



Media Ownership Monitor – Germany
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Medieninsider focuses on the economic, content-related and cultural development of journalistic media. It offers exclusive and investigative reports, analyses, commentaries and interviews. The magazine sees itself as a companion to media change and places particular emphasis on the digitalization and transformation of the industry. It is primarily financed by memberships.

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[The Global Media Registry \(GMR\)](#) is a Germany-based, non-profit social enterprise that supports transparency, accountability and pluralism in the digital information space.

As a 21st century data utility at the nexus of media, technology and regulation, GMR is a service provider and solution hub for newsrooms, regulators and policy makers, and for all stakeholders that engage with the media industry.

The 'Media Ownership Monitor' (MOM) is one of GMR's flagship projects.

Description of the legislation on media concentration and ownership as well as its implementation, monitoring and transparency

I.1. Legal framework

Which laws are supposed to prevent media concentration and monopolies? On what hierarchy level of law (e.g. constitution, civil code, special laws or decrees; national/regional) is media concentration being addressed?

1. European Law

The **European Media Freedom Act (EMFA)** will be gradually applicable in all member states from 2025 onwards and thus marks a significant step towards European harmonization of media regulation. The objective of the regulation is to safeguard media freedom, editorial independence and diversity of opinion throughout the Union and to establish uniform minimum standards for transparency and control of media ownership.

A central element of the EMFA is the **transparency obligation for media service providers** enshrined in **Article 6**. It requires them to publish current information about ownership structures as well as revenues from state advertising and public sources. Member states must also establish national, publicly accessible **databases on media ownership**.

Furthermore, **Article 24 EMFA** contains new provisions on **transparency in audience measurement systems**. The methodology and application of such systems are to be reviewed in future by an independent body.

Article 22 EMFA has far-reaching consequences for national regulatory practice. It obliges member states to establish a procedure for **assessing media mergers** in which at least one media service provider is involved. This assessment is to be conducted not primarily from a competition law perspective, but with a view to safeguarding media and opinion diversity. This creates, for the first time at European level, a binding basis for plurality-specific merger control.

In addition to the EMFA, other standards of European digital regulation have emerged in recent years, forming European media law. Relevant in this context are the Digital Services Act, the Digital Markets Act, the Artificial Intelligence Regulation, the regulation on transparency and targeting of political advertising, the European Code for Electronic Communications and the Copyright Directives.

2. Constitution

Pursuant to Article 5 (1) sentence 2 of the German Basic Law (GG), freedom of the press and freedom of reporting by broadcast media and film are guaranteed. The Federal Constitutional Court derives from this the legislator's obligation to create a "positive order" for broadcasting that promotes freedom of opinion formation. Accordingly, it is essential that the diversity of opinions existing in society is expressed in broadcasting to the greatest possible extent and completeness. A dominant power of opinion is in this sense restrictive of diversity and must be prevented. The legislator must take material, procedural and organizational measures to prevent any excessive influence of individual broadcasters or programmes on the formation of public opinion. This must also be done preventively, as the Federal Constitutional Court regularly points out that undesirable developments in the media sector are difficult to reverse. The Federal Constitutional Court states: "The legislator must ensure that the overall offering of domestic programs

corresponds in essence to the existing diversity of opinion, that broadcasting is not left to individual social groups, and that the relevant forces in the overall programming offering are able to be heard (see also BVerfGE 73, 118 <153>). For publication and economic competition do not automatically result in radio programs reflecting the diversity of information, experience, values and behavioral patterns available in a society. Also because of the considerable concentration pressure in private broadcasting and the associated risks of one-sided influence on the formation of public opinion, provisions to protect journalistic diversity are necessary (BVerfGE 149, 222 <260 Rn. 77> m.w.N.; established case law). Once undesirable developments have occurred, they can – if at all – only be reversed with difficulty and only with considerable effort (see BVerfGE 119, 181 <217> m.w.N.; established case law)."

The Federal Constitutional Court has further concretized this case law in light of digitalization of the media and identified concentration tendencies as posing risks to diversity:

"This performance offering continues not to be called into question by the development of communication technology and in particular the dissemination of information via the internet. Merely the fact of expanded offerings of private broadcasting and a diversity of providers does not in itself lead to quality and diversity in broadcasting. The digitalization of media and in particular the network and platform economy of the internet, including social networks, promote – on the contrary – concentration and monopolization tendencies among providers, distributors and intermediaries of content. When offerings are financed primarily by advertising, they do not necessarily promote journalistic competition; on the internet too, larger reach, which is of interest to the advertising industry, can only be achieved with programs with mass appeal. There is also the risk that – including with the help of algorithms – content is specifically tailored to the interests and preferences of users, which in turn leads to the reinforcement of like-minded opinions. Such offerings are not directed at opinion diversity, but are determined by one-sided interests or the economic rationality of a business model, namely to maximize the time users spend on the pages and thereby increase the advertising value of the platform for customers. To this extent, search engine results are also pre-filtered and partly financed by advertising, partly dependent on "click numbers". In addition, non-journalistic providers without journalistic processing increasingly appear (BVerfGE 149, 222 <261 f. Rn. 79>)."

3. Media concentration law

The constitutional requirements are incorporated in the Interstate Media Treaty. Among other matters, this also regulates media concentration law for private providers of nationwide television programs. According to § 60 (1) of the Interstate Media Treaty, television broadcasters may offer any number of programs unless they thereby acquire a dominant power of opinion. This is presumed to exist if a provider and the programs attributable to it achieve an audience share of 30% or more, calculated as an annual average ("audience share model"). The presumption of dominant power of opinion also exists if the audience share is below 30%, but the company has a dominant position on a related market or an overall assessment of its television and related market activities shows that the influence on opinion thereby achieved is comparable to that of a company with a 30% audience share. A bonus regulation allows percentage points to be deducted from the relevant audience share if regional window programs (2%) or broadcasting times for independent third parties (3%) are offered.

The Fifth Interstate Media Treaty Amendment came into force on 1 October 2024. It comprises adjustments to media concentration law in the Interstate Media Treaty (MStV) (see below).

4. ARC (Act Against Restraints of Competition)

The aim of antitrust law is to ensure free economic competition and prevent the abuse of economic power. The relevant regulations can be found in the Act Against Restraints of Competition (GWB, Gesetz gegen Wettbewerbsbeschränkungen). Because journalistic media are not only sources of information but also economic goods, they are (also) subject to the ARC. Although antitrust law indirectly contributes to ensuring the diversity of providers, the Federal Constitutional Court recognizes that the sole application of merger

control is not sufficient to ensure diversity of opinion in broadcasting and to prevent dominant power of opinion.

Antitrust law pursues different objectives than media concentration law and is much more limited in its scope of application. In the area of broadcasting, merger control pursuant to §§ 35 et seq. GWB only applies to mergers of broadcasting companies, but not to the establishment of broadcasting companies by individual companies that already have a strong or even dominant market position in other areas. Internal growth also does not fall within the scope of application of antitrust law. However, if this leads to dominant power of opinion, it is covered in accordance with § 60 MStV.

A mere restriction of economic power in the area of private broadcasting or media companies through antitrust law does not necessarily guarantee the diversity of opinion required by the constitution. Changes in shareholdings in the media sector can be permissible under antitrust law but can still lead to the formation of dominant power of opinion, for example through cross-media effects. Conversely, company cooperations can be problematic under antitrust law, although they may be permitted or even politically desirable in terms of ensuring diversity, for example to ensure the journalistic coverage of a region.

5. State media laws

In order to ensure diversity of opinion in local and regional broadcasting, the state media laws contain safeguarding provisions that differ from state to state. The common regulatory objective of diversity of opinion is supported in each case by a state media concentration law. The respective state media authorities are responsible for implementing these state law provisions and monitoring compliance with them. The state of North Rhine-Westphalia prohibits press companies with a dominant position in the market for local daily newspapers from owning more than 75% of the operator's capital or voting rights. In addition, they may only have a stake in the economic pillar and may not exert any influence on the editorial pillar ("two-pillar model").

What types of media are included in or excluded from the regulation? Is there regulation for digital media?

The safeguarding of diversity of opinion places a particular focus on the **broadcasting sector**. While **press** companies are subject to media concentration regulations in conjunction with broadcasting companies, press mergers are mainly controlled on the basis of antitrust law. Traditional concentration control does not take place in the **online sector** (media intermediaries, platforms and user interfaces). However, in a leading media law decision from 2018, the Federal Constitutional Court stated: "The digitalization of media and in particular the network and platform economy of the internet, including social networks, promote – on the contrary – concentration and monopolization tendencies among providers, distributors and intermediaries of content."

If no - or not sufficient - legislation exists: is there legislation in the making? What is the status quo of the political process?

The Broadcasting Commission of the States is currently working on a Digital Media State Treaty, which is to be developed in two parts. This also concerns the necessary adjustments due to the new European law provisions from the EMFA. A central element of the EMFA is the transparency obligation for media service providers enshrined in Article 6. It requires them to publish current information about ownership structures as well as revenues from state advertising and public sources. Member states must also establish national, publicly accessible databases on media ownership. The **discussion draft on the Digital Media State Treaty** states that the KEK media database already fulfills much of these requirements, but in future should also include data on state advertising revenues. It would therefore seem expedient to use the existing structures of the KEK database to implement the transparency requirements and to expand it accordingly. GMR contradicts this in a statement and criticizes the presentation of the KEK database regarding clarity, completeness and interoperability.

Furthermore, Article 24 EMFA contains new provisions on transparency in audience measurement systems. The methodology and application of such systems are to be reviewed in future by an independent body. In the course of ongoing reform considerations on media concentration law, in which the states favor a so-called sector model, the KEK would play a central role. The model envisages cross-sectoral assessment of media markets based on comparable reach indicators. Since the KEK would in future have to rely on a variety of audience measurement systems, its involvement as an independent review body for their methodology and transparency appears appropriate and consistent with the requirements of the EMFA.

Finally, excluded from the current draft Digital Media State Treaty are adjustments to media concentration law in light of Article 22 EMFA. Media concentration law is to be part of the states' further deliberations. Article 22 EMFA has particularly far-reaching consequences for national regulatory practice. It obliges member states to establish a procedure for assessing media mergers in which at least one media service provider is involved. This assessment is to be conducted not primarily from a competition law perspective, but with a view to safeguarding media and opinion diversity. This creates, for the first time at European level, a binding basis for plurality-specific merger control. For Germany, it would be expedient to transfer this task in future to the KEK, which already has the necessary technical and institutional expertise.

Please, describe how the law defines media concentration (e.g. cross-ownership; audience share, circulation, turnover/revenue, the share capital or voting rights). Are family members included in the conflict of interest rules? How is their affiliation considered in the definition of ownership?

The **Federal Constitutional Court** calls on lawmakers to prevent the danger of "concentration of opinion power". According to the court, this arises when "opinion leaders, who have broadcasting frequencies and financial resources at their disposal, are significantly involved in the formation of public opinion". Pursuant to § 60 (2) MStV, dominant power of opinion is presumed if a provider and the programs attributable to it achieve an audience share of 30% or more, calculated as an annual average. The presumption of dominant power of opinion also exists if the audience share is below 30%, but the company has a dominant position on a related market or an overall assessment of its television and related market activities shows that the influence on opinion thereby achieved is comparable to that of a company with a 30% audience share.

Does legislation take into account vertical integration (i.e. control by a single person, company or group of some of the key elements of the value chain, i.e. production, aggregation, distribution and related industries such as advertising or telecommunications)? How?

In accordance with the provisions of the Interstate Broadcasting Treaty to ensure diversity of opinion, it is stipulated that media-relevant related markets are also taken into account when assessing the dominant power of opinion of a television broadcaster (§ 60 (2) sentence 2 MStV). If programs attributable to a company reach an audience share of 25%, it is presumed that dominant power of opinion exists if the company has a dominant position on a media-relevant related market or if the overall assessment of its activities in television and on media-relevant related markets shows that the influence on opinion thereby achieved corresponds to that of a company with an audience share of 30%. The term "media-relevant related market" is not explicitly defined in the Interstate Media Treaty. The explanatory memorandum lists advertising, radio, press, rights and production as examples.

Have there been changes in the legislation on media concentration issues over the past 5 years?

With the **Fifth Interstate Media Treaty Amendment 2024**, media concentration law was amended through clarifications regarding the obligation to broadcast regional window programs in § 59 MStV. In § 59 (4) MStV, the legislator clarified that regional windows must be included in the two "television full programs with the highest reach by audience share". Previously, the provision referred to "nationwide distributed television full programs with the highest reach". However, the KEK and state media authorities had already specified in the Television Window Directive (FFR) that the annual audience shares determined by the KEK should be used to determine the programs with the highest reach, as the term "reach" alone does not indicate usage. This interpretation is now anchored in law through the amendment to the MStV. The Fifth Interstate Media Treaty

Amendment added a clarifying provision to § 59 (4) sentence 1, stipulating that the obligation applies only to the two television full programs with the highest reach by audience share that are each attributable to different companies under § 62 MStV. This clarification was made because the audience shares of RTL Television and VOX (both part of the RTL Group) had become so similar in 2023/2024 that the regional window obligation would have almost applied to two programs of the same broadcasting group. The new regulation excludes this in future.

With the insertion of a new sentence 8 in § 59 MStV, the connection between the state treaty obligation of the main program broadcaster and the state law authorization of the regional window program was clarified. The obligation to include regional windows now applies for at least the duration of the authorization for the respective regional window program granted under state law.

With the entry into force of the **Interstate Media Treaty (MStV) in 2020**, the area of license-free "minor broadcasting" was expanded. Broadcasting programs that are of minor importance for the formation of individual and public opinion or that reach or are forecast to reach fewer than 20,000 simultaneous users on average over a six-month period do not require a license. This also eliminates the need for examination under media concentration law for this area. A new feature of the Interstate Media Treaty is an extended power of the KEK to exempt minor cases from media concentration review (de minimis regulations). This concerns cases that are only of minor importance for safeguarding diversity of opinion as well as minor changes in shareholdings or other influences. The media concentration regulations have remained unchanged. In a protocol declaration, however, the federal states emphasize that they would like to work towards a sustainable media concentration law that takes all media-relevant markets into account.

The **2013 amendment to antitrust and competition law** considerably simplified the merger control regulations for press publishers in order to enable mergers to stabilize media diversity. In particular, the threshold above which mergers must be reviewed by the authorities was drastically increased, resulting in fewer mergers in the press sector requiring notification. The aim was to expand the scope for publishers under antitrust law and strengthen their competitiveness compared to other types of media. The **2017 amendment to antitrust and competition law** also aimed to improve the competitiveness of broadcasting companies. The legislator intended to give broadcasting companies more leeway to consolidate their economic basis through mergers and increase their competitiveness in an environment of growing competition from other internet-based media and changing media consumption habits.

Have there been any major new market entrants or mergers & acquisitions (M&As)? How have these cases been handled? Have there been any important conflicts?

Recent takeover activity in the German media sector concerns the television and streaming market as well as the print and regional newspaper market. Several large-scale transactions have already been completed, with some announced for 2025 and 2026.

In the audiovisual sector, two major acquisitions shape the development towards so-called "national media champions" intended to counter the increasing pressure from international platform providers.

Acquisition of ProSiebenSat.1 by MFE (Berlusconi Holding)

The Italian holding Media For Europe (MFE), headed by Pier Silvio Berlusconi, has acquired a majority stake in ProSiebenSat.1 Media SE. After purchasing the 15.7% package held by the Czech PPF Group, MFE crossed the 50% threshold and thus secured control over the broadcasting group. Neither the Federal Cartel Office nor the Commission on Concentration in the Media (KEK) currently see objections to the transaction. In advance, the KEK had examined earlier increases in shareholdings and found no risk to diversity of opinion, since MFE had not previously been active on the German market. A final review will take place after expiration of the takeover period on 1 September 2025. MFE is seeking savings and synergies of around EUR 418 million over four years through the integration of ProSiebenSat.1 into a pan-European broadcasting group.

Planned acquisition of Sky Deutschland by RTL

RTL Deutschland GmbH, a subsidiary of the Bertelsmann Group, plans to acquire pay-TV broadcaster Sky Deutschland. The planned merger is considered the most profound restructuring of the television landscape in years. The combined company would reach approximately 11.5 million customers in Germany, Austria and Switzerland, positioning itself as the third-largest market participant behind Netflix and Amazon Prime Video. The objective is to link RTL's advertisement-financed television with Sky's subscription-based model. Due to the cross-border structure, the measure is subject to approval by the European Commission. Observers estimate the approval prospects as favorable, as the distinction between traditional TV providers and streaming services is increasingly blurring.

Consolidation is also progressing in the print sector. In particular, the southwestern and northern German regional newspaper market is characterized by mergers that could sustainably alter the journalistic landscape.

Acquisition of Südwest newspapers by Neue Pressegesellschaft (NPG)

Ulm-based Neue Pressegesellschaft (NPG) is acquiring the Südwest newspapers of Medienholding Süd (MHS) from Südwestdeutsche Medienholding (SWMH). Affected titles include Stuttgarter Zeitung, Stuttgarter Nachrichten, Schwarzwälder Bote and Eßlinger Zeitung. Through this merger, NPG together with partner publishers achieves a paid circulation of approximately 700,000 copies. The Federal Cartel Office approved the transaction at the end of June, although President Andreas Mundt described the acquisition of individual regional titles as "competitively concerning". A prohibition was not legally possible, since NPG had previously divested submarkets and the remaining markets remained below the legal intervention threshold. The German Association of Specialist Journalists (DFJV) criticized the merger as a threat to journalistic diversity and called for reform of competition law that gives greater consideration to protection of opinion diversity. The "specialized information" division of SWMH is being transferred to Medien Union Ludwigshafen as part of the restructuring.

Acquisition of print brands by FUNKE Media Group

FUNKE Media Group is acquiring magazines BRIGITTE, GALA and ELTERN from RTL Deutschland. The transaction, announced on 24 March 2025, comprises approximately 300 employees. FUNKE describes the acquired titles as reach-strong "love brands" that combine print tradition and digital reach. Execution of the acquisition is subject to receipt of antitrust approval.

Acquisition of Northwest Media Group by Madsack

The Madsack Media Group plans to integrate Northwest Media Group in Oldenburg, including Northwest-Zeitung, into its group in early 2026. Both companies expect cost advantages and editorial synergies. The German Association of Journalists (dju) in ver.di expressed concerns that the merger would further restrict press diversity in western Lower Saxony and could lead to job losses. This transaction also requires clearance from the antitrust authorities.

Is media concentration currently on the agenda on legislators and policy makers? What are the blind spots on media concentration legislation?

Media concentration is currently on the media policy agenda in Germany, particularly at the level of the federal states. The states are planning comprehensive reform of media merger control and are working on a so-called **Digital Media State Treaty**. The objective of these efforts is to address the power of large platforms and do justice to changing media consumption patterns. Schleswig-Holstein is leading the working group on the reform of media concentration control and considers the reform long overdue and absolutely necessary.

The main blind spots and deficiencies of current media concentration regulations result from technological development and the associated changes in media consumption:

The currently applicable rules are described as television-centric and anachronistic. The Commission on Concentration in the Media (KEK) still has the task of safeguarding diversity of opinion primarily in "nationwide private television". The KEK reviews whether programs attributable to a company achieve an audience share of 30 percent or, under certain conditions, 25 percent, to presume dominant power of opinion. This focus on TV ignores the reality of media consumption: The relevance of TV offerings for opinion formation has declined (audience share fell from 76.4% in 2009 to 62.2% in 2024).

The biggest blind spot is the fact that current rules do not cover digital platforms. Legislation does not account for streaming services, social media and online news sites. Meanwhile, the internet is the most important access point for news and has the greatest weight for opinion formation (36% share in opinion formation compared to 29% for television). Information mediation is increasingly dominated by large globally operating US platforms. Actual usage concentrates on a few major providers such as Google, YouTube, Instagram, TikTok and X.

Current regulations do not adequately account for changes in media consumption. The supposed diversity of offerings on the internet, upon closer examination, does not represent real diversity, since usage concentrates among a few providers. There are also new challenges such as the use of artificial intelligence (AI), which current law also does not cover.

To address these deficiencies, lawmakers are working on a so-called "**sector model**". This model is intended to overcome the outdated television-centric approach. The strength of the sector model lies in its flexibility: It should make it possible to delineate individual areas relevant to opinion formation using various parameters and to examine them for the presence of "disruptions". A disruption would exist if a media-relevant provider, through its conduct or position, exerts improper influence on individual and public opinion formation. Disruptions could be examined with regard to narrowing of diversity in relation to information behavior of specific age cohorts (e.g., 14 to 29-year-olds) or in areas such as digital advertising, which forms the financing base for media offerings.

Is there specific legislation on foreign investment/ownership within the media business?

Pursuant to § 53 (1) MStV, a license may only be granted to a natural or legal person who has their residence or registered office in Germany, another member state of the European Union or another state party to the Agreement on the European Economic Area and can be prosecuted in court. Pursuant to § 52 (2) MStV, a broadcaster's license may be refused or revoked if the broadcaster's programming is directed in whole or in substantial part at the population of another state that has ratified the European Convention on Transfrontier Television and the broadcaster has established itself in Germany for the purpose of circumventing the provisions of the other state and the provisions of the other state that the broadcaster intends to circumvent are the subject of the European Convention on Transfrontier Television.

In April 2022, an amendment to the Bavarian Media Act, also known as the "Lex Berlusconi", came into force. While previous regulations were aimed at preventing dominant opinion power, the Bavarian Regulatory Authority for New Media (BLM) now has the power to order measures to safeguard both diversity of opinion and diversity of information. The new regulations on diversity of information should also apply to nationwide offerings. As part of the amendment, the wording of Article 4 (3) No. 1 BayMG was also changed to ensure that the provider's composition under company law does not authorize any individual to exercise significant influence in the company's executive bodies. The assessment of whether an influence is significant is made on the basis of a media-specific analysis and is likely to apply from a direct shareholding under company law of 25% or more. In contrast, according to the previous wording, a controlling influence was only assumed from a shareholding of 50% of the shares.

I.2 Implementation - control and monitoring of media concentration

Is there an institutional system to address media concentration in place? What sectors - e.g. press, broadcasting or new media - are included? What are the responsible bodies governing media concentration? What are the tasks, duties and responsibilities of the authority/ies defined in detail in the law (e.g. grant licenses, compliance monitoring, sanctioning, other)?

The Commission on Concentration in the Media (KEK) is responsible for ensuring diversity of opinion in private television at the national level. In terms of uniform concentration control, it acts as a decision-making body and mediating authority for all state media authorities in this area. Its decisions are binding. The KEK describes the tasks assigned to it by law in its 26th report (2025) as follows:

1. Licensing: The KEK decides whether the licensing or modification of a license for a nationally distributed program is unobjectionable with regard to safeguarding diversity of opinion. Licensing cases which are only of minor importance for safeguarding diversity of opinion can be processed within the framework of a simplified procedure (de minimis guideline).

2. Monitoring of shareholdings: Pursuant to § 63 MStV, broadcasters and their shareholders are obliged to notify any planned changes in shareholdings prior to their implementation. This is because dominant power of opinion can also arise through changes in the ownership structure of broadcasters or through mergers of licensed broadcasters. There are exceptions for minor changes in shareholdings or other influences (de minimis guideline). The acquisition or sale of less than 5% of the capital or voting rights of a company is deemed a de minimis threshold.

3. Third transmission times, regional windows: In the context of promoting diversity, the KEK is involved in procedures for the selection and licensing of broadcasters of third transmission times and regional windows by obtaining opinions in cooperation with the relevant state media authority.

4. Action against dominant power of opinion: Irrespective of whether a new program is licensed or there are changes in shareholdings, a company can acquire dominant power of opinion as a result of increasing viewer numbers or the loss of competitors. For such cases, § 60 (4) of the Interstate Media Treaty provides for various unbundling measures that must be proposed by the KEK in order to reduce dominant power of opinion. These include, for example, the provision of broadcasting time to independent third parties and the integration of regional window programs pursuant to § 60 (4) of the Interstate Media Treaty.

5. Determination of audience shares: According to current law provisions, audience shares are an essential criterion for determining dominant power of opinion. When determining audience shares, the KEK uses data from AGF video research. These audience shares are calculated as average values and indicate the proportion of total viewing time attributable to a specific program for a given period.

6. Transparency: The KEK publishes a media concentration report every three years, which addresses the development of concentration in private broadcasting and measures to ensure diversity of opinion. Current overviews of programs, audience shares, media-relevant related markets and company profiles are available on the KEK website, and all decisions of the Commission are published promptly. The KEK media database contains information on company holdings in the areas of television, radio, press and online media.

7. Coordination with the Federal Cartel Office

Pursuant to § 40 (4) sentence 3 GWB, consultation with the KEK must be established before an antitrust prohibition in proceedings concerning the area of nationwide distribution of television programs.

8. Participation in ministerial approval

In the ministerial approval procedure pursuant to § 42 GWB, the KEK is given the opportunity to comment in cases concerning the area of nationwide distribution of television programs, in addition to the Monopolies Commission and the highest state authorities.

If there are more than one authority assigned (e.g. media authority, competition authority, etc.): how is the differentiation of competencies of the diverse authorities defined? Does it work or are there overlaps or blind spots?

In order to ensure closer coordination between antitrust and media law, the antitrust authorities cooperate closely with the state media authorities and the KEK and exchange information to the extent necessary for the fulfillment of their respective tasks. Before an antitrust prohibition is issued in proceedings relating to the nationwide distribution of television programs, coordination is established with the KEK. In procedures for granting ministerial approval, the KEK is given the opportunity to comment in cases concerning the nationwide distribution of television programs, in addition to the Monopolies Commission and the highest state authorities.

Prior to an antitrust prohibition in proceedings relating to the nationwide distribution of television programs, the Federal Cartel Office must consult with the KEK pursuant to § 40 (4) sentence 3 GWB ("**consultation requirement**"). In procedures for ministerial approval pursuant to § 42 (5) sentence 2 GWB concerning the area of nationwide distribution of television programs, the opinion of the KEK must be obtained in addition to the opinions of the Monopolies Commission and the highest state authorities.

Are there any explicit constitutional or other legal guarantees of independence of the authorities (media, competition, telecommunication...) from political and/or commercial interference?

The Federal Constitutional Court assesses the state media authorities as follows: "They are organizational units that are legally autonomous from the state and independent of it, which carry out their activities independently and on their own responsibility within the legal limits."

How are the appointment procedures for the authorities defined (e.g. transparent, democratic and objective and designed to minimize the risk of political or commercial interference, for instance by including rules on incompatibility and eligibility)? Are they respected in practice?

The KEK is composed of six experts in broadcasting and commercial law, three of whom must be qualified judges, as well as six legal representatives of the state media authorities in accordance with state law. The experts and two substitute members are appointed by mutual agreement by the Minister Presidents of the federal states for a period of five years. The six representatives of the state media authorities and two substitute members are elected by the state media authorities for the term of office of the KEK. The members of the KEK act independently of instructions in the performance of their duties. The KEK acts as the central body of the federal states and supports the respective competent state media authority in carrying out its tasks under media concentration law within the framework of nationwide media supervision.

Is the budget adequate and consistent for the authority to safeguard its independence and/or protect it from coercive budgetary pressures and to perform its functions?

The state media authorities receive a share of 1.8989% of the broadcasting fee revenue. With a broadcasting fee of €18.94 per month, approximately 36 cents flow to the state media authorities. In the 24th report of the Commission to Determine the Financial Requirements of Public Service Broadcasting, the Commission reaffirms its proposal to review the share of the broadcasting fee revenue received by the state media authorities. At a joint conference of the audit offices of the federation and the states held in 2017, the audit offices noted that the fixed percentage share of the broadcasting fee revenue in some cases led to considerable structural overfunding of the state media authorities. This results from the continuously high returns from the state media authorities' share of the broadcasting fee. Furthermore, the different legal provisions in the states on the use of returns lead to an opaque system.

The audit offices regularly criticize the financial equipment of the state media authorities and thereby indirectly also that of the KEK. Most recently, the [Bavarian State Audit Office](#) (ORH) expressed the view that the Bavarian Regulatory Authority for New Media (BLM) is overfunded and that the funding system should be reconsidered. With EUR 26 million annually from the broadcasting fee, the BLM is the most financially well-equipped state media authority nationwide.

What sanctioning power do the authorities have to accomplish its role (e.g. power to refuse license requests and to divest existing media operations where plurality is threatened or where unacceptable levels of ownership concentration are reached)? Are there effective appeal mechanisms?

According to Section 64 MStV, the state media authorities can impose so-called "measures to ensure diversity" on a broadcaster or company. These are the granting of broadcasting time to independent third parties (§ 65) or the establishment of a program advisory board (§ 66). In addition, the state media authorities can impose fines of up to EUR 500,000, for example in cases where changes in shareholdings are not reported in accordance with the provisions of the Interstate Media Treaty. The state media authorities can also revoke or withdraw licenses in the event of violations of the licensing regulations.

Please describe the method and the criteria for assessing the level of media concentration. (e.g. thresholds based on objective criteria, such as audience share, circulation, turnover/revenue, distribution of share capital or voting rights; taking into account both horizontal integration (mergers within the same branch of activity) and vertical integration (control by a single person, company or group of key elements of the production and distribution processes, and related activities such as advertising)).

According to German media concentration law, audience shares are an essential basis for the assessment of predominant power of opinion. Audience shares are to be calculated taking into account all German-language programs of public broadcasters and private broadcasters that can be received nationwide (Section 61 MStV).

Is the authority accountable to the public for its activities, (e.g. is it required to publish regular or ad hoc reports relevant to their work or the exercise of their missions)?

According to Section 60 (6) MStV, every three years or at the request of the federal states, the state media authorities must jointly publish a report by the KEK on the development of concentration and on measures to ensure diversity of opinion in private broadcasting and in doing so publish the interdependencies between television and media-relevant related markets, the horizontal interdependencies between broadcasters in different broadcasting areas and the international interdependencies in the media sector.

The Bundeskartellamt publishes its decisions on its own website.

Can the Government arbitrarily overrule the decision of the authority? In what cases? Are there cases of illegal state interference?

In Germany, the principle of administrative legality applies. The actions of the administration and therefore also the government are bound by the constitution, including the principle of equality in Article 3 of the Basic Law and the prohibition of arbitrariness. All government action must comply with the principle of proportionality.

Have there been cases of merger and acquisitions over the past five years? How proactive and how detailed has the authority implemented the regulation on media ownership?

The KEK summarizes in its 26th annual report mergers and acquisitions for the reporting period 2024. During this period, the KEK completed 26 proceedings. "Of these, 13 proceedings concerned licensing applications relating to a total of 22 programs. In 12 of the 13 licensing proceedings, the KEK applied the de minimis guideline of the KEK for licensing pursuant to § 105 (3) sentence 3 Interstate Media Treaty (licensing guideline). Submission and a regular review procedure were not required in these cases, as the projected programs only anticipated minimal usage that fell below the thresholds applicable for application of the KEK's licensing guideline. The licensing application of RTL Television GmbH for the multi-channel network offering RTL+ topic channels, comprising eight advertising-financed linear so-called FAST channels ("Free Ad-Supported Streaming Television"), was reviewed on a regular basis.

Five proceedings concerned changes in ownership and shareholding relationships. In one case, the shareholding changes were assessed as purely within-group and thus not requiring approval. One case of notified shareholding changes fell under the de minimis guideline for notification obligations pursuant to § 63 sentence 6 Interstate Media Treaty (notification obligation guideline): MFE MEDIAFOREUROPE N.V. increased its shareholding in ProSiebenSat.1 Media SE by 3.41 percentage points to 29.99% of capital

shares. Since ProSiebenSat.1 Media SE holds 2.70% of the shares in its own portfolio (which are not voting rights), MFE thereby holds 30.82% of exercisable voting rights. The increase in capital and voting rights shares in ProSiebenSat.1 Media SE pursuant to the notification obligation guideline is effected with less than 5% of capital or voting rights and was accordingly to be assessed as minor. The increase does not grant MFE controlling or controlling-equivalent influence over ProSiebenSat.1 Media SE, which would result in attribution of the broadcasting group's programs to MFE. The matter was thus exempt from the notification obligation under the KEK's notification obligation guideline.

Furthermore, six coordination proceedings were conducted in the area of licensing for the organization of regional windows in the programming of RTL and SAT.1. One coordination proceeding concerned shareholding changes at a third transmission time broadcaster.

For the first time, the KEK was also involved in a coordination procedure with the Federal Cartel Office: The subject matter was the planned acquisition of programming rights and the satellite transmission slot of the children's programming service Nickelodeon by Super RTL Fernsehen GmbH, belonging to the RTL Group. The Federal Cartel Office intended, based on preliminary antitrust assessment, to issue a prohibition. Upon review, the KEK determined that the planned acquisition would not be expected to pose a risk to diversity in overall assessment (see p. 26 et seq.). However, a decision by the Federal Cartel Office was no longer necessary, as the applicant withdrew the application.

Have there been cases in which regulators refused license requests, mergers or forced divestment of existing media operations in order to avoid excessive concentrations of media ownership?

In 2021, the Federal Cartel Office prohibited the acquisition of full control over the publishing companies of the **"Ostthüringer Zeitung" by FUNKE Media Group**. FUNKE Media Group is the publisher of the "Thüringische Landeszeitung", whose circulation area partly coincides with that of the "Ostthüringer Zeitung". As a result of the planned merger, which has now been prohibited, both the "Ostthüringer Zeitung" and the "Thüringische Landeszeitung" would have been under the exclusive control of FUNKE Media Group.

In 2006, the KEK rejected the takeover of **ProSiebenSat.1 Media AG by Axel Springer AG**. The KEK justified this with ProSiebenSat.1's strong position in nationwide private television. A combination with Axel Springer AG's outstanding position in the daily press would, in the opinion of the KEK, lead to dominant power of opinion. According to the audience share model, this would result in influence on opinion corresponding to an audience share of over 42% in nationwide television. The KEK had offered to forgo the acquisition of one station (Sat.1 or ProSieben) or to make the stations internally plural. The Federal Cartel Office also had reservations about the merger plans.

What are the main challenges for the authority on the implementation?

In its annual report, the KEK points out that certain deficits exist in the determination of audience shares. The KEK complains that the database available to it is incomplete. Gaps exist, for example, in public viewing, hotels, restaurants and public facilities, hospitals and prisons. Live streams on the internet are also not fully captured.

Furthermore, the KEK calls for media concentration law to be adapted to digitalization (see above).

Does decisional practice of the authorities indicate that they use their powers in practice in the interest of the public? Have there been cases of the abuse of regulatory power? What, when? Are the authorities considered a political or technical body?

Yes, in the press release of the Federal Cartel Office on the rejection of the merger between FUNKE and "Ostthüringer Zeitung", it states, for example, that this "would have eliminated the last competition between regional daily newspapers in the Jena and Gera areas. However, readers benefit from choice, not from newspaper monopolies. Even if both publishers already cooperate very closely today, merger control must protect existing competition and editorial diversity."

I.3 Transparency of media ownership

Please describe binding (legal) and non-binding (voluntary) transparency and disclosure practices of media companies with regard to ownership, investment and revenue sources?

In the licensing procedure, broadcasters of nationwide television must submit extensive documentation in accordance with the Interstate Media Treaty (§ 55 MStV, details see below). The state media authorities also have extensive information rights and investigative powers in this regard (§ 56 MStV). Changes must be notified to the state media authorities.

In contrast, print and online media in Germany are largely unregulated. Not all 16 state press laws contain provisions on the disclosure of ownership relationships. In this area, it is difficult to determine the ownership structure of print media in all federal states. All state media laws contain regulations to avoid "double monopolies" and restrict overlaps between press and broadcasting. Potential shareholdings in other media may require publishers to disclose their ownership structure in the event of planned mergers.

In the press sector, it is possible to ascertain ownership relationships; however, it depends on the specific legal form of the company and differs for listed companies from other company forms.

After the end of each calendar year, broadcasters of nationwide broadcasting and those directly or indirectly involved in them are obliged to immediately submit a declaration to the competent state media authority stating whether and to what extent a change has occurred in the relevant participation and attribution facts pursuant to § 62 MStV within the past calendar year.

Which media organizations are covered by the reporting requirements? To whom must disclosure be made? How often/ in what cases does the data have to be updated?

The transparency obligations under media law apply to nationwide broadcasting (TV and radio). However, there are hardly any nationwide radio stations, so in practice it is mainly TV companies that are subject to this obligation.

What information is required to be disclosed? (e.g. key persons/bodies and their functions in the media; details of shareholders and size of their holding, beneficial owners; interests of the people/body in other media / economic sectors; people influential to the programming/editorial policy; political or other affiliations of the owners and its family members; public advertising revenues, funding from other external sources)

The disclosure obligation includes in particular (1.) the disclosure of direct and indirect shareholdings as well as the capital and voting rights relationships in the company and associated companies in accordance with the German Stock Corporation Act, (2.) the disclosure of relatives among the participants and representatives of the person or partnership or members of a body of a legal entity, (3.) the provision of the articles of association and statutory provisions of the applicant's articles of association, (4.) the disclosure of agreements between the direct or indirect participants relating to the joint organization of broadcasting as well as to fiduciary relationships and relevant relationships.

Pursuant to § 63 MStV, broadcasters and the parties involved in them must generally notify any planned changes in shareholdings prior to their implementation. However, there is an exception to this notification obligation for minor changes in shareholdings or other influences regulated by the KEK's de minimis guideline for notification obligations (notification obligation guideline). This guideline applies to broadcasters and participants of all company forms. The acquisition or sale of less than 5% of the capital or voting rights of a company is deemed a de minimis threshold. However, minor changes in shareholdings remain subject to notification if (1.) shareholding thresholds of 25%, 50% or 75% are reached, exceeded or fallen below, (2.) an increase or decrease of at least 5% in a previously notified shareholding is brought about by one or more successive transactions, or (3.) a shareholding in a listed stock corporation reaches or exceeds 5% and exceeding this threshold has not already been the subject of a notification within a preceding period of 12 months.

How accessible is the information to the public? In what manner is the information to be made available? Is it comprehensible for the general public?

The Commission on Concentration in the Media (KEK) maintains an online media database with information on company holdings in various media sectors, including TV, radio, press and online.

This user-friendly website provides quick and easily accessible information on ownership relationships, along with links to other companies and media outlets.

How is this monitored and regulated? Are there any sanctions for the failure to report?

The state media authorities can impose fines of up to EUR 500,000 if broadcasters violate the obligation to report changes in shareholdings.

Transparency provisions: Does the responsible body monitor the fulfillment of the provision? Do the media fulfill the requirements?

Yes, the State Media Authorities/KEK monitors the reporting obligations, which are, however, complied with by the media companies as far as can be seen.

I.4 Other state influence on media organizations

Does the state impose prohibitive taxes or levies on media organizations? Does the state tax policy and practice discriminate against or favor specific private media outlets over others?

No. On the contrary, the press benefits from a reduced VAT rate (7% instead of 19%). This is linked to objective criteria. There is no evaluation of content. Currently, discussion is underway regarding the introduction of a so-called digital tax, with which large digital platforms are to be taxed (see below).

What entry barriers does the regulatory and institutional system create for new entrants to the media market (e.g. start-up fees or other restrictions)?

Journalism is a liberal profession. In principle, a broadcasting license for TV and radio stations is required, which must be applied for at the state media authorities of the federal states. The licensing criteria are set out in law. Since 2020, the license requirement for so-called minor broadcasting no longer applies. No license is required for broadcasting programs that are of minor importance for the formation of individual and public opinion or that reach an average of less than 20,000 simultaneous users over a six-month period or are forecast to do so.

Does media concentration play a role in the process of spectrum allocation?

Yes, the principles to be observed when allocating frequencies include program diversity and provider diversity.

Is the decision-making process about the allocation of frequencies between public, private and community broadcasters transparent, open, participatory and overseen by an independent regulatory authority, which meets international standards and is free from political or commercial interference or control by any vested interest?

Yes, the state media authorities are structured as independent of the state and act on the basis of laws in which the allocation of frequencies is regulated in detail. Decisions are issued as administrative acts and can be challenged in court.

Is the state advertising distributed to media fairly, for example proportionately to their audience share? How would you describe the rules of distribution of state advertising? Is it being monitored?

In Germany there are no specific legal regulations for this. Rather, this area is left to general public procurement law. Public procurement law binds public authorities to the principle of transparency and is regulated in § 97 I GWB. It stipulates that contracting authorities must ensure appropriate publicity in award procedures. The transparency requirement obliges contracting authorities to publicize the upcoming award of a contract in such a way that interested companies are given the opportunity to apply for the tendered contract. The government refrains from advertising directly in the media. Instead, advertising budgets are allocated to advertising agencies, which take responsibility for how the advertising is disseminated via various channels such as billboards, newspaper advertisements, online platforms, etc. There are no reports from NGOs about non-transparent advertising allocations and there are no press publications on this topic.

Is there a monitoring of advertising allocation?

Although there are no explicit regulations, the media industry is very attentive and actively reports on the government's advertising expenditure.

Are there others laws or policies by which the state/ government interferes in the media business (e.g. blocking of websites, censorship)? Which? Is freedom of press and editorial independence is guaranteed in law and respected in practice? (please elaborate only shortly)

There are no laws or measures by which the state or government can exert influence on the media. The freedom of the media from state interference is enshrined in the German Constitution. For example, the

financing and supervision of public broadcasting is organized independently of the state. According to the press laws of the federal states, the press is "free", in particular free from state influence.

In summer 2024, the Federal Ministry of the Interior banned the right-wing extremist magazine Compact. The Federal Ministry of the Interior under Nancy Faeser (SPD) had prohibited Compact and described it as a "central mouthpiece of the right-wing extremist scene". This was justified by antisemitic, racist and conspiracy theory content as well as close connections to right-wing extremist groups. The magazine reached a print circulation of approximately 40,000 copies, with the associated online TV channel reaching up to 460,000 views.

In 2025, the Federal Administrative Court overturned this ban, thereby confirming in the main proceedings its earlier emergency decision that the ministry's action was unlawful. The Federal Administrative Court made clear that association law fundamentally applies to Compact-Magazin GmbH, as it constitutes a personal association with political objectives. Nevertheless, the organization did not meet the requirements of the prohibition ground of opposing the constitutional order in the sense of Article 9 (2) of the Basic Law and § 3 (1) of the Association Act. The activities cited by the ministry were, while polemical and provocative, not of such a degree that they could be considered constitutive for the association.

The court emphasized the paramount importance of freedom of opinion, press and association. Even constitutional opponents enjoy the protection of Article 5 of the Basic Law, provided their statements do not call for the elimination of the free democratic order or concretely aim to do so. The ban was therefore disproportionate and incompatible with fundamental rights.

The Federal Administrative Court had already expressed doubts in emergency legal protection in August 2024 regarding the lawfulness and in particular the proportionality of the ban, as this would have meant the immediate cessation of all print and online activities. Now it overturned the ban definitively, after the positions of both sides had been comprehensively discussed in the main proceedings over three hearing days.

Have there been any major changes in these topics (state advertising, process of spectrum allocation, taxes for media outlets) over the past five years? Have there been conflictive cases or law suits on these topics?

Culture State Minister Wolfram Weimer is currently planning a levy on the revenues of large US digital corporations (so-called "platform solidarity contribution"). The aim is to limit the market power of large internet platforms and to strengthen the German media landscape financially. Weimer announced a comprehensive reform concept for autumn 2025, which is to encompass tax, antitrust and regulatory measures. The platform solidarity contribution should generate billions to protect the media and cultural system against the dominance of "American and Chinese monopolists".

I.5 Network Neutrality and Media Diversity

1. Legal framework

What laws or other rules are used to regulate net neutrality, if any?

The European legislator has enshrined net neutrality and the best-effort principle in law with the "TSM Regulation" (Telecommunications Single Market). Net neutrality within the meaning of the TSM Regulation exists if the internet access provider treats all traffic in a network equally (i.e. neutrally) regardless of content, application, service, sender and recipient.

What is the legal status of the pertinent norms? (constitutional law, statutes, regulatory decisions, local ordinances, etc.)

European regulation that is binding and directly applicable in the member state, like a law.

How does the law define net neutrality?

Equal treatment of all data traffic in a network regardless of content, application, service, sender and recipient.

If laws addressing net neutrality are not in place, are laws to do so being proposed?

NOT APPLICABLE

Have laws to address net neutrality been proposed previously?

NOT APPLICABLE

Are lawmakers discussing net neutrality?

NOT APPLICABLE

2. Implementation

How is net neutrality being regulated?

The European legislator has enshrined net neutrality in law with the "TSM Regulation". Internet access providers must treat all traffic in a network equally, regardless of content, application, service, sender and recipient. There are few exceptions to this principle. Supervision is carried out by the Federal Network Agency. The agency states on its website: "The regulation anchors net neutrality as a fundamental principle and is intended to ensure that data traffic is not discriminated against, blocked, throttled or prioritized. This is intended to protect user rights, as everyone should be able to use information and services freely. Providers must treat all traffic essentially equally. 'Appropriate management' of data traffic is only permitted to ensure technical requirements for service quality and network security in the public interest. Such traffic management must be transparent, non-discriminatory and proportionate and must not be motivated by commercial interests. A special data category, such as videos or games, may not be prioritized against payment."

The German Telecommunications Act furthermore stipulates that internet providers must properly inform their customers about contractually agreed restrictions on open internet access or about user rights if actual data transmission deviates from the agreed contractual terms.

What regulatory agencies or authorities are charged with enforcing net neutrality norms?

The Federal Network Agency has the power to issue orders to ensure compliance with the provisions of Regulation (EU) 2015/2120 and to enforce them by means of a penalty payment if necessary. It can also

impose fines for certain violations of net neutrality regulations. The Telecommunications Modernization Act, which came into force on 1 December 2021, raised the maximum fine for particularly serious violations to EUR 1 million.

What is/are the enforcement mechanism/s? (imposition of sanctions, voluntary agreements, etc.)

On 28 April 2022, the Federal Network Agency made decisions regarding the zero-rating offer "StreamOn" from Telekom Deutschland GmbH and "Vodafone Pass". The marketing of these add-on options was prohibited and the termination of existing customer contracts was ordered. These measures were taken following a ruling by the European Court of Justice on 2 September 2021, which determined that such zero-rating offers contradict the principle of equal treatment of data traffic. The Court prohibits both technical and tariff-based unequal treatment between different types of traffic within a tariff. Zero-rating options treat data traffic unequally in that certain services and applications are not counted towards the data allowance and can therefore be used without limit.

If enforcement mechanisms exist, are they effective?

Network operators have taken measures to ensure the smooth operation of networks. If necessary, they can use approved traffic management measures in accordance with the Net Neutrality Regulation. The Federal Network Agency has developed guidelines for the telecommunications industry with solutions and measures for appropriate traffic management. Overall, national regulatory authorities have sufficient regulatory instruments at their disposal to respond adequately to such crisis situations. Close cooperation of all parties involved – including regulatory authorities, BEREC, companies, national authorities and the European Commission – was crucial in ensuring that communication networks continued to function reliably even under the conditions of Covid-19.

Which enforcement mechanisms have been effective, and which have been ineffective?

The prohibition of Telekom Deutschland GmbH's "StreamOn" tariff options and the "Vodafone Pass" are effective, as these tariffs, which contradict net neutrality, are no longer offered.

What entities do net neutrality norms apply to? / What is the scope of net neutrality regulation? (broadband, mobile, etc.)

The principles of net neutrality impose certain obligations on internet access services. In principle, these services may not block, slow down or otherwise treat content on the internet unequally. Any form of blocking on the internet, such as DNS, IP or URL blocking, is therefore in principle a violation of net neutrality.

What exceptions exist to the application of net neutrality norms? (traffic management, safety, legality of content, etc.)

Regarding traffic management, different traffic categories are permitted as long as there are objectively different technical requirements for service quality. This is referred to as "appropriate traffic management".

Such traffic management must be transparent, non-discriminatory and proportionate and must not be based purely on commercial interests. A special category of traffic against payment is therefore not permitted. Furthermore, actual content must not be monitored and measures must not be maintained for longer than necessary.

However, there are exceptions to the principle of equal treatment of all types of traffic for exceptional traffic management measures. These are permitted in order to comply with legislation, by order of a court or authority, to protect network integrity and security and to prevent or alleviate exceptional or temporary network congestion.

The regulation also allows the provision of special services under strict conditions. These can be offered in addition to internet access against payment if optimization of data transmission is objectively necessary to

meet the requirements of the content, applications or services. This may be the case in particular if the service requires reliable and stable transmission.

DNS blocking is generally prohibited due to net neutrality, but exceptions can be made under certain circumstances. The Clearingstelle Urheberrecht im Internet (CUII) is an initiative of companies, industry associations and internet access providers investigating whether DNS blocks should be set up for websites that infringe copyright in order to block illegal content. This makes it easier for rights holders such as music or film studios to take faster action against such websites. As the legal process leading to the establishment of a DNS block is often lengthy and can be costly, the CUII procedure is intended to avoid civil court disputes between rights holders and internet access providers. A three-member review committee, which also includes former Federal Court of Justice judges, examines applications from rights holders for DNS blocks and recommends them if necessary. The Federal Network Agency evaluates the CUII's recommendations, taking net neutrality requirements into account. A DNS block will only be set up if there are no concerns about net neutrality.