[DE] 9th Amendment to Inter-State Broadcasting Agreement Enters Into Force

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The *Neunte Staatsvertrag zur Änderung rundfunkrechtlicher Staatsverträge* (9th Inter-State Agreement Amending Inter-State Broadcasting Agreements - *9. Rundfunkänderungsstaatsvertrag* - RÄStV) entered into force on 1 March 2007.

The Minister-Presidents of the *Länder* and the Mayors of Berlin, Hamburg and Bremen had already approved the new amendment on 22 June 2006, which subsequently required the agreement of the parliaments of the *Bundesländer* .

The *9. Rundfunkänderungsstaatsvertrag* represents another important step in the reorganisation of the legal framework governing the media in Germany (see IRIS 2005-2: 9). One significant development is the fact that provisions on different electronic media services have been brought together within the *Rundfunkstaatsvertrag* (Inter-State Broadcasting Agreement - *RStV*). The title of the Agreement will therefore be changed to " *Staatsvertrag für Rundfunk und Telemedien* " (Inter-State Agreement on Broadcasting and Telemedia). It deals with both broadcasting (television and radio) and content-related aspects of telemedia. Rules on the protection of minors and human dignity have been taken out; these will remain part of the *Jugendmedienschutz-Staatsvertrag* (Inter-State Agreement on the protection of minors in the media - JMStV) (see IRIS 2002-9: 15).

The new Agreement defines “telemedia” as all electronic information and communication services except telecommunications services and broadcasting. Therefore, the separate categories of tele-services, which were previously covered by a Federal Act, and media services, which were governed by a separate Inter-State Agreement between the *Länder* , have been combined - a development that was also part of the reason for creating the *JMStV* . The *Mediendienste-Staatsvertrag* (Inter-State Media Services Agreement - MDStV) has been repealed, with its most important provisions concerning the "electronic press" transferred into the RStV (Section VI).

Art. 60 of the *RStV* deals with the relationship between the Inter-State Agreement's provisions, on the one hand, and the Federal Government's *Telemediengesetz* (Telemedia Act - TMG; see IRIS 2007-3:12 and IRIS 2006-7:9) on the other; incidentally, the TMG applies to telemedia which are governed by

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the *RStV* and other inter-state broadcasting agreements between the *Länder*. This covers the general and business law demands on telemedia, many of which are set out in the E-Commerce Directive 2000/31/EC and regulated in the TMG because they are the responsibility of the Federal Government.

The textual amendments relating to the use of the term "telemedia" have been included in the *ARD-, ZDF-, DeutschlandRadio-, Rundfunkgebühren- und -finanzierungs-Staatsvertrag* (Inter-State Agreement on the ARD, ZDF, DeutschlandRadio, broadcasting licence fees and the financing of broadcasting) and the JMStV.

For the first time, where joint broadcasting law provisions between the *Länder* are concerned, Art. 9a of the RStV gives broadcasters the right to information held by state authorities. Previously, such rights were enshrined in relevant laws or inter-state agreements between the *Länder* on public and/or private broadcasting, in *Land* press laws or in so-called "freedom of information" laws. They are granted equally to broadcasters and to providers of telemedia services with editorial or journalistic content (Art. 55.3 RStV).

The Agreement makes direct reference to the Federal Government's TMG, whose data protection provisions will apply to broadcasters in the future. One amendment to the *ARD-Staatsvertrag* (ARD Inter-State Agreement - ARD-StV) concerns the strengthening of internal controls by the ARD's managing bodies. Art. 7.2 ARD-StV states, for example, that the conference of chairpersons of the broadcasting and administrative councils should coordinate the control of the managing bodies of the regional broadcasting corporations that make up the ARD.

Finally, according to the explanatory memorandum to the *9. Rundfunkänderungsstaatsvertrag* , an incentive for the merger of *Landesmedienanstalten* (*Land* media authorities) is to be introduced, that will help to offset financial losses that result from the reduction in broadcasting licence revenue when one or more *Land* media authorities merge.

Staatsvertrag für Rundfunk und Telemedien (Rundfunkstaatsvertrag - RStV) vom 31. August 1991, zuletzt geändert durch Artikel 1 des Neunten Staatsvertrages zur Änderung rundfunkrechtlicher Staatsverträge (Neunter Rundfunkänderungsstaatsvertrag) vom 31. Juli bis 10. Oktober 2006

http://www.alm.de/fileadmin/Download/Gesetze/1.2_RStV__1.3.07.pdf

Inter-State Agreement on Broadcasting and Telemedia of 31 August 1991, last amended through Art. 1 of the 9th Inter-State Agreement Amending Inter-State Broadcasting Agreements of 31 July to 10 October 2006

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