

[DE] Decisions on PC Licence Fees

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Martin Kuhr
Institute of European Media Law (EMR), Saarbrücken/Brussels

Within the space of a few weeks, various courts dealt with the question of whether Internet-enabled personal computers (PCs) used for business purposes should be subject to the broadcasting licence fee. The decisions focused particularly on Art. 5 para. 3 of the *Rundfunkgebührenstaatsvertrag* (Inter-State Agreement on Broadcasting Fees - RGebStV), which contains an exemption for new types of reception devices.

On 15 July 2008, the *Verwaltungsgericht Braunschweig* (Brunswick Administrative Court) ruled that an Internet-enabled computer used for business purposes was not subject to the licence fee if it was used in a private home where licence fees were already paid for other reception devices.

The *Verwaltungsgericht Koblenz* ruled on 15 July 2008 that a lawyer did not have to pay the licence fee for the Internet-enabled PC that he used for his job because there was no reason to assume that a lawyer would normally use his work PC to receive broadcast programmes. It was necessary to interpret the provision concerning devices that could receive broadcast signals in a way that did not contradict the basic principles of the Constitution, such as the freedom of information. To apply the licence fee to a PC used by a lawyer exclusively for business purposes would infringe the principle of proportionality.

On 10 July 2008, the *Verwaltungsgericht Ansbach* decided that an Internet-enabled PC represented a new type of reception device within the meaning of the RGebStV, regardless of what it was used for, since just as with radio and TV receivers, the mere capability of receiving programmes was sufficient to justify the application of the licence fee.

In Austria, recent press reports described how the *Gebühren Info Service* (GIS), which is responsible for managing broadcasting licence fees under the terms of the *Rundfunkgebührengesetz* (Broadcasting Fees Act), demanded that a laptop owner who did not possess a radio or TV set should pay broadcasting licence fees. The decision was based on the argument that he could theoretically watch television via the Internet. In the meantime, however, the ministry responsible is said to have declared that there are no plans to introduce a fee for PCs.

Urteil des VG Braunschweig vom 15. Juli 2008 (Az: 4 A 149/07)

<http://www.dbovg.niedersachsen.de/Entscheidung.asp?Ind=0510020070001494%20A>

Ruling of the VG Braunschweig, 15 July 2008 (case no. 4 A 149/07)

Pressemitteilung des VG Koblenz vom 25. August 2008

<http://cms.justiz.rlp.de/justiz/sub/a6f/a6f4038a-fafd-6b11-33e2-dc6169740b3c,,,fff70d73-d8a9-51fc-889b-3bb63b81ce4a.htm>

Press release of the VG Koblenz, 25 August 2008

Urteil des VG Ansbach vom 10. Juli 2008 (Az: AN 5 k 08.00348)

<http://www.vgh.bayern.de/VGAnsbach/documents/08-00348.pdf>

Ruling of the VG Ansbach, 10 July 2008 (case no. AN 5 k 08.00348)

