[DE] State media authority initiates proceedings against Google for possible breach of new anti-discrimination rules in state media treaty

IRIS 2021-2:1/29

Christina Etteldorf
Institute of European Media Law

On 17 December 2020, the Medienanstalt Hamburg/Schleswig-Holstein (Hamburg/Schleswig-Holstein media authority – MA HSH) – one of Germany's 14 media regulators – initiated media law proceedings against Google Ireland Ltd. (Dublin) regarding its compliance with the new anti-discrimination rules that apply to media intermediaries under the *Medienstaatsvertrag* (State Media Treaty – MStV), which recently entered into force. The proceedings will examine cooperation between Google and the German Federal Ministry of Health which led to content from the ministry's Internet portal being given special prominence in Google search results when certain keywords were entered by users. It is claimed that this could unreasonably discriminate against other journalistic and editorial providers in the health sector.

The new MStV, which replaced the *Rundfunkstaatsvertrag* (State Broadcasting Treaty) and entered into force in Germany on 7 November 2020, contains rules for media intermediaries (defined as "any telemedia service which also aggregates, selects and presents journalistic and editorial offers of third parties in a generally accessible way without combining them into an overall offer"), such as Google in its function as a search engine operator. It applies to media intermediaries even if they are not based in Germany, as long as they are intended for use in Germany (Article 1(8) MStV). In order to safeguard diversity of opinion, Article 94 MStV prohibits media intermediaries from discriminating against journalistic and editorial content on whose perceptibility they have a particularly high influence. Discrimination occurs, for example, if the media intermediary systematically deviates from its usual aggregation, selection or presentation criteria for no objectively justifiable reason, either to the advantage or to the detriment of specific content.

The MA HSH claims that, under the recently disclosed cooperation between the Federal Ministry of Health and Google, the content of the ministry's website is presented differently from other content in Google search results: when 160 selected keywords for illnesses are entered in the search box, journalistic and editorial content from the ministry website is presented in the form of edited texts about the illnesses concerned and highlighted either next to or above (on mobile devices) other search results (in a so-called "Knowledge Panel"). Meanwhile, the

© European Audiovisual Observatory (Council of Europe) 2026

content of other providers, including providers of health-related journalistic and editorial content, continues to be shown in the search results in the usual manner, provided it is relevant to the search terms entered.

The MA HSH will now examine whether this practice infringes Article 94 MStV or whether it is objectively justifiable. If the Kommission für Zulassung und Aufsicht (Commission on Licensing and Supervision – ZAK) of all the state media authorities, acting on behalf of the MA HSH in supervisory proceedings against media intermediaries, decides that an infringement has been committed, the MA HSH will be obliged to take necessary measures, which can include a formal objection, a prohibition order or the blocking of content. This is the first time proceedings have been initiated under the new provisions of the MStV, and, with Google, it affects one of the most influential media intermediaries in the online environment.

Pressemitteilung der MA HSH

https://www.ma-hsh.de/infothek/pressemitteilung/kooperation-google-mit-bundesministerium-fur-gesundheitma-hsh-leitet-medienrechtliches-verfahren-ein.html

Hamburg/Schleswig-Holstein media authority press release

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026