[DE] Media and digital policy in the ‘traffic light’ coalition agreement

IRIS 2022-1:1/18

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The media policy section of the coalition agreement signed by Germany’s new ‘traffic light’ coalition parties, i.e. the SPD (Social Democratic Party), Bündnis 90/Die Grünen (Alliance 90/The Greens) and the FDP (Free Democratic Party), begins by highlighting the indispensability of free, independent media at public and private levels in a democracy, no doubt in response to an increase in defamatory statements linked to the refugee and coronavirus crises in Germany, as well as undesirable recent developments in EU member states, such as Poland and Hungary. This matter will be the subject of a broad social debate conducted in partnership with the *Länder*.

By adopting new legislation, the coalition intends to strengthen the coherence between European, federal and state law and, in a partnership between the federal and state governments, to revise all media-related laws. It will be able to build on the experiences of the *Bund-Länder-Kommission zur Medienkonvergenz* (Joint Committee of the Federal Government and the *Länder* on Media Convergence), whose report led to amendments of the *Jugendmedienschutz-Staatsvertrag* (state treaty on the protection of young people in the media) and the *Jugendschutzgesetz* (Youth Protection Act), and shaped the way in which media stakeholders, such as media intermediaries and media platforms, have been incorporated into the new state media treaty. It is interesting to note that the coalition wants to help meet the challenges of the digital transformation of the media landscape “through fair regulation of the platforms and intermediaries, in order to ensure equal opportunities in the field of communication”. A potential conflict of jurisdiction between the federal and state governments on the question of who has overall responsibility for these matters cannot be ruled out.

At European level, the coalition parties are committed to implementing the provisions of the Digital Services Act (DSA), Digital Markets Act (DMA) and Media Freedom Act promoting pluralism and diversity, and guaranteeing state-independent media supervision and regulation. This is expected to pose a particular challenge for the new federal government in view of the desire of the Commission and Council to strengthen the Commission’s supervisory powers in the field of digital transformation.

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In a section on the “digital society”, the coalition parties also stress their intention to meet the requirements of the DSA by safeguarding communication freedoms, consumer rights, clear reporting procedures, access to the data of large platforms for research purposes, transparency of their algorithmic systems and clear rules to combat disinformation. On the basis of the European provisions, the new federal government plans to overhaul the German legal framework, including the *Telemediengesetz* (Telemedia Act – TMG) and *Netzwerkdurchsetzungsgesetz* (Network Enforcement Act – NetzDG). According to the coalition agreement, the governing parties wish to promote the creation of platform councils, which have been advocated in recent academic debate, although so far they have not sought to influence their organisation, composition or responsibilities. They reject the idea of general monitoring obligations, scanning of private communication and compulsory identification; they want to protect anonymity and the use of pseudonyms online. By adopting a law against digital violence, however, they hope to remove legal obstacles for victims, such as gaps in information rights. The coalition also wants to create a legal framework for electronic complaint procedures and to enable courts to order the blocking of online accounts. The establishment of a *Bundeszentrale für digitale Bildung* (Federal Office for Digital Education), which is proposed in the coalition agreement, carries the risk, from a federal perspective, of a repeat of the gradual erosion of regulatory powers for the *Länder* that was feared when the *Bundeszentrale für Kinder- und Jugendmedienschutz* (Federal Office for the Protection of Children and Young People in the Media) was created in the middle of this year.

The coalition agreement also mentions plans to verify whether, following some clearly successful initiatives in this direction, a technology-neutral, barrier-free and Europe-wide media platform is feasible.

The coalition wants to ensure that the UHF band is permanently reserved for culture and broadcasting, which is relevant in the short term with a view to Germany’s positioning at the 2023 World Radiocommunication Conference (WRC 2023), as well as the organisation of 5G architecture in and for Germany.

Other media-related plans for the ‘traffic light’ coalition include creating a legislative basis for the right of the press to access information from federal authorities (such rights established under *Land* laws were unjustifiable, regardless of claims under the Freedom of Information Act), combating hate speech and disinformation, supporting Europe-wide measures to prevent the restriction of civil liberties, e.g. abusive actions (Strategic Lawsuits against Public Participation – SLAPP), and protecting journalists’ safety.

In relation to the safeguarding of local, regional and thematic diversity, it is also significant that the coalition wishes to ensure that the entire country is served by periodical press publications, to verify what funding mechanisms are suitable to

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achieve this (following the failure of a funding approach adopted by the previous grand coalition), and to promote scientific journalism through an independent foundation.

According to the coalition agreement, all these individual measures form part of a commitment to develop a strong cultural scene and creative economy, as well as non-discriminatory cultural and media policies. Establishing cultural diversity as a national objective is also a target for the coalition, which can only be achieved through cooperation with the *Länder* and cross-party support within the federal constitutional state.

Koalitionsvertrag 2021 – 2025 zwischen der Sozialdemokratischen Partei Deutschlands (SPD), BÜNDNIS 90 / DIE GRÜNEN und den Freien Demokraten (FDP)

https://www.spd.de/fileadmin/Dokumente/Koalitionsvertrag/Koalitionsvertrag_2021-2025.pdf

Coalition agreement 2021–2025 between the SPD (Social Democratic Party), Bündnis 90/Die Grünen (Alliance 90/The Greens) and the FDP (Free Democratic Party)

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