[DE] Bavarian cable - ORF Wants Out

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Alexander Scheuer
Institute of European Media Law (EMR), Saarbrücken/Brussels

The Austrian Broadcasting Corporation (Österreichischer Rundfunk - ORF) has stepped up its efforts to put an end to the relaying of its first programme, ORF1, on Deutsche Telekom AG's cable networks in Bavaria. So far, ORF's programme has been fed onto the Bavarian networks under a "general cable agreement", concluded in 1991 between Deutsche Telekom, on the one hand, and ORF, Swiss television and other foreign broadcasters on the other. This gives Deutsche Telekom the right to relay foreign programmes on cable in areas where antenna reception is also possible.

ORF's action is motivated by the fact that it found itself competing with German private channels, since it, like them, was showing mass-audience material - successful Hollywood productions, for example. Viewers tended to prefer the Austrian programme, which was not interrupted by commercials. While ORF was obliged to accept this situation on its home television market as the natural outcome of competition, the private channels concerned claimed that it broke the law on the German market. They argued that the licensing agreements gave ORF the right to broadcast in Austria only, even though land-based transmission made some degree of transfrontier overspill inevitable. The rights acquired did not, however, cover transmission on German cable networks.

Because of the dispute, ORF set out in December to revoke Deutsche Telekom's relay rights, either by terminating the above agreement (the legality of which was contested, however, by Deutsche Telekom) or by negotiation.

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