[DE] Statement on Proposed Regulatory Framework for Electronic Communications Networks and Services

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In December 2000, the Direktorenkonferenz der Landesmedienanstalten (Congress of Land Media Authority Directors - DLM) issued a statement on the European Commission's proposals for a new regulatory framework for electronic communications networks and services.

The Proposal for a Directive on a Common Regulatory Framework (COM (2000) 393 final) aims, in view of the convergence phenomenon, to create a common regulatory framework for all electronic communications networks and services. The Proposal for a Directive on Access (COM (2000) 384 final) seeks to secure the further development of the electronic communications services market by safeguarding access and interconnection. The Proposal for a Directive on Universal Service (COM (2000) 392 final) essentially extends the existing obligation for telecommunications networks to provide a universal service. The Proposal for a Directive on Authorisation (COM (2000) 386 final) is meant to replace the current Directive 97/13/EC in relation to a common framework for general and individual authorisation for telecommunications services. The Commission has also proposed a European Parliament and Council Decision on a Regulatory Framework for Radio Spectrum Policy in the European Community (COM (2000) 407 final).

In its statement, the DLM stresses that it evaluates the Commission's proposal primarily in terms of whether it is deemed capable of providing and ensuring broadcasting (content) diversity. Broadcasting must be able to fulfil its function in a democratic and pluralistic society as a medium for, and a factor in, forming public and private opinion. In this respect, the DLM points out that the links between infrastructure and content must also be taken into account and that networks should provide access for local and regional broadcasting services in particular. It demands that specific, national ex-ante regulations should continue to be allowed, since competition law and ex-post regulations are often insufficient to deal with broadcasting issues.

The DLM therefore proposes that the scope of the Directive on a Common Regulatory Framework should be such that Member States are free to take measures to ensure that broadcasting services have access to communications networks and that users have access to broadcasting services (Section 1

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Paragraph 2). The DLM also suggests that the regulatory authorities should take responsibility for content diversity and pluralism of expression (Section 7 Paragraph 4). As far as the assignment of radio spectrum is concerned, the DLM argues that radio spectrum management should take into account the cultural functions of broadcasting and the need for sufficient broadcasting services (Section 8 Paragraph 1).

The DLM considers the scope of the proposed Directive on Access to be too narrow. It points out that the regulation of conditional access (CA) systems alone is not enough, since access to other types of bottleneck such as Electronic Programming Guides (EPGs) or Application Programming Interfaces (APIs) also needs to be regulated (Section 6). In this respect, the DLM refers to the clause on freedom of access to digital services in Section 53.7 of the Rundfunkstaatsvertrag (Inter-State Agreement on Broadcasting - see IRIS 2000-7: 9 and IRIS 2000-3: 11). It also criticises the fact that the proposal merely provides for ex-post measures, which are unsuitable for the audiovisual sector (Section 8).

The DLM argues that the possibility for Member States to impose "must carry" obligations for the transmission of specified radio and television broadcasts as part of the universal service should also apply to new types of broadcasting service (Section 26 Paragraph 1). It makes the same demand in relation to the Directive on Authorisation (Part A number 6). Finally, the DLM claims that the proposed Decision on a Regulatory Framework for Radio Spectrum Policy is not within the competence of the Community.

Stellungnahme der DLM zu den Vorschlägen der EU-Kommission für einen neuen Rechtsrahmen für elektronische Kommunikationsnetze und -dienste, Dezember 2000

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

Position of the DLM on the European Commission's Proposal for a New Regulatory Framework for Electronic Communications Networks and Services, December 2000

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