[DE] ZAK takes fundamental decisions on platform regulation

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At its 69th meeting in Saarbrücken on 23 June 2015, the German media authorities' Kommission für Zulassung und Aufsicht (Commission on Licensing and Supervision - ZAK) discussed some fundamental questions concerning platform integrity.

In particular, it emphasised that the so-called red button or HbbTV signal does not need to be transmitted by platform operators because it does not constitute part of the programme signal. The HbbTV signal is used to activate the so-called red button that viewers can press on their remote control to participate in votes or select additional content offered by the broadcaster.

This decision followed a complaint lodged by ARD about the filtering out of the HbbTV signal by Kabel Deutschland Vertrieb und Service GmbH (KDG), which ARD deemed to be an infringement of the rules on signal integrity enshrined in Article 52a(3) of the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement - RStV). However, the ZAK ruled that the concept of 'programme' in Article 52a(3)(1) RStV only covered the broadcast programme itself, but not additional services that were merely designed to complement it. It also considered that it must be possible to modify programme signals in order to make them compatible with the relevant platform standard. Furthermore, it could not be stated that the programme had been altered, or that the ARD had been discriminated against in comparison with private broadcasters, since their channels were transmitted with higher definition under a separate contractual agreement with KDG.

Another item on the ZAK's agenda concerned whether the Sky Box home screen represented an unreasonable obstruction to other channels. Sky has changed its user interface in such a way that a home screen is now displayed when the box is switched on, giving an overview of directly accessible Sky channels. A list of the other channels can only be found by pressing a button on the remote control. However, users can choose to switch back permanently to the previous system without the home screen (opt out).

Since viewers are required to complete a two-step process to access the whole range of available channels, the new system does, in fact, discriminate between Sky and other channels. In this case, however, the ZAK did not consider that the

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rules on fair, non-discriminatory user interfaces had been breached. This was mainly due to the fact that viewers could change the new user interface fairly easily themselves by amending their default settings. All channels were still available. In addition, the intermediate step required to access non-Sky channels was not serious enough to cause an unreasonable obstruction to those channels. It should also be remembered that Sky subscribers paid for the Sky channels and experience showed that these were the channels they mainly watched and wanted to find.

At its meeting, the ZAK also decided that the current model for the payment of feed-in fees to Kabel Deutschland Vertrieb und Service GmbH (KDG) was incompatible with the principle of equal opportunities, since it only made economic sense for providers with a strong market position and constituted an unreasonable obstruction for small and new providers. As this hindered broadcasting diversity, KDG was urged to change its feed-in model in order to create a level playing field.

Pressemitteilung der ZAK vom 24.06.2015 zur Übertragung des HbbTV-Signals und zur Frage der Verletzung des Prinzips der Chancengleichheit des Home Screen der Sky-Boxen

http://www.die-medienanstalten.de/index.php?id=619&tx_ttnews[tt_news]=1204&cHash=777022d0c29b8f7636a756aa1d84cfaa

ZAK press release of 24 June 2015 on the transmission of the HbbTV signal and the infringement of the principle of equal opportunities on the Sky Box home screen

Die Pressemitteilung der ZAK vom 24.06.2015 zum Entgeltmodell der KDG

http://www.die-medienanstalten.de/index.php?id=619&tx_ttnews[tt_news]=1206&cHash=de1b30890077facb6a4bf56603cea27f

ZAK press release of 24 June 2015 on the KDG pricing model

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