[AT] Draft Amendment to Broadcasting Acts Tabled

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On 20 April 2004, the media department of the Bundeskanzleramt (Federal Chancellery) tabled a comprehensive Bill amending three Broadcasting Acts. If passed, this would represent the biggest shake-up since the legal framework was reorganised in 2001.

For the first time, national private radio will be permitted. In recent years, in order to make radio broadcasting more profitable, shareholding restrictions have been relaxed and channel takeovers facilitated; now, it will be possible to exploit additional synergies by combining licences. This will only apply to existing licences. Private radio stations will be able to transfer their licences to a company. Pre-existing licences will automatically expire when a national licence is granted. Under the Federal Chancellery's proposal, national licence-holders will have to be joint-stock companies. Other conditions for these licences include a certain level of capital resources and coverage of an area in which at least 60% of the Austrian population lives.

In Austria, when there is more than one applicant for a radio or television broadcasting licence, the selection process takes into account the proposed programme type. Successful applicants are then obliged to broadcast that type of programme. In the past, several radio broadcasting licences have been withdrawn because the providers significantly changed the type of programme they were broadcasting. From now on, it will be possible at least two years after being granted a licence to significantly change the programme type, provided such a change is not expected to seriously jeopardise competition, the profitability of existing radio broadcasters in the supply area or the variety of programmes for listeners. The same applies to private television broadcasters. In addition, a procedure will be introduced to determine the importance of a planned programme change. This will give legal certainty to private broadcasters who plan to change programme types.

The rules on the distribution of private TV channels to cable network operators will be tightened. The Federal Chancellery hopes that non-national terrestrial channels will also have to be distributed, provided a reasonable fee is paid. The same will apply to national cable channels.

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In the past, it has often been considered unfortunate that the Bundeskommunikationssenat (Federal Communications Office), which oversees public service broadcasting, does not have the necessary facilities to monitor the ORF channels on a permanent basis. The ORF has therefore been monitored less effectively than private broadcasters, which are supervised by KommAustria, a body well equipped for this task. Under the planned amendment to the KommAustria-Gesetz (KommAustria Act), this organisation will be able to report infringements of advertising regulations to the Federal Communications Office. Unlike private broadcasters, the ORF will still be allowed to comment before proceedings are begun. If the Federal Communications Office concludes that the law may have been breached, it is obliged to instigate administrative court proceedings.

At the same time, the Fernsehsignalgesetz (Television Signals Act) will be repealed. It was originally brought in to transpose Directive 95/47/EC on the use of standards for the transmission of television signals. Certain identical provisions of Access Directive 2002/19/EC and Universal Service Directive 2002/22/EC will in future be transposed by a KommAustria decree.

Draft Federal Act amending the Private Radio Act, the Private Television Act and KommAustria Act and repealing the Television Signals Act

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