[DE] What are independent third parties? Directors decide

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The guideline on broadcasting time for third parties, adopted in January by the Conference of Directors of Regional Media Authorities, amplifies the provisions of paragraph 31 of the National Broadcasting Agreement (Article 1 of the Agreement on Broadcasting between the Federal States in United Germany), as modified by the third Agreement between the Federal States to amend the Agreements on Broadcasting of 26.08. -11.09.1996. The guideline, which is based on Article 33, sentence 1, of the Agreement, is above all intended to clarify the interpretation of Article 31 of the Agreement, which seeks to ensure diversity of opinion by providing that independent third parties may be given air time "windows" in main programmes (see IRIS 1997-2:13).

The following point is particularly important here: while main programme organisers can be licensed by any Regional Media Authority, "window" programme organisers are licensed and monitored by the authority responsible for the main programme. However, if the licensing of "window" programme organisers is of national significance as a measure guaranteeing diversity of opinion, then - according to the preamble to the new guuideline - organisation and evaluation of these programmes should be governed by uniform standards. As far as content is concerned, the guidleine provides that the two organisers must be kept sufficiently independent of each other (Article 31, para. 1 of the the Agreement on Broadcasting between the Federal States in United Germany) by the main organiser's having no right of consultation or approval concerning the "window" programme organisers' decisions. At the same time, due allowance must be made for the main organiser's interest in preserving the programme's external uniformity and keeping it consistently acceptable to viewers. On the assumption that entertainment is, as a rule, abundantly catered for by the full programme, the directive provides that the "window" programme's additional contribution to diversity must be in the fields of culture, education and information (cf. Nos. 2 to 2.3).

Since "window" programme organisers (Article 31, para. 3, of the Agreement on Broadcasting between the Federal States in United Germany) and any ancillary providers are legally independent, the liability provisions of Article 28 or specifically Article 28, para. 2 (2) of the Agreement apply to them. The Regional Media Authority responsible and the Media Concentration Commission must

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together decide, in accordance with Article 36, para. 2 (2) of the Agreement, whether the situation regarding participation and dependence is compatible with the law on concentrations.

To become effective, the guideline still needs the approval of all the supervisory bodies of the Regional Media Authorities.

Beschluß der Direktorenkonferenz der Landesmedienanstalten vom 10. Januar 1997 betreffend die "Vorläufige Richtlinie der Landesmedienanstalten über die Sendezeit für unabhängige Dritte nach § 31 RStV (Drittsendezeitrichtlinie DSZR) vom 02.Januar 1997".

Decision of the Conference of Directors of Regional Media Authorities of 10 January 1997 concerning the "Provisional directive of the Regional Media Authorities on broadcasting time for independent third parties under Article 31 of the National Broadcasting Agreement (Third Party Broadcasting Time Directive) of 2 January 1997".

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