[DE] State media authorities publish election advertising guidelines for private broadcasters

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On 23 April 2024, the *Landesmedienanstalten* (state media authorities) updated their guidelines on the key principles for election advertising in the form of political party election broadcasts by national private broadcasters. The guidelines contain information on broadcasters' obligation to allocate airtime for election broadcasts, the need to guarantee equal opportunities, authorised parties and other political organisations, admissible content of advertising spots, the calculation of appropriate airtime, broadcasting slots, labelling of election advertising and reimbursement of costs. The guidelines apply to European Parliament and German *Bundestag* elections.

As regulatory bodies, Germany's 14 state media authorities are responsible, *inter alia*, for safeguarding diversity of opinion in private broadcasting and telemedia. The jointly drafted guidelines contain practical advice on how broadcasters should meet their obligation to allocate airtime for election advertising on national private channels, laid down in Article 68(2) of the *Medienstaatsvertrag* (state media treaty). Election advertising slots must be allocated on the basis of constitutional principles, in particular that of graduated equal opportunities. Broadcasters can meet this obligation by drawing up a broadcasting schedule that gives suitable equal opportunities to the parties standing in the election and other election candidates. Election spots must contain election advertising, which should be interpreted broadly and includes any measure aimed at persuading citizens to vote for a particular party or other political organisation. Broadcasters are only allowed to check the content of election spots to see whether they clearly violate general or criminal laws, including laws on the protection of minors and human dignity. All election candidates must be offered "appropriate" airtime. The total amount of airtime to be made available is calculated based on the number of spots and their respective length. In principle, each spot lasts between 1 and 1.5 minutes. The number of spots allocated is based, among other things, on the result of the last election, the length of time the party has existed, the size of its membership, its presence in different parliaments (state parliaments, *Bundestag*, European Parliament), its participation in governments and its other political activities. These factors are especially important for parties taking part in elections for the first time. In terms of the minimum number of spots required, the principle of Article 5(1) sentence 2 of the *Parteiengesetz* (Political Parties Act) applies, i.e. the extent to which such facilities will be provided may be scaled

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back, in accordance with the respective importance of the various parties, to the minimum extent required for achieving the given party's purpose. In order to prevent small parties being swamped by large ones, they must be given at least two spots because only repetition can achieve any advertising effect. For the same reason, previous case law states that the strongest party should receive a maximum of four to five times as much airtime as the smallest or weakest. Election advertising may only be broadcast for a limited period of time in the run-up to an election. It must be shown in prime time, i.e. between 6 a.m. and 7 p.m. for radio and between 5 p.m. and 11 p.m. for television. Broadcasting times must be allocated equally according to a previously established schedule. Election advertising must be labelled as such, and the party responsible for its content must be identified. Broadcasters who broadcast election advertising can only demand reimbursement of their own costs, which must follow the same standard for all parties. These costs are understood to mean the basic technical costs for broadcasting, but not programme design costs. They may not exceed 35% of the price per second applicable to commercial advertising.

Attached to the guidelines is an example calculation for a graduated, equal-opportunity weighted broadcasting schedule for the European Parliament election on 9 June 2024, which takes into account the lack of a 5% clause for this election and the growing importance of groups without parliamentary group status in the *Bundestag*.

Leitfaden der Medienanstalten zu den Wahlsendezeiten für politische Parteien im bundesweit verbreiteten privaten Rundfunk vom 23. April 2024

https://www.die-medienanstalten.de/service/merkblaetter-und-leitfaeden/leitfaden-wahlwerbung/

State media authority guidelines on election airtime allocated to political parties by national private broadcasters, 23 April 2024

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