[AT] Reforms to the Austrian Regional Radio Act

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On 1 January 1999 the Act amending the Regional Radio Act came into force, bringing various changes to private radio, which is still a recent phenomenon in Austria. Private radio broadcasting licences were awarded for the first time in 1993, but only after a long gap, due to a decision of the Constitutional Court, were more than 50 licences for regional and local radio awarded at the beginning of 1998.

The regulations contained in the Regional Radio Act (Regionalradiogesetz - RRG) are specifically restricted, in accordance with Section 1 (1), to the broadcasting of regional and local radio programmes on VHF frequencies by broadcasters other than the ORF. National private broadcasting is also excluded. Specialist channels may also only broadcast under a regional or local radio licence. When the annual adjustment was introduced to rectify any infringement of advertising time limits by the ORF, the previous daily limit for private radio stations (90 minutes) was raised to a yearly average of 120 minutes per day with a maximum deviation of 20 % in any one day, ie up to 144 minutes of advertising is permitted in any one day provided the yearly average does not exceed 120 minutes. The previous requirement of six days without advertising was abolished.

Licence-holders may be individuals, legal entities or commercial partnerships, but not private companies. If more than 50 % of the shares in a licence-holder are to be transferred to a third party, prior notice must be given to the Private Broadcasting Authority. The Authority has eight weeks from the date notice is given in which to decide whether the new arrangement meets the basic requirements for private radio companies. Private radio licences are, in principle, not transferable. It is stated in Section 17 (4), however, that the overall rights under company law which result from such a move are not affected. Hence, a GmbH (limited company), for example, which wishes to apply for a licence, may become a GmbH Co. KG (limited partnership with a limited company as a general partner) without changing its shareholding structure.

In future, licences will only be awarded after the genre, structure and length of programmes has been approved. The main consequence of this is that a licence may be withdrawn if there is a fundamental change to the programming originally described when the application was made.

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Permission may be given for unused frequencies to be used for short periods of time (two weeks maximum) for the coverage of specific local public events. In addition, programmes may be broadcast as part of local training or education in radio broadcasting, provided they relate in a practical way to the particular course syllabus. Such requests may be submitted to the Private Broadcasting Authority at any time. The Regional Radio Authority (Regionalradiobehörde) is to be renamed the Private Broadcasting Authority (Privatrundfunkbehörde), although its role and structure will not change. Regulations concerning the granting of licences as part of the so-called public service obligation (frequencies set out in the Appendix to the Regional Radio Act) were abolished. The corresponding provisions of Sections 2b, 2d and 2e (5) come into force on 1 May 1999.

Regionalradiogesetz in der Fassung der Novelle (BGBl. I Nr. 2/1999).

Act amending the Regional Radio Act (BGBl.I Nr 2/1999).

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