

As at: 24/06/2021

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**Statute for the implementation of the regulations pursuant to § 84(8) of the State Media Treaty to facilitate the finding of private offers<sup>1</sup>**

**(Public Value Statute)**

**of ...**

On the basis of § 84(8) of the State Media Treaty (MStV) from 14 to 28 April 2020 (... reference), the [name of the federal state media authority], in agreement with the other federal state media authorities, hereby enacts the following statute:

**Preamble**

Findability is becoming increasingly important for content offers – especially online. The increasing quantity and variety of offers is making it more and more difficult for cost-intensive journalistic offers, for example, to generate the necessary attention for refinancing.

The mechanism of easy findability of certain offers on user interfaces that are especially relevant to the formation of public opinion, as provided for in the State Media Treaty, pursues the objectives of strengthening diversity and taking the increasing importance of findability into account. There is a direct individual benefit to the recipients, which also affects the formation of public opinion as a whole. The easy findability is intended to encourage existing players who offer content relevant to the formation of public opinion and also to make this commitment interesting for other providers.

**§ 1**

**Purpose**

The state media authorities determine providers of offers (hereinafter referred to as ‘offers’) as defined in § 84(3)(2) and (4) MStV (determination procedure) in accordance with § 84(5) MStV.

**§ 2**

**Eligibility to file an application**

The following are eligible to apply:

<sup>1</sup> Notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17 September 2015, p. 1).

1. Pursuant to § 84(3)(2) MStV, broadcasting offers from private providers who make a particular contribution to the diversity of opinions and offers in Germany,  
or
2. pursuant to § 84(4) MStV, offers of comparable broadcast-like telemedia or offers pursuant to § 2(2)(14)(b) MStV that make a special contribution to the diversity of opinions and offers in Germany, or software-based applications that are used to control them directly.

### **§ 3**

#### **Responsibility and call for tenders**

(1) <sup>1</sup>The determination procedure is conducted by the Commission for Licensing and Supervision (ZAK)

(§ 105(1)(9) MStV). <sup>2</sup>A joint call for tenders from all state media authorities, which takes into account the opinion of the Conference of Committee Chairpersons (GVK), is initiated for the areas of audio and moving image (video) offers. <sup>3</sup>The state media authority responsible for the procedure is determined in the tenders.

(2) Additional regulations on the procedure and the essential requirements for the submission of applications are stipulated in the tenders.

(3) The calls for tenders are published by all state media authorities in an appropriate manner and on the website under the umbrella designation 'the media authorities'.

(4) The tender process is scheduled to start in September 2021.

### **§ 4**

#### **Application**

<sup>1</sup>Applications must be submitted in writing to the responsible state media authority within the deadline set in the respective call for tenders. <sup>2</sup>Applications must be accompanied by documents enabling a review of the contribution to the diversity of opinion and offers of the respective offer or software-based application and must contain at least the following information:

1. Facts from which it follows that the offer is a private broadcasting offer pursuant to § 84(3) MStV or a private comparable broadcast-like telemedia offer pursuant to § 84(4) MStV or an offer pursuant to § 2(2)(14)(b) or software-based application that is used to control it directly.
2. A description of the content of the offer and an explanation on how it makes a special contribution to the diversity of offers and opinions in Germany.
3. Information on the criteria to be observed in the determination pursuant to § 84(5) MStV (MStV) and § 7.

## **§ 5 Procedure**

(1) <sup>1</sup>The responsible state media authority examines the applications received. <sup>2</sup>It checks whether the conditions for determining the respective offer or the respective software-based application are met pursuant to §§ 2, 7 and 8.

(2) The Commission for Licensing and Supervision (ZAK) determines by resolution whether the conditions are met for each offer or for the respective software-based application.

(3) <sup>1</sup>The formal determination is made by the responsible state media authority. <sup>2</sup>It is bound by the decisions of the Commission for Licensing and Supervision (ZAK) in this respect.

## **§ 6 Completion of the procedure**

(1) The decision on the respective application is issued to the applicants by administrative act.

(2) The determinations made apply in each case for a period of three years from the date announced in the administrative act.

(3) The applicant must immediately notify the responsible state media authority of changes to the offer that occur before or after the decision on the application and that are essential for the determination pursuant to §§ 7 and 8.

(4) The decision pursuant to § 6(1) may be revoked by the responsible state media authority if material changes to the offer occur subsequently, according to which the offer no longer meets §§ 7 and 8.

## **§ 7 Determination criteria**

<sup>1</sup>When determining the offers pursuant to § 84(3)(2) and (4) MStV, only the criteria mentioned in § 84(5) MStV

must be taken into account. <sup>2</sup>Unless otherwise defined in the State Media Treaty,

1. news reporting on political or contemporary events is the offer of journalistic and editorial content that, based on the entire offer, depicts as complete a cross-section as possible of the sub-areas of political and contemporary social events relevant to the formation of public opinion and whose focus is on the coverage of actual events;
2. regional and local information as defined in § 2(2)(25) MStV is information which has a clear connection to culturally related and spatially delimited areas, which may also be transnational;

3. in-house production offers are those whose production and processing are carried out and financed entirely or mainly by the provider responsible for the content with their own means of production or are produced with the corresponding journalistic and editorial influence. Productions which are produced for a production company after the latter has commissioned them are also deemed to be in-house productions;
4. Barrier-free offers are those that are accessible and usable for people with disabilities in the manner generally customary for them, according to the respective state of the art and by using the necessary aids without particular difficulty and basically without outside assistance;
5. Trained employees are those who have completed a professional training course or a corresponding study course relevant to their journalistic or media-technical task in programme production or who can provide proof of no less than five years of professional experience. Subordinate auxiliary work is not to be included;
6. European works are those as defined in § 2(3) of the Joint Statutes of the State Media Authorities on European productions pursuant to § 77 MStV and
7. offers aimed at young target groups that are clearly aimed at children or young adults under the age of 29. The following is taken into account:
  - a) Offers that may not be interrupted by radio advertising or teleshopping pursuant to § 9(1) MStV or, in the case of broadcast content that is similar in orientation to the content to be classified, may not be interrupted by radio advertising or teleshopping pursuant to § 9(1) MStV (offers for children);
  - b) Offers which, according to a case-by-case overall consideration of content, form and broadcasting time, are clearly aimed at a target group of 14 to 29 years of age (offers for adolescents and young adults), insofar as they focus on information as defined in § 2(2) (25) MStV.

## § 8

### Basic determination principles

The determination is made with an overall view based on the following basic principles:

1. Offers, which basically do not comply with the recognised journalistic principles and other requirements of the State Media Treaty, are not suitable to make a notable contribution to the diversity of opinions and offers.
2. Insofar as corresponding statutory requirements are relevant to the criteria set out in § 7, only measures that go beyond the fulfilment of these statutory projects shall be taken into account in the determination.
3. When determining a special contribution to the diversity of opinion and offerings, preference should be given to the time share of news coverage of political and contemporary events and the time share of regional and local information as well as the share of offerings for young target groups.
4. In the case of broadcasting offers as defined in § 84(3)(1) MStV, the regularity of the broadcast, the duration and time of the programming of the relevant programmes must be taken into account with regard to the criteria pursuant to § 7(1), (2), (4) and (7).

5. In the case of telemedia offers as defined in § 84(4) MStV, the periodic update, the time or other scope as well as the placement and accessibility within the telemedia offer must be taken into account with regard to the criteria pursuant to § 7(1), (2), (4) and (7).
6. as part of determining a higher proportion of trained staff as defined in § 7(5), which has a positive effect on the particular degree of contribution to the diversity of opinions and offers, only ratios of trained staff to trainee staff of at least three to one should be taken into account.

## § 9

### Implementation

(1) Once the determination procedure has been completed, the state media authorities will publish a list for moving image (video) and a list for audio offerings on the website under the umbrella designation 'the media authorities' for implementation by the providers of user interfaces.

(2) The sorting or arrangement of offers or content must be easily and permanently individualised by the user.

(3) <sup>1</sup>The order of the lists determined by the Commission for Licensing and Supervision (ZAK) as the governing body of the responsible state media authority results from the overall view carried out pursuant to §§ 7 and 8. <sup>2</sup>If and to the extent that the provider of a user interface displays an order in the sorting and arrangement of the offers, the lists shall serve for implementation by the providers of user interfaces.

(4) The responsible state media authority has the task of working towards an agreement with the providers of the statutory contribution-financed programmes and the associated telemedia offers with regard to the order of presentation.

## § 10

### Entry into force

<sup>1</sup>This statute shall enter into force on 1 September 2021. <sup>2</sup>If, by 31 August 2021, corresponding statutes have not been enacted and published by all federal state media authorities, this statute shall become obsolete. <sup>3</sup>The chairman of the Conference of Directors of the Federal State Media Authorities (DLM) shall publish on the internet under the umbrella brand 'the media authorities' whether all federal state media authorities have enacted and published corresponding statutes within the period specified in Sentence 2.