[DE] Hamburg Administrative Court refuses claim to free distribution of “must-carry” programmes

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According to media reports, the Verwaltungsgericht Hamburg (Hamburg Administrative Court - VG Hamburg) decided on 29 April 2015, in case no. 17 K 1672/13, that the “must-carry” obligation of cable network operators under Articles 50 et seq. of the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement) does not mean that programmes must be carried free of charge. It therefore granted an auxiliary request brought by the cable network operators.

The dispute concerns the cost of carrying public service channels via the cable networks. Under the so-called “must-carry” rules laid down by the relevant Land media authorities, the network operators are obliged to distribute channels financed through the licence fee and so-called “third channels”. The public service broadcasters cancelled their agreements with the cable network operators in 2012, arguing that, since they concerned “must-carry” programmes that the network operators were obliged to distribute, the programmes should be carried free of charge.

The cable network operators believe that the legal obligation to distribute “must-carry” programmes does not mean that they should be carried free of charge. In their main claim, which was rejected by the court, they argued that the broadcasters should be obliged to sign a distribution agreement. In an auxiliary request, they claimed that the broadcasters should, in any case, be required to pay to have their programmes distributed.

In the case at hand, the VG Hamburg considered that the broadcasters were obliged to pay cable network operators for distributing their programmes, even though a distribution agreement was unnecessary.

An appeal may be lodged with the administrative court of appeal.

Urteil des VG Hamburg vom 29. April 2015 - Az.: 17 K 1672/13

http://justiz.hamburg.de/contentblob/4505570/data/17-k-1672-13-urteil-vom-29-04-15.pdf

Judgment of the VG Hamburg of 29 April 2015 - case no.: 17 K 1672/13

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