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COMMUNICATIONS OUTLOOK 1999

BROADCASTING: Regulatory Issues

Country: AUSTRIA

Date completed: 6 July 1998

The attached questionnaire was undertaken in preparation for the biennial OECD Communications Outlook. The responses provided by Member countries on broadcasting regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on telecommunication regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

Broadcasting market status (Questions 1- 3)

1. Please provide details of the broadcasting and cable television infrastructure provision in your country.

Infrastructure provision for following service	Number of licensed operators (1998)	Number of privately owned companies ¹	Number of public service organisations ²
Terrestrial TV (National coverage ³)	1	0	1
Terrestrial TV (Local coverage ⁴ only)	0	0	0
Terrestrial radio (National coverage)	1	0	1
Terrestrial radio (Local coverage only)	53	53	0
Cable television service ⁵	271	271	0
Analogue direct broadcast satellite (DBS) service	0	0	0
Digital DBS service	0	0	0

¹ Defined as private sector companies holding one or more licences for service provision.

² Including state-owned corporations or institutions holding one or more licences for service provision.

³ A service with national coverage is defined as a service by a group of television or radio stations distributing a majority of the same programming, that are licensed on a national or regional basis but collectively provide nation-wide coverage. Affiliated companies of the nation-wide broadcast network are included in this category. If new operators have been licensed to provide national coverage in the last three years but are at the stage of rolling out networks please include these operators in the total.

⁴ A service with local coverage is defined as a service by a group of television or radio stations that are licensed on a national or regional basis but distribute the programming in the local area only. If new operators have been licensed to provide local coverage in the last three years but are at the stage of rolling out networks please include these operators in the total.

⁵ Please indicate if more than one organisation is permitted to own and operate cable television infrastructure in the same area.

2. Please provide details for the major public / private terrestrial TV broadcasting companies in your country. They include state and privately owned organisations providing broadcasting services with national coverage.

Name of public / private terrestrial TV broadcasting companies	Ownership Status (1998) (e.g. state-run / state owned / privately owned)	Do they own transmissions infrastructures? If not, please indicate the name of company which provide transmission infrastructures.
ORF Österreichischer Rundfunk / Austrian Broadcasting Corporation / Radio and Television	State owned	Ownership of radio stations and micro wave links. From 1.1.1998 ORF might operate their own TC transmission infrastructure including cables.

3. What was the price of cable television service for a subscriber in the largest city of your country on 1st January 1998? Basic service corresponds to the least expensive option to a customer and premium service the most expensive option. (Local currency, current prices)

Cable Television services	Basic service			Premium service	
	Connection	Monthly subscription fees	Number of cable channels included in the basic option (excluding free services)	Monthly subscription fees	Number of cable channels included in the premium option (excluding free services)
(Please indicate the name of operator)	Telekabel Wien				
(National average, if available)					

Broadcasting Regulatory Framework (Questions 4 - 9)

4. Which organisation(s) administer the following services (carriage and content) in your country and what are their main responsibilities? Please mention agencies dealing with spectrum allocation and management, and providing licences.

Please provide details:

- a. Terrestrial broadcasting service
- b. Cable Television service
- c. Direct broadcast satellite (DBS) service

For all of them:

Federal Chancellery /Department for the Media: general broadcasting / media regulation / policy

Ministry of Science and Transport: for carriage regulation, frequency planning and allocation, radio station technical licensing,

Commission for the Observance of the Broadcasting Act. (Kommission zur Wahrung des Rundfunkgesetzes)

Commission for the Observance of the Regional Radio Act (Kommission zur Wahrung des Regionalradiogesetzes) at the Federal Chancellery, an independent body (17 members, 9 of them must be judges) content oriented control.

Regional Radio - and Cable Broadcasting Authority (Regionalradio- und Kabelrundfunkbehörde) at the Federal Chancellery, an independent court type institution, granting private broadcasting licences.

Commission for the Observance of the Cable- and Satellite-Broadcasting act (Kommission zur Wahrung des Kabel und Satelliten-Rundfunkgesetzes) observance of the Cable and Satellite Broadcasting Act

5. Please provide a description of significant recent policy changes affecting the provision of broadcasting services, as well as any draft laws, or regulatory proposals to be implemented in 1998.

Please provide details:

Modification of the Regional Radio Act of 1993 in 1997 and licensing of private regional and local radio stations throughout Austria.

Introduction of a Cable- and Satellite Broadcasting Act in 1997 regulating the ownership as well as the contents of programs for cable and /or satellite broadcasts.

Introduction of a new Telecommunication Act in 1997, providing rules for introduction of full liberalisation in the telecommunications environment. Including a withdrawal of the technical license for CATV networks and the extended use of them for all other telecommunication services.

6. **How is broadcasting defined in your country's regulatory framework? In addition, please specify public service obligations stipulated in broadcasting regulations.**

Definition of broadcasting:

Public broadcasting is the provision and distribution to the public of performances of all kinds in word, sound and picture, using electrical waves without interconnecting wires, or along or by the means of a conductor as well as by operation of technical equipment fulfilling this function.

Public broadcasting is defined in the federal constitutional act of 1974 (BVG-Rundfunk) concerning the protection of independence of broadcasting. It lays down the general conditions and requires detailed provisions to be determined by federal acts:

The broadcasting Act 1984 is defining and regulating the Role of the Austrian Public Broadcasting Corporation (Österreichischer Rundfunk - ORF)

The Regional Radio-Act of 1993 amended 1997, legal framework governing regional and local radio.

The Cable- and Satellite Broadcasting Act of 1997, legal framework governing the provision of Cable and Satellite broadcasting services.

Public service obligations:

Obligations are placed directly on the ORF via the Broadcasting Act 1984 governing only the ORF: objective and unbiased information, variety of opinions, basic media coverage, and cultural obligations.

7. **Are there must-carry rules? For example, are cable television or satellite operators required by regulation to provide capacity for certain services? If yes, please elaborate on the reasons.**

Please provide details:

Emergency broadcasts must be carried.

CATV operators must carry the programs of the ORF and under special conditions can be forced by the regional radio and cable broadcasting authority on request of a program supplier to carry a certain program.

8. Are there any local content requirements for broadcasters and cable television operators in your country in terms of the level of domestically produced content which must be broadcast, the amount of turn-over which must be allocated to domestic production or other criteria? Yes/No

No, only very general principles in respect of coverage of the public, cultural and economic aspects of the covered area.

	If Yes, please provide local content specification and where applies.
Terrestrial Television service	
Cable Television service	
DBS service	

9. Are there any limitations on share ratio, number of stations, or other ownership restrictions on entities investing in service providers of terrestrial broadcasting, cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.

If yes, please provide details: **Basics:**
ORF: 100 % state owned.
Private terrestrial (radio) broadcasting: Austrian (EU / European Economic Space) citizen or company. If a company, there is a maximum allowed 25% foreign ownership. No direct or indirect, full or part ownership for public entities or political parties.
 Owners of newspapers are limited to 26% ownership and/or voting rights in not more than two broadcasting companies in different regions and maximum of 10% in each of four other regions.
Cable and satellite broadcasting: Media owner (newspapers as well as radio and television broadcasters) are only allowed an ownership if the Cable -or Satellite broadcasting is organised as a stock- or limited liability company. This ownership or voting rights are limited to 26%.

Cross-ownership and cross sector provision (Questions 10 - 14)

10. Are there any restrictions on terrestrial broadcasting companies from directly providing the cable television infrastructures and services in your country? On the other hand, are there any restrictions on cable television operators from directly providing the terrestrial broadcasting companies in your country?

If yes, please provide details:

- a. Restrictions on terrestrial broadcasting companies providing the cable television infrastructures.
In theory the sole provision of the infrastructure is allowed. However, the Cable and Satellite act states, that if there is any doubt, the infrastructure provider is classified as broadcast service provider. Then restrictions as under „b.“ apply.
- b. Restrictions on terrestrial broadcasting companies providing cable television services.
Media owner (newspapers as well as radio and television broadcasters) are only allowed ownership if cable or satellite broadcasting is organised as a stock or limited liability company. Such ownership or voting rights are limited to 26%.
- c. Restrictions on cable television operators providing terrestrial broadcasting:
(Note: there is no terrestrial private television in Austria). No restrictions as long as there is no media ownership in the cable television company.

11. Please specify any restrictions on cable television operators and terrestrial broadcasting companies investing (including merging and acquiring shares) in companies that provide other infrastructures or services.

Please provide details:

- a. Restrictions on cable television operators investing in telecommunications operators:
No, but anti trust law still apply
- b. Restrictions on cable television operators investing in terrestrial broadcasting companies:
Cable and satellite broadcasting: Media owners (newspapers as well as radio and television broadcasters) are only allowed to have ownership if cable or satellite broadcasting is organised as a stock or limited liability company. Such ownership or voting rights are limited to 26%.
- c. Restrictions on terrestrial broadcasting companies investing in telecommunications operators:
No
- d. Restrictions on terrestrial broadcasting companies investing in cable television operators:
Yes, ORF not allowed.
Cable and satellite broadcasting: Media owners (newspapers as well as radio and television broadcasters) are only allowed ownership if cable or satellite broadcasting is organised as a stock or limited liability company. Such ownership or voting rights are limited to 26%.

12. Are there any restrictions or limitations on foreign investment regarding services of terrestrial broadcasting , cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.

Yes/No

If yes, please provide details:

Yes: Must be Austrian citizen or company with HQ in Austria. (EU and European Economic Space will be treated equal)

13. Are there any regulations restricting cross media ownership (e.g. broadcast television, radio, newspapers) for infrastructure and services in the same geographical market.

Yes/No

If yes please provide details:

No additional restrictions to general rule as laid out.

14. What kind of methods are adopted by regulatory authorities in order to measure market shares in broadcasting market? If the measure used is “audience rates”, please describe the methodology used.

Description of market share measurement

Not available

Please provide methodology for measuring audience rates.

Convergence (Questions 15 - 18)

15. Under the communication regulation existing in your country how would services provided over the Internet, which some have likened to broadcasting services (e.g. audio and video services transmitted over the Internet) be defined and treated?

Please provide details:

Broadcasting is defined in the law (see Question 6). Whether services described are covered needs to be decided if challenged.

16. Would a video on demand service be treated differently in terms of regulations, by the transmission methods (for example, PSTN, cable or satellite)?

Please provide details: No

17. Under the communication regulation existing in your country how would conditional access services, such as in digital DBS services, be treated?

Please provide details: Not clear yet

18. Please detail plans for digital broadcasting and cable television services: Not applicable

	Number of Licences to be granted	Expected Number of New Channel Capacity	Expected Date of Service Commencement
Terrestrial TV service			
Terrestrial Radio service			
Direct Broadcast Satellite service			
Cable Television service			
Additional information and comments			