[DE] Federal Government Reports on Information and Communication Services Act

IRIS 1999-8:1/23

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Two years after the Informations- und Kommunikationsdienstegesetz (the Information and Communication Services Act - IuKDG) came into force (1 August 1997, see also IRIS 1997-8: 11), the Federal Government has produced a report on experiences and developments concerning the new services covered by the Act in connection with its implementation. The Act aims to establish a reliable foundation in the information and communication services field, to create a balance between free competition, the legitimate needs of the user and the interests of public order, and to promote the economic development of this sector. In particular, the IuKDG resulted in the adoption of the Teledienstegesetz (the Teleservices Act - TDG), the Teledienstedatenschutzgesetz (the Teleservices Data Protection Act - TDDSG) and the Signaturgesetz (the Digital Signature Act).

As well as the IuKDG, the Bundesländer concluded the Mediendienstestaatsvertrag (the Agreement between Federal States on Media Services - MDStV) and incorporated it in their own laws. Its provisions include regulations that are in accordance with the TDG but which apply to media services. In addition, the Agreement between Federal States on Broadcasting, which regulates the broadcasting sector and has also been transposed into regional laws, remains in place.

The conditions which must legally be met by teleservices, media services and broadcasters vary. The laws to which a particular service is subject depend on which of these categories it belongs to.

According to the Federal Government's report, it is possible to make a clear distinction between tele- and media services in the most important fields on the market. On the one hand, the report states that banking, insurance and on-line shopping services constitute teleservices, while tele-shopping, electronic newspapers and magazines and teletext are considered to be media services. The distinction between media services and broadcasting has caused occasional problems (see IRIS 1999-1: 12).

The Federal Government expects that the Directive on certain aspects of electronic commerce within the European Union, currently being discussed by the European Council (see IRIS 1999-1: 3), will require amendments to be made to the

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Teleservices Act: the liability regulation will have to be specified and service providers need to be more and more clearly identified. The Government also thinks that a list of offences will need to be drawn up so that failure to fulfil the duty of identification may be penalised.

The TDDSG is to be amended so that some of its provisions can be incorporated into the Bundesdatenschutzgesetz (Federal Data Protection Act). The TDDSG will therefore be slimmed down, but the legal position will remain unchanged.

The Federal Government does not propose any amendments to the Digital Signature Act. However, the Commission of the European Communities has made a proposal for a Directive on a common framework for electronic signatures (see IRIS 1999-7: 7). The Government is currently working on a draft bill to amend civil law form requirements. In accordance with §126 of the Federal Law Gazette, written form is, as far as possible, to be equated with "electronic form". Electronic form refers to the requirements of the Digital Signature Act. Under current legislation, electronic signatures may only replace handwritten signatures in cases where there is no specific legal requirement as far as form is concerned.

Bericht der Bundesregierung über die Erfahrungen und Entwicklungen bei den neuen Informations- und Kommunikationsdiensten im Zusammenhang mit der Umsetzung des Informations- und Kommunikationsdienste-Gesetzes(IuKDG).

http://www.iid.de/iukdg/berichte/BERICHTiukdg-neu-2.html

Federal Government Report on experiences and developments connected with the new information and communication services concerned by the implementation of the Information and Communication Services Act.

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