[DE] 25th KEK annual report published

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On 27 May 2024, the *Kommission zur Ermittlung der Konzentration im Medienbereich* (Commission on Concentration in the Media – KEK), a joint organ of the German state media authorities responsible for guaranteeing plurality of opinion in relation to the organisation of private television channels throughout Germany, published its 25th annual report.

In the report, the KEK describes the media concentration investigations and other key areas of work it carried out in 2023, including analysis of the impact of artificial intelligence (AI) on media diversity and plurality of opinion and the potential need for AI-related regulation in the media sector.

One of the KEK's main focuses in 2023 was the European Media Freedom Act (EMFA). It published an opinion on the EMFA, which welcomed its primary objectives, but criticised the excessive powers it assigned to the European Commission, enabling it to influence supervisory structures, and the criteria for assessing media concentrations.

The KEK also amended its guidelines under which minor changes to participating interests or other types of influence do not need to be reported to the KEK for approval from a media concentration point of view. This exemption was extended to include changes that are not minor *per se*, but relate to companies whose stake in a broadcaster is considered insignificant (less than 5% of the capital).

In addition to measuring influence on public opinion and Internet diversity, the KEK examined the theme of AI in 2023, with regard to both its regulation and its effects on power structures in the online sector, which are not currently the subject of specific regulations. The annual report emphasises AI's impact on diversity: on the one hand, by improving efficiency, quality and the individualisation of media content, for example, AI can significantly increase access to content and thereby promote media plurality. On the other, it also has the potential to be misused as a means of selecting, manipulating or even generating content to influence the opinion-forming process. In this context, the KEK believes that regulation is necessary and that legal instruments should be created to thwart attempts to threaten or restrict diversity. It considers it especially important to examine whether AI might accelerate media concentration.

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The annual report also reviews the 35 procedures completed by the KEK during the 2023 reporting period. These essentially concerned licence applications for national private broadcasting services and changes to ownership and shareholding structures with little impact on media diversity. During the reporting period, the three-step procedure required under German law to guarantee plurality of opinion was also completed in relation to the allocation of airtime to independent third parties by RTL Television. Regarding the licensing of regional windows broadcast by SAT.1, for which the relevant state media authorities had not issued a call for tenders but simply extended the licences of the existing holders, the KEK again voiced concerns about this practice of repeatedly extending licences, which permanently blocked other companies from bidding for regional window slots.

The final factual section of the annual report describes developments in national programming and media consumption, and provides an overview of Germany's main national television groups. With regard to individual media genres, it stresses, *inter alia*, that the trend of declining linear television consumption (down by 38 minutes since 2020) is continuing, while online video consumption, including the use of media libraries, is on the increase (up by 37 minutes since 2020).

25. Jahresbericht der KEK

https://www.kek-online.de/fileadmin/user_upload/KEK/Publikationen/Jahresberichte/25._Jahresbericht.pdf

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