[DE] Sky complaint over live Bundesliga rights heard by OLG Düsseldorf

IRIS 2017-7:1/14

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A complaint by pay-TV provider Sky concerning an order issued by the Bundeskartellamt (Federal Cartels Office) in relation to the auctioning of live Bundesliga rights has been rejected by the OLG Düsseldorf (Düsseldorf Regional Court of Appeal). In order to create legal certainty for the future, Sky had disputed the instructions laid down by the Federal Cartels Office for the German Football League tender procedure in 2016.

The Federal Cartels Office issued a “no single buyer” rule, which means that, from next season, Bundesliga matches will be broadcast live not only by Sky, but also by Eurosport (Discovery), which has acquired a number of rights packages to show live matches.

By lodging its complaint, Sky would not have been able to change the outcome of the auction, but the broadcaster stated that it wanted legal certainty for the future. Sky argued that the market distinction between free and pay-TV was wrong and that the importance of the ARD-Sportschau had been misjudged.

However, the presiding judge of the first cartel division disagreed, suggesting in the oral proceedings that the purpose of Sky’s complaint was, with the help of cartel law, to restrict competition. He also made clear that Sky’s action had no prospect of succeeding and told the Federal Cartels Office to open competition even further for the next auction of Bundesliga media rights. The complaint was dismissed as inadmissible.

What will happen next remains unclear. According to a Sky spokesperson, the company has not yet decided whether to appeal. Talks are still ongoing between Sky and Eurosport. Eurosport has secured the live broadcast rights for the Friday matches, the new Monday matches and some Sunday matches next season. The broadcasters are negotiating a sub-licensing agreement.

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