[DE] KEK publishes 7th German media concentration report

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On 15 March 2022, the *Kommission zur Ermittlung der Konzentration im Medienbereich* (Commission on Concentration in the Media – KEK) published its 7th concentration report, which describes the current status and development of media concentration in Germany and the measures taken to safeguard diversity of opinion in private broadcasting. This year, the report, which is published at regular intervals, focuses on the clear change in the media usage habits of younger age groups in particular, which also has an impact on the protection of media pluralism.

The KEK, which comprises six broadcasting and business law experts and six legal representatives of the German state media authorities, who are appointed in accordance with *Land* law, is the decision-making body and mediating authority for the 14 German media regulators. It is responsible for monitoring compliance with laws designed to safeguard media pluralism in national private television (e.g. provisions on third-party window programmes or dominant influences on public opinion), taking decisions on such matters and proposing unbundling measures. In order to guarantee transparency and provide a record of observations in the media concentration field, the KEK also publishes a media concentration report every three years. This year's edition, entitled "Future-oriented safeguarding of diversity across the media sector", contains facts and analysis of media markets, broadcasting groups and changes in consumer behaviour. Although the KEK's statutory remit only includes powers to prevent concentration in national private television, the report also analyses other media-relevant markets. In it, the KEK assesses a company's overall influence on public opinion, even though, under a decision of the *Bundesverwaltungsgericht* (Federal Administrative Court), its activities in the radio, print, online, rights and advertising markets are no longer relevant in regulatory practice. This situation may change if current legislative debate results in a move away from the television-centric approach to the protection of pluralism, which, in the context of media convergence, could mean that influences beyond the television market are considered relevant to the protection of pluralism in their own right.

The report concludes that concentration in the television market has changed very little since the 2018 report. Three groups of broadcasters continue to dominate the national television market: the public-service broadcasters (ARD

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and ZDF) and the private RTL and ProSiebenSat.1 groups. Although there is also an increasing number of other national channels, which provide greater diversity, these only represent a total audience share of around 10%. Streaming providers offer strong competition, although the established providers are also increasingly investing in the streaming sector themselves. In contrast, the radio market is not showing any signs of increasing concentration and is characterised by a diverse ownership structure and a wide range of channels, including a growing number of additional digital audio services. Cross-media integration in terms of ownership structures is prevalent here, especially in the regional and local newspaper market. The report notes another fall in circulation figures for print media. In the online media sector – a very broad concept that covers a wide range of media genres – the report mentions a number of positive factors for media pluralism, such as the diverse ways in which media can be accessed and used, as well as multi-layered competitive conditions. However, it also lists various threats to media diversity, including the enormous competitive power of large international platform groups, the huge influence of intermediaries on public opinion, together with monopolistic tendencies, and a virtual inability to monitor compliance with media concentration law. These developments are all the more dangerous in view of the clear changes in the behaviour of media users, in particular the 14–29 age group, who are abandoning traditional media in favour of new online services.

As in previous reports, the KEK therefore renews its call for media concentration laws to be reformed, in particular through the adoption of an overall market approach (including the broadening of the KEK's own remit), (further) measures to safeguard diversity in a positive way, and new regulatory concepts for the online sector. Reforms were promised by the state legislative bodies through the entry into force of the *Staatsvertrag zur Modernisierung der Medienordnung in Deutschland* (State Treaty on the modernisation of media legislation in Germany) on 7 November 2020, in which the *Länder* expressed their support for the development of a future-oriented media concentration law in a joint declaration.

7. Konzentrationsbericht der KEK

https://www.kek-online.de/publikationen/medienkonzentrationsberichte/siebter-konzentrationsbericht-2021

7th KEK concentration report

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