[DE] Hamburg Court of Appeal Delivers Judgment in Case of Premiere v. DF 1

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According to a judgment delivered by the Hamburg Court of Appeal (Oberlandesgericht - OLG) on 15 May 1997, the pay-TV broadcaster DF 1 is to be allowed to conclude subscription contracts throughout the Federal Republic of Germany.

The Court's judgment sets aside the original judgment by the Regional Court in Hamburg in favour of the company Premiere on appeal; it is enforceable immediately.

The pay-TV firm Premiere had brought a complaint against the nation-wide broadcasting of DF 1 programmes by satellite. The judgment of the Hamburg regional court in favour of Premiere in January this year was based on the fact that the company DF 1 only held a licence from the Bavarian Regional media office (Bayerische Landesanstalt für neue Medien - BLM), which only covered contracts for subscription in Bavaria. Concluding subscription contracts in other parts of the country was held to contravene competition law (Section 1 of the Unfair Competition Act (Gesetz gegen unlauteren Wettbewerb) - UWG).

The Court of Appeal held that, on the basis of the authorisation granted by the BLM, DF 1 was entitled to broadcast programmes nation-wide. The Court did not examine the question of the actual legality of the BLM authorisation. No contravention of competition law was found. The Court of Appeal therefore set aside the judgment in the original court proceedings; DF 1 may now conclude subscriptions nation-wide for direct reception by satellite.

Urteil des OLG Hamburg Az.: 3U 33/97, 406 O 222/96 vom 15. Mai 1997

Judgment of the Hamburg Court of Appeal Case 3 U 33/97, 406 O 222/96 of 15 May 1997

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