[CH] Administrative Charges for Broadcasters Anti-constitutional?

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According to Article 72, para. 2 under b of the Radio and Television Order (Radio- und Fernsehverordnung - RTVV), local or regional broadcasters are required to pay the PTT companies a monthly fee of CHF 4 per 500 (or fraction thereof) radio or television receivers which are licensed in the area covered by them. The Federal Court held that these administrative charges do not infringe the constitutional principles of covering costs and equivalence. Nevertheless, the delegated legislative power may not be overstepped. According to the position adopted by the PTT companies the annual total income from the charges arising from application of Article 72, para.2 lit. b of the RTVV amounts to approximately CHF 300,000. `It is true that the allocation of overall costs to individual local radio broadcasters on the basis of the number of licensed receivers could raise questions in terms of the principle of equivalence (...). Nevertheless, calculation of the fee to be charged for administrative expenses on the basis of the number of licenced receivers - and hence the number of potential listeners - does not appear to be arbitrary. The alternative method of calculation put forward, namely on the basis of broadcasting power, could also lead to injustices (...). Moreover, the fact that the complainant (Alternatives Lokalradio Zürich) is not a profit-making body makes no difference to the amount of the costs it generates, nor does the percentage of its expenditure covered by the charge. An infringement of the principle of equivalence is therefore not proven."

Bundesgerichtsentscheid vom 19. September 1997 (2A.269/1994)

Decision of the Federal Court of 19 September 1997 (2A.269/1994)

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