

[DE] State media authorities issue first rules on new state media treaty

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The 14 German *Landesmedienanstalten* (state media authorities) have jointly drafted new rules to implement the provisions of the new *Medienstaatsvertrag* (state media treaty – MStV). The boards of the individual media regulators are now gradually approving these rules, clearing the way for them to enter into force. The new rules are designed, among other things, to express in practical terms the MStV's provisions on advertising. The principle being that minor broadcasting services (primarily Internet streams) do not require prior authorisation, and the MStV's new provisions on media platforms and user interfaces which came into force in November.

Under Germany's federal system, legislative competence in the broadcasting field lies with the *Länder*, including regard to content provided by other significant mass communication providers. It was on this basis that the *Länder* adopted the MStV, which came into force on 7 November 2020. This replaces the *Rundfunkstaatsvertrag* (state broadcasting treaty), and implements the EU Audiovisual Media Services Directive which was amended in 2018. It contains rules applicable at national level on modernising the media system in relation to media platforms, user interfaces and media intermediaries. Under the MStV, the state media authorities can adopt various sets of rules in order to give a practical form to the treaty's provisions and assist its implementation. These rules are incorporated into state law through corresponding acts of approval and publication. All 14 media authorities must agree before they can enter into force.

The rules contain provisions that more closely define and specify the regulatory scope of the MStV. Many of them contain definitions and procedural rules. The state media authorities adopted the rules on the implementation of the advertising regulations of the MStV in accordance with Articles 72(1) and 74 MStV. These rules contain, in particular, provisions on the labelling and optical marking of advertising, the admissibility of split-screen advertising, virtual advertising, addressable advertising, and public-interest advertising (e.g. charity appeals). The rules clarifying the exemption from prior authorisation, enshrined in Article 54(1) MStV, explain the criteria under which broadcasters do not require prior authorisation. These qualitative and quantitative criteria are used to determine the importance of a broadcast channel for the formation of individual and public opinion. The rules relating to the MStV's provisions on media platforms and user

interfaces clarify, for example, the obligation to notify the operation of media platforms, the rules on signal integrity, unlawful overlaying and scaling (transposing Article 7a of the Audiovisual Media Services Directive into the MStV), transparency requirements and the allocation of channels on media platforms. The accessibility of media platforms in the context of the new rules on equal opportunities and discrimination is also more closely defined, as is content findability in user interfaces.

Further rules drafted by the regulatory authorities are currently being approved by the media authorities' boards. These are in relation to the implementation of the competition-related provisions of the MStV, rules on arbitration bodies under Article 99 MStV in the context of the regulation of video-sharing services and rules on the levying of costs in connection with the supervision of nationwide services.

Rules are still being drawn up to clarify the MStV's provisions on transparency and discrimination in relation to media intermediaries, so-called public value services that must be given prominence in user interfaces, and quotas for European productions in the catalogues of television-like telemedia.

Satzung zur Durchführung der Werbevorschriften des Medienstaatsvertrags

https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Satzungen_Geschaefte_Verfahrensordnungen/Satzungsentwuerfe_MStV/Werbesatzung_Entwurf.pdf

Rules on the implementation of the advertising regulations of the state media treaty

Satzung zur Konkretisierung der Zulassungsfreiheit nach § 54 Abs. 1 des Medienstaatsvertrags

https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Satzungen_Geschaefte_Verfahrensordnungen/Satzungsentwuerfe_MStV/Zulassungsfreiheit_Entwurf.pdf

Rules clarifying the exemption from prior authorisation enshrined in Article 54(1) of the state media treaty

Satzung zur Konkretisierung der Bestimmungen des Medienstaatsvertrags über Medienplattformen und Benutzeroberflächen

https://www.blm.de/files/pdf2/mb_satzung_febr21_neu.pdf

Rules relating to the state media treaty's provisions on media platforms and user interfaces

