[DE] Telemedia Act Adopted

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After the *Bundestag* (lower house of the German Parliament) had adopted the *Gesetz zur Vereinheitlichung von Vorschriften über bestimmte elektronische Informations- und Kommunikationsdienste* (Act on the standardisation of provisions on certain electronic information and communication services - ElGVG), the cornerstone of which is the *Telemediengesetz* (Telemedia Act - TMG), on 18 January 2007, it was passed by the *Bundesrat* (upper house of the German Parliament) on 16 February 2007.

The Telemedia Act no longer distinguishes between tele-services, which were previously covered by the *Teledienstegesetz* (Teleservices Act - TDG) within the framework of the *Informations- und Kommunikationsdienste-Gesetz* (Information and Communication Services Act - IuKDG), and media services, which were previously the subject of the *Mediendienstestaatsvertrag* (Inter-State Agreement on Media Services - MDStV). Instead, similar to the *Neunte Rundfunkänderungsstaatsvertrag* (9th amendment to the Inter-State Broadcasting Agreement - RÄStV), it combines the two concepts (see IRIS 2005-2: 9 and IRIS 2006-7: 9). Commercial rules for telemedia will, in future, be found in the TMG, while content-related aspects will be regulated in a specific section of the Inter-State Broadcasting Agreement and the existing *Jugendmedienschutz-Staatsvertrag* (Inter-State Agreement on Protection of Youth in the Media). Telecommunications services and broadcasting are distinguished from telemedia and thus excluded from the scope of the new Act.

One new rule, which has attracted particular criticism, is the obligation to make user data available to investigating authorities for crime prevention purposes. This provision, which also applies in connection with the protection of intellectual property rights, has raised serious concerns from the perspective of data protection.

Protection from unsolicited e-mails ("spam") has also been extended insofar as it is now an offence for senders to breach information obligations, such as the failure to identify their communications as advertising or the withholding of their identity.

Gesetz zur Vereinheitlichung von Vorschriften über bestimmte elektronische Informations- und Kommunikationsdienste,

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(Elektronischer-Geschäftsverkehr-Vereinheitlichungsgesetz - ElGVG) vom 26. Februar 2007

http://www.bgblportal.de/BGBL/bgbl1f/bgbl107s0179.pdf

Act on the standardisation of provisions on certain electronic information and communication services of 26 February 2007

Gesetzentwurf und Folgedokumente

http://www.bmwi.de/BMWi/Navigation/Technologie-und-Innovation/Informationsgesellschaft/medienrecht.html

Bill and related documents

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