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More Competition Through Deregulation: The German TV Market

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Ulrich Koch

Abstract

This article introduces the market structure of German television (“TV”). The approach two-fold. First, this article discusses who Bertelsmann is, how we are engaged in the TV business, and how we consider ourselves. Second, this article shows how Bertelsmann is engaged in the TV business throughout Europe. Last afterwards, this article presents some statements with respect to the market structure in the German TV market, which is a strange market from the competition point of view.

2. TV

MORE COMPETITION THROUGH DEREGULATION: THE GERMAN TV MARKET

*Dr. Ulrich Koch**

INTRODUCTION

I have the pleasure of introducing the market structure of German television ("TV") to you. I would like to make the approach two-fold. First, I would like to start showing you who Bertelsmann is, how we are engaged in the TV business, and how we consider ourselves. I will show you how Bertelsmann is engaged in the TV business throughout Europe. And afterwards, I will present some statements with respect to the market structure in the German TV market, which is a strange market from the competition point of view.

I. *BERTELSMANN*

Bertelsmann is the third largest media group in the world, and is divided into six business sections: the book division, the printing division, the magazines and the newspapers publishing house, the music business, CLT-UFA, the TV business, and finally multimedia. CLT-UFA is the one we are going to speak about today. The joint venture CLT-UFA is a Luxembourg based company. Bertelsmann controls fifty percent, and the sales of CLT-UFA are approximately DM5.5 billion a year. CLT-UFA is a company that is engaged in the TV business throughout Europe. It was formed as it appears today in January 1997 and consists of two parts—two former parts—the former Luxembourg CLT company and the UFA group where the activities of Bertelsmann were concentrated in at that time. This merger of the two parts, CLT and UFA, was not purely coincidental. In 1995 and 1996 we undertook a hostile takeover of the RTL television company in Cologne, and after having launched that, it was not very difficult to convince our Belgian partners to merge

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the company and the activities to form this joint venture. CLT-UFA, as it stands today, is a fifty-fifty joint venture and the stake of Bertelsmann is fifty percent.

CLT-UFA is controlled by the CLT-UFA Holding, which is a fifty-fifty joint venture, where fifty percent of the shares are controlled by Bertelsmann. The other fifty percent stake is controlled by ELECTRAFINA, which is also a Luxembourg based company, and a German holding company, which is controlled by Belgian shareholders. The business of CLT-UFA is Europe wide. CLT-UFA has been engaged in twenty-two TV channels throughout Europe and twenty-two radio stations, although we have since divested one so there are only twenty-one today. CLT-UFA considers itself to be a key player in rights acquisition and in producing feature films, in particular, made-for-TV movies.

With respect to the European countries, CLT-UFA is engaged in Germany, France, and the United Kingdom, in the Benelux States, in Sweden and to some extent in the East European countries. With respect to sales and turnover, CLT-UFA considers itself to be the largest TV and radio group throughout Europe. Second is CARLTON group, third is CANAL+, and the famous French company, BSkyB, a part of News Corporation, is in the fourth position. BSkyB is engaged in the U.K. Kirch group.

II. *THE GERMAN MARKET*

I would like to concentrate on the German market and to give you some basic facts on the policy issue that we should discuss this morning. Why concentrate on the German market? That is very simple. We do not have a unique European TV market. That is due to the various languages that we have in Europe. So we still, at least from the viewpoint of competition, talk about the German speaking market—which more or less is the German market—the French speaking market, the English speaking market, Italian market, and so on; there is no unique European market for TV. The basis for competition in the German market is extremely good. In recent years, there were difficulties in providing the TV operators with terrestrial capacity or with cable. That, however, has changed dramatically over the last fifteen years. Today, in Germany, we have twenty-three TV stations that are capable of reaching more than fifty percent of the population. The number of free TV stations is by far the biggest

throughout Europe. No other country in Europe can reach such a large part of the population. The basic requirement for competition in TV markets is very good. And if you will ever look at the TV market, the hearts or the segments of the TV market are the same as in the United States, in Japan, or in the other countries of Europe. We have a section, which is governed by the public broadcasters, we have free TV operators, and we have pay TV operators.

A. Competition in Germany

The competition in German TV markets is still somewhat restricted. We have heavy competition within the advertisement-financed free TV. These are privately owned companies. Broadcasting is free and competition is heavy. We still have a dominant public TV sector that by definition, is exempted from competition and that is provided with an excessive TV license fee which is compulsory, which means it is charged by law and cannot be avoided by any TV household. The pay TV companies and the pay TV sector are affected by two issues, which derive from the public TV sector. One is the compulsory fee, which is collected from each TV household, and the other is the increasing number of public TV programs that are launched in Germany. Having this weak position in mind, the pay TV sector consists of small companies incapable of putting the pressure of competition on either the free TV sector or the public TV sector. With respect to the public TV sector, that is given by definition, and with respect to the free TV sector, that is given by the small size of the pay TV business as we have it today in Germany.

B. Advertisement Financed Free TV

Starting in 1990, the number of free TV broadcasters in Germany amounted to twelve stations and in 1997 it amounted to thirty-two stations plus nine foreign broadcasting companies. This increase in the number of free TV stations shows clearly that there is a significant competition within this area and segment of the market. The market share of either public or privately owned big TV stations has decreased since 1990, and the small free TV operators in Germany have increased along with their market share. Within seven years they have nearly doubled the market share from 18.7 in 1990 to 34.6 in 1998.

C. German Public Television

I would now like to assert that the public TV sector in Germany is still the dominant player in the market. The public fee that each TV household must raise must be paid within a year. The public broadcasting system, as we have it in Germany, is the most expensive one throughout Europe, far more expensive than in the United Kingdom or France. The public fee is collected by the ARD and ZDF or the public broadcasters. Ninety percent of this amount is not public TV; it means fee-financed TV. The opposite would be free TV versus fee-financed TV. The public broadcasters take out approximately ninety percent of all fees that are collected from households plus nearly ten percent of the advertisement revenues per year. Ten percent goes to the pay TV business, which means in the aggregate that approximately fifty percent of the TV income per year goes to public broadcasters, which are exempted from competition. The reason for the dominant position of the public broadcasters in Germany can easily be identified. It is the public license fee, which from our point of view is excessive; it is the most expensive public broadcasting system we have in Europe. This public license fee is collected by law, which means it is collected from each TV household, irrespective of the quality of the program, irrespective of the program acceptance, and irrespective of whether a household uses any of the public programs at all. Given their financial position in Germany, the public broadcasters used this position to start a monopolizing strategy to launch new programs, theme programs, specialized interest programs, and to absorb terrestrial cable capacity by extending regional programs nationally.

In Germany, we have the public license fee of approximately DM30 plus another DM25 in cable fees. This fee refers to a typical household in Germany, which is a cable household. The situation is different from that in the United Kingdom and France with mostly terrestrial households and where each household must raise a public license fee that is less than in Germany. And if you take into consideration that a typical German household must raise approximately DM55 per month for public broadcasting, or for broadcasting at all, why should such a household subscribe to a pay TV station and pay another amount of money to a privately owned pay TV station? Well, that leads to the final conclusion that the pay TV companies are

severely affected by the increasing number of public TV programs.

III. *THE PAY TELEVISION SITUATION THROUGHOUT EUROPE*

In Germany we have two players only, Premiere and DF1. Premiere together with DF1 has approximately 1.7 million subscribers and sales of approximately DM760 million. In the United Kingdom, BSkyB has approximately 5.8 million subscribers with turnover of DM3.5 billion. The situation in France is the same. We have four players in France; at this time, AB SAT is just going out of the market. So, France will then be left with three; however, the turnover is DM3.1 billion with approximately 5.5 million subscribers. Spain has less but is still ahead of Germany, although the Spanish population is approximately one-third of the German population.

Premiere started in 1990, and the turnover has reached approximately DM730 million in 1997. We applied to the European Commission for a merger of the two German Pay TV stations, Premiere and DF1, and we thought that we might be able to get a market share of DM1.15 billion this year. Since the European Commission has rejected that application, Premiere is still alone and this market projection cannot be achieved. So, this year Premiere will still remain at the same size of approximately DM715 million.

German pay TV means two players only. Premiere, in the market since 1990, is still in a heavy loss situation. This situation is particularly true for the second player, DF1, in the market since mid-1996, as DF1 has produced losses of approximately DM1.5 billion only within two years. There is heavy competition on pay TV due to both the public license fee, which is collected from households and the increasing number of public TV programs. The pay TV, however, cannot put pressure on the other segments of the market. Free TV is hardly affected by the competition of pay TV and the public TV is not affected at all. That is clear by definition and is due to various reasons, including not only an attractive program offer in German free TV, but also, and in particular, the reasons that derive from the public TV sector. And the last reason is that we still have excessive legislation in Germany that restricts all private TV stations, both free TV and pay TV. For example, restrictions on share holding, re-

restrictions on the form and method of advertising on TV, and restrictions in the way that a private TV company must accept third windows in its program. Furthermore, we have an excessive licensing procedure. In total, in Germany we have a very attractive program in free TV that affects the pay TV sector.

There are two decisive issues for the success of a pay TV station. One is sports, and particularly in Germany, as in most European countries, this means soccer. The other one is feature films. If you take out the exception of Spain, then Germany is far ahead and together with Italy showing the most soccer matches on free TV, approximately sixty per year. And with respect to feature films, 12,400 hours per year of feature films are shown in free TV which, of course, affects the business opportunities of pay TV.

I have already mentioned the effects that the public TV sector, as it is today, has on the pay TV business in Germany, but I would also like to show what excessive licensing procedures in Germany means for the time being. In Germany, when launching a TV program both the antitrust approval and a TV or media license are required; you must apply for both. We have competing authorities and we have overlapping jurisdiction among these authorities. The European Commission renders antitrust approvals at the European Community level, and the Bundeskartellamt, the German antitrust authority, regulates at the national level. Both or either of them are required with respect to antitrust approval. Also, we have sixteen media authorities to review and grant a media TV license, and a special committee, the KEK, which was set up two years ago and which also reviews the antitrust situation from the media perspective. Having these four authorities in mind, every applicant is somewhere in the middle, not a very promising position. For example, in November 1997, we applied for a digital program, and in December 1997 and up to today, there is still no digital license granted. No decision by the media authorities has occurred—nothing in sight—and we are still broadcasting on the basis of a provisional license. The new programs that Premiere would like to launch cannot be offered to the public as long as there is no license available. So, the conclusion that I have with respect to the German TV market, and having the topic of this symposium in mind, is a very simple and very short one. With respect to the German TV market, deregulation is of the essence.