Gesetz zur Änderung des Gesetzes gegen Wettbewerbsbeschränkungen vom 26. Juni 2013

http://www.bgbl.de/Xaver/start.xav?startbk=Bundesanzeiger_BGBl&jumpTo=bgbl113s1738.pdf#__Bundesanzeiger_BGBl__%2F%2F*[%40attr_id%3D%27bgbl113s1738.pdf%27]__1377074888278

Eighth Act Amending the Restraints on Competition Act of 26 June 2013

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