[AT] KommAustria classifies "Visual Radio" as a television program and rejects ORF application for the introduction of a new offer (Public Value Test)

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The Austrian Communications Authorities (KommAustria) rejected the application of the Austrian Broadcasting Corporation for the introduction of the audiovisual offer "Ö3-Live / Visual" pursuant to § 6b in conjunction with §§ 3, 4e and 4f ORF-G by decision of 18 February 2015 (GZ .: KOA 11.266 / 15-001).

By letter of July 29, 2014, the ORF had applied for authorization to change the offer concept for the web radio service oe3.ORF.at by extending the offer by the function "Ö3-Live / Visual". In the existing program the station Ö3 was streamed live and the CD covers of the current music tracks were displayed as coverflow, while at the same time current headlines were shown. In order to preserve the attractiveness of Ö3-Live, it should be improved by the requested change in the area of motion pictures, whereby live images from the broadcast studio and the music videos belonging to the running music tracks should be integrated synchronously. The listener should have the opportunity to take a look at the broadcasting studio at any time, whereby often only the moderator (now as a moving picture) should be seen.

The KommAustria rejected the ORF's request after the participation of all the bodies to be consulted and decided that the proposed amendment through the introduction of the Ö3-Live / Visual offer would be the organization of a television program. There is no doubt that the offer Ö3-Live is the broadcasting of a television program which follows the sequence of a radio program in its design ("single, self-contained and temporally limited sequence of moving pictures with or without sound"). As an audiovisual media service, which would be provided for the simultaneous reception of broadcast services on the basis of a broadcasting schedule, "Ö3-Live / Visual" was another, only online transmitted television program by ORF. However, the ORF had no authority to do so because its remit had already been finalized in § 3 ORF-G. The proposed offer is not just an "illustrated radio", it goes far beyond. KommAustria also pointed out that an online offer, whether pursuant to § 4e or 4f ORF-G, should not constitute a television or radio program since these would be covered by the mandate of § 3 paragraphs 1 to 3. On the other hand, a TV or radio program may not be an online offer according to §§ 4e or 4f ORF G.

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Since, according to KommAustria, "Ö3-Live / Visual" was another TV program by the Austrian Broadcasting Corporation (ORF), an availability was not possible as an online offer according to § 4e ORF-G and as an online offer according to § 4f ORF-G .

Bescheid der KommAustria, 18. Februar 2015

https://www.rtr.at/uploads/media/33094_KOA%2011.266_15_001.pdf

Decision of the KommAustria, 18 February 2015

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