[AT] KommAustria approves ORF's purchase of Champions League rights

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In a decision of 24 June 2015 (KOA 10.300/15-028), the Austrian broadcasting regulator, KommAustria, ruled that the public service broadcaster Österreichische Rundfunk (ORF) did not pay an inflated price for the rights to broadcast the UEFA Champions League for the next three seasons.

The case followed a complaint lodged by Austrian private broadcaster Puls 4, which had accused ORF of breaching Article 31c(1) of the ORF-Gesetz (ORF Act). Under this provision, the public service broadcaster is forbidden from using licence fee income to purchase broadcast rights at excessive prices that cannot be justified by commercial principles and in a manner that distorts competition. According to the broadcasting regulator, the case essentially revolved around determining what should be considered a reasonable price for the Champions League rights, taking legal provisions into account. It was therefore necessary to find out whether ORF would have been able to afford the rights without using licence fee revenue.

In a confidential investigation, KommAustria examined not only the bids made for the UEFA rights in the Austrian market but also the price for which ORF won the contract. On the basis of these figures, in a report for KommAustria, RTR GmbH demonstrated that ORF's bid for the UEFA rights had not distorted competition. In an economic simulation, RTR GmbH treated ORF as a private broadcaster with no licence fee income and, on this basis, calculated the advertising revenue that it could realistically expect to generate from its Champions League coverage, as well as the value of strategic effects such as viewer retention and image enhancement.

Based on this report, KommAustria decided that, even ignoring its licence fee revenue, ORF had paid an affordable price for the UEFA Champions League rights, so the purchase was commercially justified. The ORF-Gesetz had therefore not been breached.

KommAustria's decision is not yet legally binding.

Bescheid der KommAustria vom 24. Juni 2015

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KommAustria decision of 24 June 2015

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