

Brussels, 5th November 1997

Mr Karel Van Miert comments the state of play of the Kirch/Bertelsmann file

On November, 4, 1997, Commissioner Karel Van Miert received, at their request, representatives of Kirch, Bertelsmann and Deutsche Telekom. The purpose of these meetings was to discuss the common plans of these companies in the field of digital television in Germany. According to these plans, Bertelsmann and Kirch intend to merge their digital TV activity. Beta research, the company providing the decoder infrastructure technology (the existing Kirch d-box) is intended to be jointly controlled by Bertelsmann, Kirch and Deutsche Telekom. On this basis, Deutsche Telekom is going to provide the new Kirch-Bertelsmann merged entity with a technical platform for the cable network.

According to recent press reports in Germany, Bertelsmann and Kirch would have started to broadcast their respective digital TV programs Premiere and DF1. They also would have agreed with ARD and Deutsche Telekom to use Kirch's d-box.

No formal notification has been filed with the Commission as yet. Such notification is required by the merger Regulation. The Commission can only start dealing with the case once it is provided with a complete notification.

Mr Van Miert took the opportunity of these meetings to recall a basic principle of the Merger Regulation, i.e. that no merger can be put into force, unless the Commission gives its formal approval. He therefore expressed his dissatisfaction with the fact that apparently part of the operation is already being implemented. The Commissioner announced that he requested his services to investigate further this question and collect the information necessary in view of possible action to be taken by the Commission for a full assessment of this matter. Should it be established that the parties have violated the suspensive effect of the Merger Regulation, Mr Van Miert made it clear that the parties would be well advised to stop such a violation immediately, otherwise the Commission could impose fines of up to 10 % of the parties' aggregate turnover.