

**Final report of the Hearing Officer in Case COMP/37.214 — DFB Joint Selling of Media Rights
(pursuant to Article 15 of Commission Decision 2001/462/EC, ECSC of 23 May 2001 on the terms
of reference of Hearing Officers in certain competition proceedings — OJ L 162, 19.6.2001, p. 21)**

(2005/C 130/02)

(Text with EEA relevance)

The decision concerns the central marketing of the media exploitation rights in respect of matches in the first and second national football divisions for men (*Bundesliga* and *2. Bundesliga*) by the *Liga-Fußballverband e.V.* ('League Association') in Germany. The League association is a registered association and ordinary member of the *Deutscher Fußballbund* ('DFB' — German Football Association).

By letter of 25 August 1998, the DFB, in accordance with Articles 2 and 4 of Regulation No 17/62, applied for negative clearance or, failing this, an individual exemption under Article 81(3) of the Treaty in respect of the central marketing of television and radio broadcasting rights and any other technical forms of exploitation for matches in the first and second national football divisions for men. The League Association, which was founded in 2001 and which took over the task of marketing from the DFB, adopted the DFB's amended notification as its own on 19 February 2003.

On 9 January 1999 the Commission, in a notice published in the *Official Journal of the European Communities*, invited third parties to submit their observations.⁽¹⁾ By decision of 22 October 2003, it initiated proceedings under Article 9(3) of Regulation No 17. On 30 October 2003 it announced its intention of giving a positive assessment of the amended joint marketing arrangements in a notice published in the *Official Journal of the European Union* ⁽²⁾ and subsequently received observations from interested third parties.

With the entry into force of Council Regulation (EC) No 1/2003 on 1 May 2004, the League Association's former application for negative clearance or individual exemption lapsed in accordance with Article 34(1) of Regulation (EC) No 1/2003.

However, in accordance with Article 34(2) of Regulation (EC) No 1/2003, the initiation of proceedings under Article 9(3) of Regulation No 17 which corresponds to that under Article 2(1) of Implementing Regulation (EC) No 773/2004, continued to have effect.

Accordingly, with effect from 1 May 2004, the Commission, acting on its own initiative, continued with the proceedings with a view to adopting a decision under Chapter III of Regulation (EC) No 1/2003.

On 18 June 2004 the Commission issued a preliminary assessment in accordance with Article 9(1) of Regulation (EC) No 1/2003 that was addressed to the League Association and made available to the DFB.

By letter of 6 August 2004, the League Association submitted amended undertakings in respect of the central marketing arrangements as commitments within the meaning of Article 9(1) of Regulation (EC) No 1/2003.

On 14 September 2004 the Commission, in a notice published pursuant to Article 27(4) of Regulation (EC) No 1/2003 in the *Official Journal of the European Union*, invited interested third parties to submit observations on the proposed commitments within one month of the publication of the notice. These observations were transmitted to the League Association.

In light of the commitments offered by the League Association, the Commission considers that there are no longer grounds for action by the Commission and, without prejudice to Article 9(2) of Regulation (EC) No 1/2003, the proceedings in the present case shall be brought to an end.

⁽¹⁾ OJ C 6, 9.1.1999, p. 10.

⁽²⁾ OJ C 261, 30.10.2003, p. 13.

No queries were raised before the Hearing Officer by the League Association or other companies as to the market test. No requests for additional information were made. The League Association has informed the Commission that the information necessary to assess the case was at its disposal.

In the light of the above, the case does not call for any particular comments as regards the right to be heard.

Brussels, 7 December 2004.

Serge DURANDE
