

[DE] Draft fourth state media treaty adopted, resulting in new public service broadcasting reforms

IRIS 2023-5:1/25

*Dr. Jörg Ukrow
Institute of European Media Law (EMR), Saarbrücken/Brussels*

On 16 March 2023, the heads of government of the German *Länder* adopted the draft *Vierte Medienänderungsstaatsvertrag* (fourth state treaty amending the state media treaty), which includes provisions designed to strengthen compliance, transparency and supervision in public service broadcasting. The proposed amendment of the state media treaty contains standard rules in these areas that will apply to the state broadcasters that comprise the ARD, as well as ZDF and Deutschlandradio.

The draft treaty will now be submitted to the state parliaments for preliminary consultation before being signed by the heads of government of the *Länder*, via circular procedure by 17 May 2023. The new provisions will enter into force at the start of 2024.

The public service broadcasters are funded by society as a whole. The *Länder* therefore believe they should be subject to specific transparency and supervision requirements. They hope that the proposed provisions will create a common set of high standards in the fields of transparency, compliance and supervision for all public service broadcasters in Germany. The *Vierte Medienänderungsstaatsvertrag* is also the first response from the *Länder* to the events involving RBB and other broadcasters that came to light last summer. By acting fast, the *Länder* want to demonstrate that they attach great importance to such issues and are capable of acting.

The *Vierte Medienänderungsstaatsvertrag* forms part of a wider set of public service broadcasting reforms in Germany. The *Dritte Medienänderungsstaatsvertrag* (third state treaty amending the state media treaty), which is currently undergoing ratification by the individual state parliaments, also contains amendments to the remit of public broadcasters. The new provisions, which clarify the role of public service broadcasting and take into account changing media usage, are expected to enter into force in July 2023. In January 2023, the *Rundfunkkommission* (Broadcasting Commission), which provides the *Länder* with a permanent forum for the discussion of issues relating to media policy and legislation, agreed some key elements of the public service broadcasting reforms in Germany, which will be worked on in the coming months.

On 8 March 2023, the *Rundfunkkommission* created the *Zukunftsrat* (Future Council), a temporary body tasked with developing a long-term vision for the future of public service broadcasting and its acceptance beyond the current decade. A multidisciplinary advisory body, the Future Council will prepare a report containing recommendations on the future of public service broadcasting, its future usage and its acceptance. It will also note the impact of its recommendations on the broadcasting licence fee and its acceptance. The fixing of the licence fee and the mechanism for determining financial requirements remain the responsibility of the *Kommission zur Ermittlung des Finanzbedarfes der Rundfunkanstalten* (Commission for Determining the Financial Requirements of Broadcasters – KEF).

The Future Council’s report will focus on the following questions:

- a) How, in quantitative and qualitative terms, should public service media be structured and distributed as part of the dual media system, so they reach all sections of society with attractive, diverse and high-quality content that is universally used and accepted?
- b) How can public service media content display regional diversity in a digital media world? The changes, opportunities and challenges created by greater cooperation between public broadcasters will be examined.
- c) How will media markets and media usage evolve in the future and how should public service media be structured and organised so they can effectively fulfil their specific remit in the dual media system? Good governance principles and the possibilities and opportunities, resulting from the digital transformation and a joint public service platform, will be given particular consideration.
- d) What basic mechanisms (e.g. performance indicators) and supervisory and monitoring structures can be used to stabilise the expenditure of public service media?

In parallel with the Future Council’s work, the *Rundfunkreferenten* (broadcasting advisors) of the *Länder* will devise short- and medium-term proposals for the revision of the legal framework in the three key areas of reform, i.e. “Shaping digital transformation and increasing quality”, “Enhancing public service broadcasting structures and cooperation and ensuring licence fee stability” and “Further improving good governance”.

Vierter Staatsvertrag zur Änderung medienrechtlicher Staatsverträge (Entwurf), 16. März 2023

https://www.rlp.de/fileadmin/rlp-stk/pdf-Dateien/Medienpolitik/Anhoerung_Compliance_und_Transparenz/4_MAESTv_MPK-

Beschlussfassung.pdf

Fourth state treaty amending the state media treaty (draft), 16 March 2023

Beschluss der Rundfunkkommission zur Einsetzung des Zukunftsrates vom 8. März 2023

https://www.rlp.de/fileadmin/rlp-stk/pdf-Dateien/Medienpolitik/Beschluesse_der_Rundfunkkommission/2023-03-08_BEschluss_RFK_TOP_1_Reform_OERR_Zukunftsrat.pdf

Decision of the Broadcasting Commission creating the Future Council, 8 March 2023

