[DE] KEK confirms third-party airtime and regional windows for next licence period

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At its 270th meeting in December 2022, the *Kommission zur Ermittlung der Konzentration im Medienbereich* (Commission on Concentration in the Media – KEK) decided that the proposed decisions of the relevant state media authorities concerning third-party broadcast times (Lower Saxony state media authority, RTL) and two regional windows (Hessen state media authority, RTL and Sat.1) were compatible with the rules designed to protect plurality of opinion. As a result, Germany's two most popular broadcasters, RTL and Sat.1, will remain obliged to broadcast regional windows and provide broadcasting time for independent third parties under existing conditions.

The KEK, which comprises broadcasting and business law experts and directors of the German state media authorities, is responsible for guaranteeing plurality of opinion in relation to the organisation of television channels throughout Germany. Its activities under this remit include checking, by analysing their respective audience shares, whether companies exercise a dominant influence on public opinion by acquiring television broadcasting licences or changing their ownership structure. The KEK is therefore also involved in the allocation of broadcasting time for independent third parties, pursuant to Article 65 of the *Medienstaatsvertrag* (state media treaty – MStV), and the incorporation of regional window services, pursuant to Article 59(4), in accordance with Article 105(4) MStV. In order to ensure plurality, the state media authorities can impose such obligations on broadcasters whose audience share in Germany is such that they have dominant power of opinion.

As part of this process, the state media authority responsible for granting the licence, in consultation with the broadcaster with dominant power of opinion, draws up a shortlist of independent third parties whose programmes must be transmitted. However, according to the MStV, the KEK is also consulted before the final selection is made. In particular, it checks whether the shortlisted independent third parties meet the legal licensing requirements (e.g. whether they are dependent on the main broadcaster concerned) and whether the relevant state media authority's proposed decision has taken sufficient account of the need for plurality. The KEK had no such concerns regarding the proposed decision of the Lower Saxony state media authority concerning RTL Television GmbH. The proposed transmission times can therefore be allocated to the four

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third-party broadcasters concerned during the next licence period from 1 July 2023 until 30 June 2028. These broadcasters are sagamedia film- und fernsehproduktions GmbH (with the programme "*Life.Menschen.Momente.Geschichten*"), DCTP Entwicklungsgesellschaft für TV Programm mbH ("*SPIEGEL TV*"), solisTV Film und Fernsehproduktionen GmbH ("*Alltagskämpfer – So tickt Deutschland*") and Arriba Media GmbH ("*Seitenwechsel – Die Welt mit anderen Augen sehen*").

The KEK also had no serious plurality-related objections to the proposed renewal of the licences granted by the Hessen state media authority to TV III a GmbH & Co. KG for the SAT.1 regional window in Hessen and to RTL Hessen Programmfenster GmbH for the RTL regional window in Hessen. The current licences for these regional windows will therefore remain in place (the SAT.1 licence has already been extended several times). The Hessen media authority exercised its legal right not to issue a new call for tenders for these regional windows in order to give the window broadcasters more planning certainty. However, for the licence periods starting on 23 July 2028 (RTL) and 27 July 2029 (SAT.1) respectively, the KEK believes it is vital that tendering procedures are held, firstly to enable other companies to bid for regional window slots and, secondly (in RTL's case), to bring an end to the unwanted position of legal dependency between a window programme provider and the main broadcaster.

Pressemitteilung der KEK 09/2022, 13. Dezember 2022

https://www.die-medienanstalten.de/service/pressemitteilungen/meldung/aktuelle-entscheidungen-der-kek-7

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