

## **D) Media**

### **1. Act to Regulate the Dissemination of Writings and Media Contents Harmful to Young Persons (*Gesetz über die Verbreitung jugendgefährdender Schriften und Medieninhalte, GjSM*)**

*of 9 June 1952 (Federal Law Gazette [BGBl.] Part I p. 377) in the version of the promulgation of 12 July 1985 (BGBl. Part I, p. 1502), last amended by ordinance of 15 December 2001 (BGBl. Part I p. 3762)*

#### **Chapter I: Writings Harmful to Young Persons**

##### *Section 1 [Entering Harmful Writings in a List]*

(1) Writings which are such as may place children or juveniles in moral danger shall be entered in a list. These include in particular writings which are immoral, coarsening in effect, providing incitement to violence, crime or racial hatred, or which glorify war. The entry shall be made known.

(2) A writing may not be entered in the list

1. solely on account of a particular political, social, religious or philosophical content;

(...)

#### **Chapter II: Federal Supervisory Body**

##### *Section 9 [Staffing of the Federal Supervisory Body]*

(1) The Federal Supervisory Body shall be composed of a chairperson nominated by the Federal Ministry for Family, Senior Citizens, Women and Youth, one assessor to be nominated by each Land Government, and additional assessors to be nominated by the Federal Ministry for Family, Senior Citizens, Women and Youth. At least one deputy each shall be nominated for the chairperson and the assessors.

(2) The assessors to be nominated by the Federal Ministry for Family, Senior Citizens, Women and Youth shall be drawn from the circles of

(...)

8. the churches, the Jewish congregations<sup>19</sup> and other religious communities constituted as corporations under public law upon the proposal of the groups named.

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<sup>19</sup> Note: The special mention of the Jewish religious communities stems from their traditional appellation as “Kultusgemeinden” (literally: cultural communities) instead of religious communities.

*Section 9a [Right of Proposal Enjoyed by Specified and Unspecified Organisations]*

(1) The right of proposal under section 9 subsection 2 shall be exercised within the circles listed below by the following organisations in respect of one assessor and his deputy in each case:

(...)

8. for circles of the corporations under public law referred to in section 9 subsection 2 No. 8 by

representative of the Council of the Protestant Church in Germany at the seat of government of the Federal Republic of Germany, the Commissariat of the German Bishops — Catholic Office Bonn, and of the Central Council of the Jews in Germany.

For every organisation making use of its right of proposal, one assessor and a deputy assessor shall be nominated. Where one of the organisations referred to in the first sentence submits several proposals, the Federal Minister for Family, Senior Citizens, Women and Youth shall choose an assessor.

(...)

**2. Broadcasting Agreement**

*[Article 1 of the Treaty on Broadcasting in the Unified Germany  
(Staatsvertrag über den Rundfunk im vereinten Deutschland)]*

*of 31 August 1991, in accordance with the proclamation of 10 December 1991 (Law and Ordinance Gazette [GVBl.] of Rhineland-Palatinate p. 369), last amended by the Fifth Agreement to Amend the Broadcasting Agreement dated 6 July to 7 August 2000 (GVBl. of Rhineland-Palatinate p. 518)*

**Part I: General Provisions**

*Section 2 a General Programming Principles*<sup>20</sup>

The Land broadcasting corporations combined in the Association of Public Broadcasting Corporations of the Federal Republic of Germany (ARD), the German Television Channel II (ZDF) and all broadcasters of nationwide television shall in their programmes respect and protect the dignity of man. They should contribute towards strengthening respect for life, freedom and physical integrity, for the faiths and opinions of others. The moral and religious convictions of the population shall be respected. Further Land law demands as to programming, as well as article 41 of this agreement, shall remain unaffected.

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<sup>20</sup> Note: Comparable provisions can be found inter alia in section 5 subsection 3 of the ZDF Agreement, in section 6 subsection 2 of the Agreement on South-West German Broadcasting Corporation and in section 31 of the Land Broadcasting Act of Rhineland-Palatinate.

*Section 3 Prohibited Broadcasts, Protection of Young Persons*<sup>21</sup>

(1) Broadcasts shall be prohibited if they

1. breach provisions of the Criminal Code,<sup>22</sup>

(...)

*Section 5 Short Coverage*<sup>23</sup>

(1) Every licensed television broadcaster in Europe shall be entitled to short coverage free of charge for his own broadcasting purposes of functions and events which are open to the public and of general interest. This right shall include access, the right to make short, direct transmissions, to make recordings, the right to use the material to prepare a single report, and the right to transmit under the conditions set out in subsections 2 to 11.

(...)

(3) Subsection 1 shall not apply to churches and other religious communities or their institutions which carry out similar functions.

*Section 7 Advertising Content and Teleshopping, Identification*<sup>24</sup>

(...)

(8) Advertisements of a political, ideological or religious nature shall be prohibited. The first sentence shall apply mutatis mutandis to teleshopping. Free contributions in the service of the public, including appeals for donations for charitable purposes, shall not be deemed to be advertising within the meaning of the first sentence. article 42 shall remain unaffected.

## **Part II: Provisions on Public Service Broadcasting**

*Section 14 Insertion of Advertisements*

(1) Broadcasts of religious services or children's programmes shall not be interrupted by advertisements or teleshopping.<sup>25</sup>

(2)(...) Television advertisements and teleshopping may be inserted during programmes subject to the conditions contained in subsections 3 and 4 provided that the integrity and character of the programmes are not prejudiced and so long as no rights of entitled persons are violated.

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<sup>21</sup> Note: The same provision concerns section 8 of the ZDF Agreement and section 32 of the Land Broadcasting Act of Rhineland-Palatinate. Furthermore, a similar provision is contained in section 8 of the Agreement on Media Services dated 31.01.1997 (GVBl. Rhld-Pf. p. 235), last amended on 31.8.1999 (GVBl. Rhld-Pfl. 2000 p. 105).

<sup>22</sup> Cf. on criminal law protection of religious freedom the statutes listed in the second part of this collection at item A No. 1.

<sup>23</sup> Note: Provisions with identical wording can be found inter alia in section 7 of the ZDF Interstate Agreement and in section 34 of the Land Broadcasting Act of Rhineland-Palatinate.

<sup>24</sup> Note: The first and fourth sentences correspond to section 10 subsection 8 of the Deutsche Welle Act and section 44 subsection 7 of the Land Broadcasting Act of Rhineland-Palatinate.

<sup>25</sup> Note: Similar provisions are contained in section 45 subsection 1 of the Land Broadcasting Act of Rhineland-Palatinate and section 10 subsection 9 of the Deutsche Welle Act.

### *Section 15 Duration of Advertising*

(1) The annual average for the entire duration of advertising on German Television Channel I (ARD) and on German Television Channel II (ZDF) shall in each case not exceed twenty minutes on working days. (...) Advertisements shall not be broadcast after 8.00 p.m. nor on Sundays or on legal holidays which are observed throughout the country. (...)

(...)

(4) References by broadcasting corporations to their own programmes and to documentation directly derived from these programmes, as well as free contributions in the service of the public, including appeals for donations for charitable purposes, shall not be deemed to be advertising within the meaning of subsections 1 to 3.

(...)

## **Part III: Provisions on Private Broadcasting**

### *Section 41 Programming Principles*

(1) Programmes which are broadcast shall be subject to the requirements of the constitutional order. Broadcasts shall respect the dignity of man as well as the moral, religious and ideological convictions of others. (...)

(...)

(3) Subsections 1 and 2 shall only apply to nationwide broadcasts.

### *Section 42 On Air Time for Third Parties<sup>26</sup>*

(1) The Protestant churches, the Catholic Church and the Jewish communities shall, upon request, be conceded suitable time for the transmission of religious programmes; the broadcaster may demand reimbursement of prime costs.

(...)

(3) Subsections 1 and 2 shall only apply to nationwide private broadcasts.

### *Section 44 Insertion of Advertisements and Teleshopping<sup>27</sup>*

(...)

(5) Television news, programmes on current political affairs, documentaries and religious programmes, when their scheduled duration is less than thirty minutes, shall not be interrupted by advertisements or teleshopping. If their scheduled duration is thirty minutes or longer, the provisions of the above subsections shall apply.

(...)

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<sup>26</sup> Note: The content of the first subsection corresponds to that of section 39 subsection 1 of the Land Broadcasting Act of Rhineland-Palatinate, although the latter also affords this right to on air time to other religious communities.

<sup>27</sup> Note: The content of this statute corresponds to that of section 45 subsection 5 of the Land Broadcasting Act of Rhineland-Palatinate.

*Section 49 Administrative Offences*

(1) A private broadcaster who operates a nationwide system commits an administrative offence if he, intentional or by negligence,

1. transmits programmes in contravention of section 3, subsection 1 No. 1 which are prohibited because they violate section 130 of the Criminal Code, unless punishment is already imposable in respect of this act in accordance with the Criminal Code,<sup>28</sup>

(...)

20. disseminates advertising or teleshopping of a political, ideological or religious nature in contravention of section 7 subsection 8,

(...)

27. (...) interrupts other programmes with advertising or teleshopping in contravention of the preconditions named in section 44 subsections 4 and 5,

(...)

**3. Agreement on the ZDF (German Television Channel II)**  
*[Article 3 of the Treaty on Broadcasting in the Unified Germany*  
*(Staatsvertrag über den Rundfunk im vereinten Deutschland)]*

*of 31 August 1991 (Law and Ordinance Gazette [GVBl.] of Rhineland Palatinate p. 369), last amended by Act of 6 July to 7 August 2000 (GVBl. of Rhineland Palatinate 2000 p. 518)*

*Section 11 Right to On Air Time<sup>29</sup>*

(...)

(3) The Protestant churches, the Catholic Church and the Jewish communities shall, upon request, be granted suitable on air time for transmission of religious ceremonies and festivities, as well as other religious programmes, including such relating to questions of their public responsibility. Other religious communities under public law that are common in the whole national area may be adequately taken into account.

(4) If representatives of the political parties, the churches, the various religious and ideological directions and the representatives of the organisations of the employers and employees are afforded the opportunity to express themselves, they shall be afforded the possibility to talk and respond under the same conditions.

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<sup>28</sup> Note: The same is also provided by section 61 subsection 1 No. 11 of the Land Broadcasting Act of Rhineland-Palatinate.

<sup>29</sup> Note: Section 11 subsection 3 corresponds to section 17 of the Deutsche Welle Act.

## *Section 12 Responsibility*

(...)

(2) In accordance with sections 10 and 11 of this agreement, the party to whom the on air time has been granted shall be responsible for the content and form of the programmes.

(...)

## *Section 20 Tasks of the Television Council*<sup>30</sup>

(1) The Television Council shall have the task of establishing guidelines for the programmes of the ZDF and advising the managers in matters related to programming. It shall monitor adherence to the guidelines and to the principles set out in sections 5, 6, 8 to 11 and 15 of this agreement.

(...)

## *Section 21 Composition of the Television Council*

(1) The Television Council shall be composed of seventy-seven members, namely

(...)

d) two representatives sent by the Protestant Church in Germany,

e) two representatives sent by the Catholic Church,

f) one representative sent by the Central Council of the Jews in Germany,

(...)

k) four representatives of the independent charities, one each of the Agency of Charitable Organisations of the Protestant Church in Germany, of the German Association of (Roman-Catholic) Charitable Organisations ("Caritas"), of the German Red Cross and of the main committee of the German Working Men's Welfare Association,

(...)

## **4. Act on the Broadcasting Corporation under Federal Law "Deutsche Welle"<sup>31</sup> - Deutsche Welle Act (Gesetz über die Rundfunkanstalt des Bundesrechts »Deutsche Welle«) (Deutsche Welle Act - DWG)**

*of 16 December 1997 (Federal Law Gazette [BGBl.] Part I p. 3094), last amended by Act  
of 19 June 2001 (BGBl. Part I p. 1149)*

## *Section 5 Programming Principles*

(...)

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<sup>30</sup> Note: Comparable provisions are contained in section 32 of the Deutsche Welle Act, section 15 of the Agreement on the South-West German Broadcasting Corporation and section 66 of the Land Broadcasting Act of Rhineland-Palatinate.

<sup>31</sup> Note: The Deutsche Welle broadcasts radio and television both in German and in foreign languages for audiences outside Germany.

(2) The programmes must facilitate free formation of opinion and may not demonstrate support for a party or other political association, a religious community, a profession or a community of interest. The moral, religious and ideological convictions of the listeners and viewers shall be respected.

(...)

### *Section 31 Composition*

(1) The Broadcasting Council shall be composed of 17 members.

(...)

(3) The following social groups and organisations shall each nominate one member of the Broadcasting Council:

1. the Protestant Church,
2. the Catholic Church,
3. the Central Council of the Jews in Germany,

(...)

## **5. *Act on Measures to Promote German Film (Gesetz über Maßnahmen zur Förderung des deutschen Films - Filmförderungsgesetz - FFG)***

*of 6 August 1998 (Federal Law Gazette [BGBl.] Part I p. 2046),  
last amended by Ordinance of 29 October 2001 (BGBl. Part I p. 2785)*

## **Chapter I: Film Promotion Institute**

### *Section 6 Administrative Council*

(1) The Administrative Council shall be composed of 29 members:

(...)

12. one member each nominated by the Protestant Church and the Catholic Church,

(...)

## **6. *Agreement on the South-West German Broadcasting Corporation (Staatsvertrag Südwestrundfunk)***

*of 31 May 1997, in accordance with the proclamation of 29 July 1997  
(Law and Ordinance Gazette [GVBl.] of Rhineland-Palatinate p. 260),  
last amended by Act of 8 March 2000 (GVBl. of Rhineland-Palatinate p. 105)*

### *Section 9 On Air Times for Third Parties*

(...)

(3) The churches and other religious communities under public law, the representatives of the organisations of employees and employers, the governments of the Länder, and the political parties if they have the size of a parliamentary party in one of the parliaments of the Länder, shall be offered the opportunity to express their views at adequate on air times of the South-West German Broadcasting Corporation.

(4) The party to whom on air time has been granted shall be responsible for the content and form of the programmes.

#### *Section 14 Composition of the Broadcasting Council*

(...)

(2) 51 members of the Broadcasting Council shall be from the Land of Baden-Württemberg. Of these (...)

3. two members shall be sent by the Protestant Land Churches,
4. two members shall be sent by the Roman Catholic Church,
5. one member shall be sent by the Israelite Religious Communities,
6. one member shall be sent by the independent churches,(...)

(3) 23 members of the Broadcasting Council shall be from the Land of Rhineland-Palatinate. Of these (...)

3. one member shall be sent by the Catholic Dioceses in the Land of Rhineland-Palatinate
4. one member shall be sent by the Protestant churches in the Land of Rhineland-Palatinate

**7. Land Broadcasting Act [of Rhineland-Palatinate] (Landesrundfunkgesetz - LRG)**  
*of 28 July 1992 (Law and Ordinance Gazette [GVBl.] of Rhineland-Palatinate p. 247),  
in the version of 8 March 2000 (GVBl. of Rhineland-Palatinate p. 105), last amended by Act  
of 30 November 2000 (GVBl. Of Rhineland-Palatinate p. 516)*

#### *Section 6 Granting Permission [to Broadcast]*

(1) Permission shall be granted on written application. It may only be granted if the following preconditions are met:

1. the applicant must be  
(...)  
b) a religious or ideological community under public law,  
(...)
2. the applicant must have his/her registered office or domicile in the Federal Republic of Germany;
3. the applicant must guarantee that he/she will adhere as a broadcaster to the statutory provisions and the provisions of its constitution in accordance with this act;

4. the applicant must give rise to an expectation that he/she is economically and organisationally able to implement broadcasting in accordance with his/her application;
5. the applicant must implement the technical studio organisation of the programming in Rhineland-Palatinate or him/herself or through one of his/her shareholders guarantee to ensure appropriate media activities there; the Central Land Agency for Private Broadcasters may permit exceptions for broadcasters who demonstrate that they have transmission capacities on satellites not allocated to the Land of Rhineland-Palatinate;
6. the application must contain the information referred to in section 13 Nos. 1 to 6.

*Section 16 Diversity of Opinion, Regional Programming*

(1) In private broadcasting, content-wise diversity of opinions is to be largely expressed. The major political, ideological and social powers and groups must be afforded sufficient opportunity to express themselves in the full programmes; minority views have to be taken into account. (...)

(...)

*Section 64 Assembly [of the Central Land Agency for Private Broadcasters]*

(1) The assembly shall consist of 42 members. Of these

(...)

4. one member shall be sent by the Catholic Dioceses in Rhineland-Palatinate, one member by the Protestant Churches in the Land of Rhineland-Palatinate and one member by the Land Association of the Jewish Communities of Rhineland-Palatinate (...)