[DE] Licensing of "Customer-TV"

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The Landesmedienanstalten (Land media authoritiesLMS), which are responsible for monitoring commercial television broadcasters, are planning to license special television channels aimed at all actual and potential customers of a specific company, ie an unlimited number of people, as "self-advertising channels".

The LMS felt they needed to take this step because this new phenomenon is becoming increasingly common, combining information about the company itself with other material, which differentiates it from so-called "Business-TV". Companies use "Business-TV" purely for the internal transmission of information.

Whereas "Business-TV" generally falls under the national Teledienstgesetz (Tele-Services Act), "CustomerTV" will be subject to the Rundfunkstaatsvertrag (InterState Agreement on Broadcasting - RStV) or the Mediendienstestaatsvertrag (Inter-State Agreement on Media Services - MDStV), which were drawn up by the Länder. This is because of the more general nature of the content and the advertisements (by third parties) regularly shown on these channels.

Difficulties in classifying a channel as a "self-advertising channel" caused by the broadcast of programme material produced by outside bodies on subjects other than the company itself would have to be resolved on a case-by-case basis. However, responsibility for channels whose own content is combined with the programmes of a licensed broadcaster will remain with that broadcaster.

Whether such a "Customer-TV" channel is subject to the regulations of the RStV or the MDStV depends on its level of journalistic relevance which, taking into account all relevant circumstances, is determined by the extent of its impact, topicality and capacity for provoking thought. It can therefore only be treated as a media service without the need for a licence if its programme content is similar to that of a teleshopping channel, ie exclusively designed to promote directly the sale of goods or services and having no significant impact on the formation of public opinion.

The distinction is important because the LMS treat "Customer-TV" channels as "self-advertising channels" in the sense of Section 45b of the RStV, which means they are subject to the advertising regulations that apply to such channels. As such, requirements concerning advertising content also apply to self-advertising on these channels, whereas other restrictions on elements such as the amount of

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advertising and the time-gap between commercial breaks only apply to third-party advertising.

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http://www.alm.de/aktuelles/presse/kundtv.doc

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