



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Single Market Enforcement

Notification of Regulatory Barriers

Notification Number : 2021/0204/D (Germany)

Statute for the Implementation of the Provisions pursuant to § 84 (8) of the State Media Treaty (Medienstaatsvertrag - MStV) on the easy findability of private offers (Public Value Statute)

Date received : 01/04/2021

End of Standstill : 02/07/2021 (closed)

Message

Message 002

Communication from the Commission - TRIS/(2021) 01218

Directive (EU) 2015/1535

Translation of the message 001

Notification: 2021/0204/D

No abre el plazo - Nezahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidējimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 202101218.EN)

1. MSG 002 IND 2021 0204 D EN 01-04-2021 D NOTIF

2. D

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4. 2021/0204/D - SERV30

5. Statute for the Implementation of the Provisions pursuant to § 84 (8) of the State Media Treaty (Medienstaatsvertrag - MStV) on the easy findability of private offers (Public Value Statute)

6. - Information society services in accordance with Article 2(a) of Directive 2000/31/EC

- Determination of public value content

7. -

8. The statute to be notified are intended to specify the provisions on discoverability in user areas provided for in § 84 of



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the State Media Treaty (MStV).

Pursuant to the second sentence of § 84 (3) of the Interstate Broadcasting Treaty (MStV), the regulatory addressees are broadcasting services offered by private providers which make a significant contribution to diversity of opinion and offerings in Germany, and pursuant to § 84 (4) of the Interstate Broadcasting Treaty (MStV), services offered by private providers of comparable broadcast-like telemedia services or services pursuant to § 2 (2) No. 14 b of the Interstate Broadcasting Treaty (MStV) which make a significant contribution to diversity of opinion and offerings in Germany, or software-based applications which directly serve to control them.

§ 1 refers to the protection objective of regulation and the concretizing statute. It serves to identify offerings that make a particular contribution to the diversity of opinion and offerings and should therefore be made accessible on a privileged basis.

§ 2 contains regulations on the eligibility to apply. Pursuant to § 84 (3) sentence 2 MStV, applications may be submitted by private broadcasters which make a significant contribution to diversity of opinion and offerings in Germany, or pursuant to § 84 (4) MStV, by private broadcasters of comparable broadcast-like telemedia offerings or offerings pursuant to § 2 (2) no. 14 b MStV which make a significant contribution to diversity of opinion and offerings in Germany, or software-based applications which serve to directly control them.

§ 3 lays down rules on jurisdiction and invitation to tender. The determination procedure is managed by the Commission for Admission and Supervision (ZAK). It will be initiated for the areas of audio and moving image offerings by a joint call for tenders from each of the State Media Authorities (Landesmedienanstalt), taking into account the opinion of the Panel Chairmen's Conference (GVK). The invitations to tender shall lay down additional rules on the procedure and the essential requirements for the submission of applications. The tender process is to start for the first time in September 2021 and will be managed by a competent State Media Authority.

§ 4 specifies the requirements for the submission of applications, which must be made in writing within the exclusion period set out in the respective invitation to tender at the competent State Media Authority. The applications shall be accompanied by documents to examine the contribution to the diversity of opinion and supply of the respective offer or software-based application.

§§ 5 and 6 outline the course of proceedings including the conclusion of the procedure. The competent State Media Authority shall review the applications received with regard to the question of whether the prerequisites for determining the respective offer or software-based application pursuant to §§ 2, 7 and 8 are met. After referral to the ZAK, the formal determination is made by the competent State Media Authority, which is bound by the decisions of the ZAK. The decision on the respective application is issued to the applicant by administrative act. The determinations made are each valid for a period of three years. Amendments to the offer which occur before or after the decision on the application and which are essential for the provision according to §§ 7 and 8 shall be notified to the competent State Media Authority without delay.

The criteria are defined in § 7. When determining the offerings pursuant to Section 84 (3) sentence 2 and (4) MStV, only the criteria specified in § 84 (5) MStV shall be included.

§ 8 contains the principles of the determination, which will take place in an overall view.

The regulations for publication and entry into force are laid down in §§ 9 and 10.

9. The statute notified herewith specify the provisions of the media state treaty on public value content on the basis of a corresponding competence in § 84 of the State Media Treaty. The statute does not go beyond the content of the underlying provisions of the State Media Treaty.

It has a legal binding effect vis-à-vis the regulatory addressees concerned.



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In terms of content, the statute is closely related to the (also notified) statutes of the State Media Authorities on media platforms. The aim is to define procedures for determining those offers which have a public value character and which are subsequently to benefit from the findability requirements of the State Media Treaty.

10. Reference to basic texts: State Treaty on the modernisation of media legislation in Germany
Statute of the State Media Authorities specifying the provisions of the State Media Treaty on media platforms and user interfaces

Basic texts have been submitted as part of an earlier notification: 2020/26/D: 2020/813/D

11. No

12. -

13. No

14. No

15. -

16. TBT Agreement

NO - The draft has no significant impact on international trade.

SPS aspect

NO - the draft has no significant impact on international trade.

European Commission

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