[DE] Land Media Authority Directors Speak Out on DVB

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At a recent meeting, on 11 July 1995, the Conference of Directors of Land Media Authorities (DLM) presented a joint position paper on the introduction of Digital Video Broadcasting (DVB) throughout the Federal Republic. Having briefly discussed the technical possibilities of DVB, the wide-ranging paper concentrates on the question of what needs to be done in legal terms. Two sections contain separate recommendations on legal regulations and on action during the start-up phase of DVB. Nothing is said about Digital Audio Broadcasting (DAB), since the Land media authorities expect it to have marginal significance only.

The DLM starts by arguing for nation-wide introduction of DVB and against merely regional projects, since all the technical and economic arguments support the first option.

It then turns to questions of broadcasting and media law raised by the introduction of DVB. It does not discuss copyright and data protection. The decisive thing, in its view, is the fact that the traditional first principle of broadcasting law - that, when transmission capacities are limited, priority should go to the programme providers who contribute most to programme variety - becomes obsolete when DVB is introduced. Action will still be needed, however, to guarantee access to radio and television and prevent any single viewpoint from monopolising the airwaves.

As the DLM sees it, press, media, telecommunications and broadcasting law will tend to coalesce in future, while cartel and broadcasting law will continue, as at present, to complement each other.

The concept and definition of broadcasting will be significant in granting licences: teleshopping programmes, at least those which contain no element of entertainment, and data services (including multi-media) are not necessarily broadcasting, and do not therefore need, in all cases, to be licensed - but they should be carefully watched. When it comes to distributing capacity, and having regard to the medium-term decline in broadcasting's special position within the overall spectrum of communications, there remains the regulatory task of ensuring that the information services, which play a crucial role in forming public opinion, get priority in the communications networks. On the - new - level of service provision (guidance and subscriber management), the DLM says that,

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instead of individual channels' being reserved through the Land media authorities, deregulation should be used to open up new economic possibilities, on certain general conditions which are justified in the public interest. With regard to network operators, there is - since Telekom will be losing its monopoly not later than 1998 - a need for regulations, which should vary in their stringency, depending on the importance of the networks' role in shaping public opinion.

Finally, there is also a need for legal regulation of the programme sources, which are becoming increasingly important. In the long term, special legislation on communications is the only way of coping with these developments in legal terms. In the short or medium term, outline media legislation is needed to remove access restrictions which are now obsolete, and, at the same time, impose legal controls on sectors which have not so far been regulated. Because of the problems which arise with powers, the DLM points out that renewed co-operation between the Federation and the Länder will be important here.

In future, the procedure for licensing should merely involve ascertaining whether there are reasons why broadcasting should not be permitted; here, the DLM says that new and effective criteria are urgently needed for media law control of concentrations.

The law must also bring in general conditions for service providers, guaranteeing equal access to broadcasting and making the full range of programmes available to everyone, particularly by prohibiting "compulsory" packages. Regulations for network operators are another requirement; these should be broader than those applying at present to Telekom, but stringent enough to ensure that information of interest to the public is generally available. The law must also ensure that all interested parties have access to the programme sources. Until the law steps in, it is up to the Land media authorities to prepare the ground by engaging in dialogue with firms. In the short term, this means ensuring that standard set-top-box and conditional access systems are introduced throughout the Federal Republic, and developing uniform standards for navigation systems (which count as programmes). Compulsory programme packages should be banned. The setting-up of regional cable companies is recommended.

The DLM is considering using European law to get round the problems raised by the current licensing system, which restricts each user to two channels. During a transitional period, it suggests that DVB firms - even those based in Germany - should operate under foreign licences. This is permissible in European law.

Eckwertepapier Bundesweite Einführung von digitalem Fernsehen und Multimedia-Diensten - Digital Video Broadcasting (DVB)-Wo kann dereguliert werden ? Wo sind neue Regelungen notwendig?, 39 S.

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Position paper, The introduction of digital television and multimedia services throughout the Federal Republic - Digital Video Broadcasting (DVB) - Where can one deregulate? Where are new regulations needed?), 39 p.

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