European Commission: Funding of Austrian Broadcasting Corporation Examined

IRIS 2008-4:1/7

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On 31 January 2008 the European Commission called on Austria, in accordance with Article 88(2) of the EC Treaty, to make its position clear on the funding of the *Österreichischer Rundfunk* (Austrian Broadcasting Corporation – ORF) (see IRIS 2005-9: 6).

ORF is largely funded by the licence fees, the amount of which it is free to determine, which it receives from all viewers and listeners. With reference to its communication of 2001 concerning the application of the rules on state subsidies to public service broadcasting, the Commission is of the opinion that the funding might involve a prohibited subsidy for the following reasons:

– the remit under public law to provide an online service (available at www.orf.at) in connection with the television and radio programmes is not sufficiently clear. The ORF Act does not indicate what democratic, social and cultural demands that would need to be met by the services to be provided in order to justify funding from the licence fees.

– ORF is obliged to broadcast a sports theme channel by satellite. Here, the Commission says there is no programming plan that sets out the tasks laid down by law. Such a plan should state why the population's needs cannot be met with the other television programmes put out by ORF and what criteria are applied in the selection of the sports events that are broadcast.

– The Commission also doubts that the supervisory authority, the *Bundeskommunikationssenat* (Federal Communications Office – BKS), or the ORF organs are in a position to provide a sufficient guarantee that the remit under public law will be satisfied.

– In addition to its remit under public law, which it has to carry out on a non-profit-making basis, ORF is allowed to engage in commercial activities within certain limits, but the Commission does not believe there is a guarantee that these services are provided under market conditions.

The recent decision to raise the licence fees (see IRIS 2008-2: 8 and IRIS 2008-3: 7) is not connected to the investigation.

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