[DE] Centralised Marketing of Football Broadcasting Rights Prohibited

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In a judgment given at last instance on 11 December 1997 - KVR 7/96 - the Monopolies Division of the Federal Court (Kartellsenat des Bundesgerichtshofs - BGH) upheld the Federal Cartel Office's (Bundeskartellamt) decision forbidding the German Football Association (Deutscher Fußball Bund - DFB) to centralise the marketing of television rights to the home matches of German teams competing for the European Cup and the European Cup-Winners' Cup. The association's application for permission to establish a cartel for rationalisation purposes, in accordance with Section 5, para. 2 and 3, in conjunction with Section 11, para. 1 of the Act against Restrictions on Competition (Gesetz gegen Wettbewerbbeschränkungen - GWB) was also finally rejected. The Federal Court ruled that the Federal Cartel Office's prohibition was legal, since centralised marketing, in accordance with Article 3 (2) and (6) of the Professional Players' Statute adopted by the DFB's Advisory Council, tended to restrict competition, within the meaning of Section 1, para. 1, sentence 1 of the GWB. Although the aim of centralised marketing was to help maintain the athletic and economic viability of teams, these sports policy objectives did not warrant exemption from the ban on cartels. After this judgment, the DFB is also unable to claim a right to centralised marketing under Article 14 (1) of the UEFA Statutes, since this provision does not regulate the ownership of marketing rights to individual matches. Permission to establish a cartel for rationalisation purposes was refused on the ground that centralised marketing does not improve the cost-benefit ratio, but simply serves to boost revenue from TV transmission.

Beschluß des BGH vom 11. Dezember 1997 -- KVR 7/96

Federal Court judgment of 11 December 1997 - KVR 7/96

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