[DE] KEK amends rules on reporting minor changes to ownership structures

IRIS 2023-6:1/20

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At its meeting on 11 April 2023, the *Kommission zur Ermittlung der Konzentration im Medienbereich* (Commission on Concentration in the Media - KEK) decided to amend the *Meldepflicht-Richtlinie* (directive on notification of ownership structures) adopted on 11 May 2021. Previously, only minor changes to participating interests or other types of influence were exempt from the obligation to report changes, laid down in Article 63 sentence 1 of the *Medienstaatsvertrag* (state media treaty – MStV). Now, a further exemption applies to changes that are not minor *per se*, but that relate to companies whose stake in a broadcaster is considered insignificant.

The KEK is a joint organ of the 14 German state media authorities. It is responsible for guaranteeing plurality of opinion in relation to the organisation of television channels throughout Germany. Its activities in this regard 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.

According to Article 63 sentence 1 MStV, any planned change in participating interests or other influences must be notified in writing to the competent state media authority prior to its implementation. This provision is meant to ensure the transparency of shareholdings and other influences in the German television market. However, the rules do allow various exemptions. Article 63 sentence 6 allows the KEK to issue directives detailing exemptions concerning the reporting obligation for minor changes to participating interests or other types of influence. The KEK used these powers to adopt the aforementioned *Meldepflicht-Richtlinie*, under which it is not required to examine the effects of minor changes of ownership on media concentration.

Under the previous version of the *Meldepflicht-Richtlinie*, minor changes to participating interests, or other types of influence, did not need to be reported if they concerned private broadcasters or companies with a direct or indirect holding in a private broadcaster. The new amendment adds a further exemption, which applies to changes that are not minor but that relate to companies that only have an insignificant holding in private broadcasters. These companies are described as “minor shareholders” and are defined in Article 6 of the *Meldepflicht-*

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Richtlinie. They are companies that hold less than 5% of the capital or voting rights of a private broadcaster or of companies with direct or indirect holdings in a private broadcaster.

The *Meldepflicht-Richtlinie* was amended because of contradictions under the previous legal situation, where a company could sell a holding of under 5% in a broadcaster without having to report it while the company itself had to report a change of ownership, even if it involved so few shares that it would only have a limited impact. The amended directive resolves this by extending the applicable exemptions.

The fact that the media concentration effects of minor changes of ownership do not need to be examined lightens the procedural burden for both the KEK and broadcasters. The amendment of the *Meldepflicht-Richtlinie* will lighten the workload even further.

Richtlinie nach § 63 S. 6 Medienstaatsvertrag (MStV) zu Ausnahmen von der Anmeldepflicht für geringfügige Veränderungen von Beteiligungsverhältnissen oder sonstigen Einflüssen vom 11.5.2021 in der geänderten Fassung vom 11.4.2023

https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Richtlinien/Richtlinie_der_KEK_nach_63_Satz_6_MStV.pdf

Directive issued under Article 63 sentence 6 of the state media treaty on exemptions concerning the reporting obligation for minor changes to participating interests or other types of influence of 11 May 2021, amended on 11 April 2023

KEK-Pressemitteilung 04/2023

https://www.die-medienanstalten.de/service/pressemitteilungen/meldung/aktuelle-entscheidungen-der-kek-9

KEK press release 04/2023

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