

# [DE] Mixed Reactions for First Position Paper on Differences between Broadcasting and Media Services

**IRIS 1998-7:1/28**

*Wolfram Schnur*

*Institute of European Media Law (EMR), Saarbrücken/Brussels*

The first position paper on the Länder Media Authorities' Landesmedienanstalten powers in the border area between broadcasting and media services and on the differences between the two, adopted by the Directors of the Landesmedienanstalten on 16 December 1997, was the subject of a hearing in Düsseldorf on 27 April 1998, at which representatives of the Federal Association of German Newspaper Publishers ( BDZV), the Association of Private Broadcasting and Telecommunication Service Operators ( VPRT), the Association of Private Network Operators, the Satellite and Cable Communications Association ( ANGA), the Association of Private Broadcasters ( APR), and the Hans-Bredow Institute (Hamburg) were invited to state their opinions. In fact, the development of new electronic services makes it necessary to distinguish tele-services within the meaning of Section 2 of the Tele-services Act and media services ( Teledienstegesetzes - TDG), within the meaning of Paragraph 2 of the Agreement between the Federal States on Media Services ( Mediendienstestaatsvertrages - MStV) from services which are subject, under Paragraph 20 (2) of the Agreement between the Federal States on Broadcasting ( Rundfunkstaatsvertrages - RfStV), to the laws on broadcasting. A tele-service within the meaning of Section 2 (1) of the Tele-Services Act is concerned with communication between individuals, whereas a media service within the meaning of Paragraph 2 (1) of the Agreement between the Federal States on Media Services is aimed at the community. A media service, as defined in Paragraph 2 (1) of the Agreement between the Federal States on Media Services, is distinguished from broadcasting, as the term is used in Paragraph 2 (1) of the Agreement between the Federal States on Broadcasting, by the fact that broadcasting implies a programme. This distinction is mainly important because media services do not have to be licensed or notified, whereas broadcasters must be licensed by the Land Media Authorities and are, in particular, subject to the advertising regulations laid down in the Agreement between the Federal States on Broadcasting. The criteria which the Directors of the Landesmedienanstalten use to distinguish media and broadcasting services in their paper (broad coverage, topicality and impact) and their suggestions on deciding in specific cases got mixed reactions. One of the main topics of discussion was how to classify teleshopping services. Some speakers suggested that its being mentioned in Paragraph 2 (2) of Agreement between the Federal States on Media Services meant that it could not be classified as broadcasting. The usefulness of the proposed criteria in deciding on specific cases was also

questioned.

