[AT] Major Reform of Broadcasting Acts Opens the Door for Nationwide Private Radio Stations

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The Federal Act amending the Private Radio Act, the Private Television Act, the KommAustria Act and the ORF Act and repealing the Television Signal Act was promulgated at the end of July, and most of its provisions entered into force on 1 August 2004. The new act heralds the most extensive modification in the broadcasting field since the reform of its legal framework in 2001.

The amendment places private broadcasting laws as a whole on a sounder commercial footing, inter alia by relaxing certain guarantees designed to ensure media diversity. The provisions on controls have been amended with a view to boosting efficiency.

For the first time ever, nationwide private radio stations are now possible. By combining licences it should also be possible to take advantage of synergies, exclusively on the basis of existing licences. Private radio stations will be able to transfer their existing licences to a company, then cancel them in return for a new licence covering the whole country. Only commercial corporations will be eligible as nationwide licence-holders. Other conditions also apply. For example, companies must meet certain capital criteria and their range must include at least 60 per cent of the Austrian population.

In principle, broadcasters are obliged to make sure their programme complies with their licence. In the past, several radio broadcasters lost their licence when it was found they had significantly changed their programming. Under the new act, broadcasters must wait at least two years after receiving their licence before modifying their programming and changes may only be made with the consent of the Austrian broadcasting regulator (KommAustria) . However, such a request may only be refused if the modification is likely to have a major negative impact on competition, for the economic efficiency of radio broadcasters already operating in the area, or for the diversity of programmes available to listeners.

Before the new law was introduced, the Bundeskommunikationssenat (Federal Communications Office), the supervisory body for public radio, had no powers to monitor the ORF's programmes on a permanent basis. In the interests of more effective control, KommAustria is now obliged to carry out regular checks of all radio broadcasters at least monthly, to make sure they are complying with the

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restrictions on advertising. Broadcasters found to be violating such restrictions have a right of reply, following which, if there are still good grounds for suspecting that the ORF is in breach of the law, KommAustria must report the matter to the Federal Communications Office. In the event of a suspected violation by a private radio broadcaster, KommAustria pursues the matter itself.

In the past, complaints alleging that the ORF had violated the ORF Act could be lodged with the Federal Communications Office providing they were backed up with the signatures of 300 radio listeners. The only other condition that had to be met was that complainants had to be licence holders. Now, the signatures of only 120 radio listeners or people living under the same roof as them are needed in order to lodge a complaint.

The Television Signal Act (BGBl I 2000/50 as amended by BGBl I 2001/136) governing the promotion of television services for widescreen format (16:9) and high-definition television (HDTV) and those that use fully digitalised transmission technology has been repealed. The provisions of the Access Directive 2002/19/EC and the Universal Service Directive 2002/22/EC should shortly be incorporated into regulations issued by KommAustria.

Federal Act amending the Private Radio Act, the Private Television Act, the KommAustria Act and the ORF Act, and repealing the Television Signal Act, BGBl I 2004/97 of 30 July 2004

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