[DE] Heads of Länder Governments Agree on New Regulations to Control Media Concentration

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The share-based approach to controlling the power of private broadcasters to shape opinion, which has so far applied in Germany, is to be replaced by a new approach, based on their percentage share of the audience. At their meeting in mid-October, the heads of government of the 16 Länder agreed on the main points of the new system. So far, programme providers in Germany have had to work through consortiums. Broadcasting bodies are licensed only when none of the partners holds 50% or more of the capital or voting rights. In future, even 100% holdings will be permitted. To keep power to shape opinion within proper limits, no broadcaster will be allowed more than 30% of the market. This quota will be assessed on the proportion of the audience actually reached. But the approach favoured by the Land of Schleswig-Holstein, based on the share of the audience aimed at, will also be considered. One point which still has to be finally settled is what exactly "market" means here. It must be assumed, however, that no distinction will be made between full and partial programmes. Effects on related markets will also be taken into account in deciding whether the 30% limit has been reached. Steps which can be taken to ensure variety once this limit has been exceeded are still being discussed. Changes are also to be made in the licensing procedure for programmes covering the entire Federal Republic. The Land media authorities will in future be required to refer any application for a licence to an investigating committee on concentrations (the Konzentrationsermittlungskommission or KEK), which is to be set up. Having completed its enquiries, the KEK will make a recommendation on any issues arising under the law on concentrations. This recommendation may be disregarded only if two-thirds of all the Land media authorities vote to do so. The new regulations will not affect the licensing of local, regional or Land -based broadcasters.

The Land Broadcasting Authority of the Saarland takes the view that the tasks which are to be entrusted to the KEK can easily be carried out by the Association of Land Media Authorities (ALM). It argues that this will avoid the creation of new bureaucracies, but points out that the ALM will have to be given the material and legal resources it needs to do the job.

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