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POELLATH advises Vodafone in Kabel Deutschland appraisal proceedings

In its decision of January 31, 2024, the German Federal Court of Justice ruled that the compensation and settlement under the domination and profit and loss transfer agreement of Vodafone to the minority shareholders of (then) Kabel Deutschland Holding AG were appropriate. The decisions of the Higher Regional Court of Munich and the Regional Court of Munich are thus confirmed. This ends a legal dispute lasting approximately 10 years in Vodafone's favor - no additional payments must be made.

In 2013, Vodafone acquired a majority stake in (formerly) Kabel Deutschland Holding AG as part of a public takeover bid and subsequently concluded a domination and profit and loss transfer agreement with the company. In this agreement, Vodafone undertook to pay cash compensation of EUR 84.53 per share or an annual fixed compensation of EUR 3.77 per share to the outside shareholders.

Numerous applicants, including hedge funds, subsequently initiated appraisal proceedings to review the appropriateness of the settlement and compensation in court, with applications to set a higher settlement and compensation, in some cases claiming more than EUR 225 per share in value.

The Munich Higher Regional Court, like the Frankfurt Higher Regional Court at the same time in another case, had allowed an appeal on points of law in order to obtain clarification from the highest court as to whether a market-oriented valuation method was appropriate and permissible for determining the settlement and compensation. The Federal Court of Justice considers a market-oriented valuation method to be appropriate if there is a functioning capital market and pursues its opinion from a ruling in February 2023 (II ZB 12/21) in this respect.

POELLATH advised Vodafone on all corporate law issues in connection with the appraisal proceedings regarding the Kabel Deutschland shares with the following team:

- Dr. Eva Nase (partner, corporate and capital markets law, Munich)
- Dr. Kay-Uwe Neumann (counsel, corporate and capital markets law, Frankfurt/Munich)
- Lukas Zimmermann (associate, corporate and capital markets law, Munich)

The following parties were also involved:

Vodafone: Stefanie Reichel (general counsel, Vodafone, Germany), Dr. Isabell Tilly (head of legal), Christoph Backert

Dr. Thomas Winter (BGH representation)

Grant Thornton: Prof. Dr. Martin Jonas, Dr. Christian Deyerler

Linklaters: Stephan Oppenhoff

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