[AT] Electronic Media to Be Taken into Account in Media Act

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On 8 June 2004 the media department of the Austrian federal chancellery tabled a comprehensive bill amending the Media Act currently in force in Austria.

The 1981 Media Act applies to all mass media, irrespective of the dissemination technology used. In principle, therefore, it already applied to all forms of electronic media, even though there were no provisions relating specifically to individual media. This meant it was unclear, however, whether all the provisions of the Act actually applied to information available on the Internet, and since the specific features of the Internet were not taken into account in the Act extra rules applied to minor publications on the Internet and, conversely, some provisions of the Media Act could not apply in the case of the Internet or there was no objective justification for applying them.

The bill is intended to overcome the shortcomings of the Act by making sure the new media are explicitly taken into account. It contains many new definitions of important concepts and introduces other concepts that are completely new. For example, it identifies a new category of "periodical electronic media" covering broadcast programmes, web-sites, and electronic media that are disseminated in similar format at least four times a year. The intention of the federal chancellery is that, like other periodical media owners, the owners of these media should be required to publish data about themselves, as well as the names of any of their members, in the case of companies, whose stake or original share exceeds 25 %. In the case of broadcasters, it will be sufficient for this information to be published in teletext form. Website operators will have to ensure such data are permanently and easily available. Copyright rules are to be extended to include electronic newsletters but not mass emailings.

The bill provides for more lenient rules in the case of web-sites used exclusively to express personal views, on account of their relative insignificance in journalistic terms. For example, the rules relating to the right of reply and the obligation to announce the outcome of criminal proceedings will not apply in their case, and operators of web-sites such as these will also be exempt from the obligation to publish their basic orientation and disclose any stakes they might have in other media companies.

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Until now, people claiming compensation for media violations of their personality rights have been required to submit their claims within a six-month period commencing on the day the information about them was first disseminated. The problem has been that in the case of rights violated as a result of information published on a web-site, respondents have often been able to argue that the information had been available on the Internet for more than six months and that the deadline for compensation claims had therefore expired. In such cases it has been virtually impossible for the claimants to prove otherwise. The planned amendment should make it much easier to enforce compensation claims by providing that any precise point in time when the information is available on the web-site can trigger the start of the six-month claims period. The right of reply in respect of information posted on a web-site will still be subject to a six-month time-limit, but commencing, however, on the day the information first appeared on the web-site.

For the first time, the bill expressly defines the right of reply in respect of information posted on a web-site. The intention is that it should be possible to insert a link to the reply on the home page, so that the whole text of the reply does not have to be published on the home page. It should be possible to consult the reply for at least as long as the information to which it refers. Once the offending information has been taken off the site, the federal chancellery wants the reply to remain available for the same length of time the offending information was posted on the site, but for no more than a month.

The bill also amends the provisions governing the execution of court decisions relating to media law. In keeping with the withdrawal or seizure of media products, it will be possible in future for the courts to shut down any web-sites that contain the offending products. It is unlikely that the bill will adopted by parliament before the autumn.

Entwurf eines Bundesgesetzes mit dem das Bundesgesetz über die Presse und andere publizistische Medien (Mediengesetz) geändert wird

http://www.bka.gv.at/2004/6/9/begut-mediengesetz.pdf

Bill amending the Press and Other Journalistic Media Act (Media Act)

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