[DE] Third Agreement between the Federal States passed amending Agreements between the Federal States on broadcasting

IRIS 1996-8:1/21

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On 29.07.1996 the Minister Presidents of the Federal States (the Länder) passed the Third Agreement between the Federal States amending Agreements between the Federal States on broadcasting; this will come into force on 01.01.1997.

Important features in the new regulations include provisions to ensure diversity of opinion in private broadcasting, and extended broadcasting content for satellite channels in public service broadcasting. §26 of the Agreement on Broadcasting (Rundfunkstaatsvertrag - RfStV) regulates the viewer market share model for private television operators; this replaces the existing model. A company with a viewer market share in excess of 30% is deemed to have reached a dominant position in forming opinion, making it necessary to apply measures of varying intensity, even going as far as withdrawing authorisation to broadcast, in order to ensure the necessary diversity. In addition, companies with a market share of at least 10% must reserve broadcasting time for independent broadcasters (§26, para.5 of the RfStV). According to §28 of the RfStV, calculation of the viewer market share should also take account of channels in which the broadcaster has an economic interest.

The competent media authorities in each of the Länder are to supervise ensuring diversity of opinion; to do so a commission for reporting concentration in the media (KEK) and the Conference of directors of media authorities in the Länder (KDLM) have been set up within the competent media authorities in each of the Länder (§35 of the RfStV). The KEK comprises six specialists in broadcasting and economic law, three of whom must be qualified to hold judicial office. Members of the KEK are appointed by the Minister Presidents of the Länder . The KDLM comprises representatives of the media authorities in the Länder . The KEK and the KDLM do not receive instructions from any other body. The KEK is responsible for the final decision on matters concerning the guarantee of diversity of opinion. If the media authority in the Land wishes to diverge from the decision of the KEK, it must refer to the KDLM within one month; within three months the KDLM may authorise the divergence if there is a three-quarter majority of its members in favour.

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The planned regulations have been criticised by the Conference of Directors of Media Authorities in the Länder , which considers the appointment procedure for the KEK incompatible with the principle of distance from the State and therefore unconstitutional.

According to the new wording of §18 of the RfStV (future §19), ARD and ZDF will have the possibility of jointly operating an additional television channel by satellite; it would have a cultural emphasis, and foreign broadcasters could also be involved. The public service broadcasting bodies in the Länder jointly could in addition broadcast two specialised television channels.

The ARD and ZDF Sgreements between the Federal States have also been amended, as have the State conventions on broadcasting licence fees and the financing of broadcasting.

Dritter Rundfunkänderungsstaatsvertrag.

Third Agreement between the Federal States to amend the Agreements on Broadcasting.

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