

[DE] Debate on Ensuring Centralised Marketing of Football Broadcasting Rights through the German Football Federation

IRIS 1998-2:1/24

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By a judgment delivered on 11 December 1997 the Federal Supreme Court (Bundesgerichtshof - BGH) prohibited the centralised marketing of football transmission rights by the German Football Federation (DFB) (see IRIS 1998-1: 7). In a speech on 19 December 1997 presenting the sixth version of the Act against Restrictions on Competition (Gesetz gegen Wettbewerbsbeschränkungen - GWB) to the Federal Council (Bundesrat), the German Minister for the Economy expressed doubts about making sport a special case in competition law by amending the GWB. The Minister believed this would lead to a sectorialisation of competition law and thereby a step away from Europe. As possible solutions for ensuring the financing of even the smaller clubs which do not take part in European competitions he referred to measures within the sport in compliance with cartel law. The Federal Cartel Office (Bundeskartellamt - BKartA) is also of the opinion that there is no need to make sport a special case in cartel legislation. The BGH decision would not stand in the way of reasonable equalisation (e.g., by means of a fund) among professional clubs to ensure a balance between economics and sport. A redistribution of earnings among professional league clubs or payments from these sport concerns to amateurs and young people would also be possible without infringing the cartel prohibition, according to the BKartA. Since the Bundesrat now nevertheless favours a change in competition law in such a way as to make sport a special case, the Minister no longer excludes a solution under competition law. After looking into all the possible forms this could take - including under competition law - the Minister for the Economy said that the Federal Government would submit a proposal aimed at placing solidarity in sport and the duties of the sports clubs on a firmer legal foundation.

