[DE] Business TV and Internet Radio

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There have been some important legal developments in the field of business TV and Internet radio in Germany recently. While n-tv has been operating a business television station for a large German bank since the beginning of April, Deutsche Telekom AG started its own "Telekom-TV" channel at the CeBIT 2000 exhibition. Furthermore, at the end of February, Chart-Radio, previously only available on the Internet, was awarded a licence by the Baden-Württemberg Landesmedienanstalt für Kommunikation (Regional Communications Authority - LfK). Both business-TV and Internet radio must be classified as teleservices, media services or broadcasting services.

Whether these services need to be licensed depends on which of the above categories they fall into. Whereas media services and teleservices do not need licences, Section 20 (1) of the Rundfunkstaatsvertrag (Agreement between Federal States on Broadcasting) stipulates that broadcasters require a licence from the appropriate regional media authority. The distinction between media services and broadcasting in particular has already been debated in the past (see IRIS 1998-7: 15 and IRIS 1999-1: 12). Criteria for distinguishing between them include the target group and the extent to which they are opinion-forming.

Business-TV combines television with Internet technology, offering unlimited repeats and extensive interaction and communication possibilities. It can take the form of business-TV in its narrowest sense or customer-TV.

Business-TV in its narrowest sense is designed to convey information to employees quickly and directly. Since it is aimed only at a company's workforce rather than the general public, it is subject to the Teledienstegesetz (Teleservices Act) (Article 1 of the Information and Communication Services Act, see IRIS 1997-8: 11).

In contrast, customer-TV informs potential clients of offers and products, for example. Since it targets a much larger audience, it may be classified as either a media or broadcasting service. Its precise classification depends on the extent to which the actual content of its programmes is opinion-forming. If a customer-TV channel is seen as merely a medium for the presentation of products, without editorial elements such as the journalistic adaptation or arrangement of programme content, it is considered a media service in the meaning of Article 2 of

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the Mediendienste-Staatsvertrag (Agreement between Federal States on Media Services).

By means of both the business-TV channel of a major German bank, which began broadcasting at the beginning of April, and Telekom-TV, n-tv has been offering a service whereby its own latest news broadcasts are adapted for the purposes of business-TV. Telekom-TV is aimed at the telecommunications company's customers and staff, combining world news with company news and product presentations.

Although radio programmes broadcast over the Internet have so far not needed a broadcasting licence, the LfK has granted a request for a licence from Chart-Radio, which previously broadcast only on the World Wide Web. Hence, the channel may now, in principle, also broadcast via satellite, FM, medium-wave, Digital Audio Broadcasting (DAB) and cable. However, in accordance with Section 12 (3) of the Landesmediengesetz Baden-Württemberg (Baden-Württemberg Media Law - LMedienG), the granting of the licence does not include the allocation of a certain transmission capacity (the so-called "driving licence principle") since, under the terms of the Media Law (see IRIS 1999-8: 7), broadcasting licences are awarded independently of the allocation of transmission capacity. The acting President of the LfK explained that the LfK would, for the time being, classify Internet stations such as Chart-Radio as broadcasters. He thought that there was now virtually no distinction between Internet broadcasters and traditional radio stations broadcast via cable, for example. The sound quality now available and the rising numbers of Internet users meant that this form of broadcasting had a potential audience similar to that of conventional radio. So far this decision has had no direct consequences for the other 3,000-4,000 radio stations broadcasting over the Internet, for example as regards licensing requirements. The LfK says it has received further licence applications.

Landesmediengesetz Baden-Württemberg (LMedienG) vom 19. Juli 1999, geändert durch Gesetz vom 20. Dezember 1999.

http://www.lfk.de/service/gesetzeundrichtlinien/landesmediengesetz/main.html

Baden-Württemberg Media Law, 19 July 1999, amended by the Law of 20 December 1999.

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