[DE] New Draft Amendment of Telecommunications Act

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Kathrin Berger
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 31 January 2006, the Bundesministerium für Wirtschaft und Technologie (Federal Ministry for Business and Technology) published a new draft law amending current telecommunications legislation.

An amendment to the Telecommunications Act had already been agreed by the Bundestag in June 2005, but was never adopted because of the drafting in of a mediation committee and the premature end of the parliamentary term.

One new addition to the draft agreed in 2005 concerns the regulation of "new markets", which is explained in Art. 9(a). According to this provision, new markets should only be covered by the market regulations if there is factual evidence that the development of a sustainable competition-oriented market in the area of telecommunications services or networks would otherwise suffer long-term damage. The responsible regulatory body, the Bundesnetzagentur (Federal Network Office) decides whether regulation is required. The draft explains that new markets should not be subjected to unreasonable regulation, since this can disproportionately influence conditions of competition in a newly emerging market.

Another important addition is a new sentence 3 in Art. 42 para. 4. This would enable the Bundesnetzagentur to impose competition law obligations if there was factual evidence that a company was in danger of abusing its dominant market position. This amendment is designed to bring the law into line with Art. 17 para. 4 of the Universal Service Directive 2002/22/EC.

Referentenentwurf eines Gesetzes zur Änderung telekommunikationsrechtlicher Vorschriften (Stand: 31. Januar 2006)

http://www.bmwi.de/Redaktion/Inhalte/Pdf/Gesetz/TKG-Aend-2006,property=pdf,bereich=,sprache=de,rwb=true.pdf

Draft law amending telecommunications legislation (31 January 2006)

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