

[AT] Obligation to Deliver for Online Media

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Media owners in Austria are obliged to offer or deliver printed matter to certain public libraries, including the Austrian National Library (ÖNB). In 2000 this obligation was extended to include "other forms of media, except phonograms and moving picture carriers" - in other words, essentially DVDs containing text (see IRIS 1999-7: 13 and IRIS 2000-9: 14).

At the beginning of March 2009, an amendment to the *Mediengesetz* (Media Act) came into force, extending the obligation to offer and deliver to include periodical electronic media that are accessible (websites) or distributed at least four times each calendar year in a similar format (e.g., electronic newsletters). If the ÖNB is able to gather the content of these media itself, it is entitled to do so as long as it is available from an ".at" domain or concerns Austria in some way. The ÖNB is only allowed to collect other similar media on an "individual" basis and must notify the media owner if it does so. The media owner concerned does not need to take any action, but simply to allow its content to be collected.

If the ÖNB is unable to collect the content itself, for example because it is subject to access controls or some other restriction, it can ask the media owner to supply it. Delivery will usually involve the disclosure of access codes at no cost to the media owner, although any other costs that arise must be borne by the media owner up to a limit of EUR 250. Any additional costs must be reimbursed by the ÖNB. The ÖNB must make the media content that it collects or that is supplied available to certain other public libraries in Austria.

If media content that is collected or supplied is protected by copyright or a related right, the ÖNB may make one copy for its own purposes and a further copy for each library that makes a legitimate request for the media content concerned.

All collected or delivered content of media that are accessible or distributed at least four times per calendar year may only be made available to library users at the library's own premises. The owners of media that are subject to access controls can impose a one-year blocking period on the use of their content by library users. If no such blocking period is imposed, or after such period has elapsed, such content may only be made accessible to one library user at a time in the library concerned. Hard copies may be supplied to library users, but electronic reproduction is prohibited.

Bundesgesetz, mit dem das Mediengesetz geändert wird

http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2009_I_8/BGBLA_2009_I_8.html

Federal Act amending the Media Act

