

Germany

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0. INTRODUCTORY REMARKS

A comparative view of media structures requires the development of models which allow for a description of the variety of phenomena in a similar manner, in order to draw comparisons and conclusions on the base of equivalents. This approach has to be to a certain extent oblivious towards the specifics of given mediascapes. The general structure proposed in the model applied here for a cross-country comparative analysis of media regulatory bodies starts from the assumption that there is a single or central body with a regulatory task. This is not the case in Germany as the German Federal Republic, as a federalist state, has for several reasons a large number of regulatory bodies. The first reason is federalism in itself in that every one of the federal states (*Länder*) has – as far as broadcasting is concerned – its own regulatory body, with the exception, of a number of *Länder* which share one body. The second reason is that commercial and public broadcasting, the so called dual system of broadcasting, are supervised by different bodies. And the third reason is the fact that different topics of regulation are dealt with in different bodies. This is why the general structure of the project is not fully applicable to Germany. Instead examples will show how the dimensions in question are translated into practice in Germany. Before going into details, we will give you an overview of the variety of regulatory bodies in Germany.

1. OVERVIEW

The federalist principle applies to the public broadcasting sector as well as to the commercial broadcasting sector. Within public broadcasting, the supervisory bodies are the broadcasting councils which are adjoined to the various broadcasting corporations of the *Länder*. The public service broadcasting corporations broadcast television and radio programs as well as a supply of online services. There are nine broadcasting corporations either serving one Land (*Bayerischer Rundfunk, Hessischer Rundfunk, Westdeutscher Rundfunk, Radio Bremen,*

Saarländischer Rundfunk), or two (*Radio Berlin Brandenburg, Südwestrundfunk*) or even three (*Mitteldeutscher Rundfunk*) or four *Länder* (*Norddeutscher Rundfunk*). Together they make up the ARD – *Arbeitsgemeinschaft der Rundfunkanstalten Deutschlands* and produce the first television programme „*Das Erste*“. Other public service channels include *Deutsche Welle*, the international channel, *Deutschlandradio*, a national radio channel, and *ARTE*, the French-German cultural channel. The latter three corporations have separate and individual broadcasting councils.

Generally, German media regulatory bodies are made up according to a common principle: Representatives of the so called “socially relevant groups” – delegates of political parties, trade unions and employers’ organizations, churches, and many different organizations of the civil society – are nominated for the broadcasting council and have the responsibility of controlling the performance of the broadcasting corporations according to the underlying laws and norms and they elect the CEO of the corporation. A second supervisory body is the administrative council, which is responsible for controlling the budget and the human resources management.

For the supervision of the commercial broadcasters, another set of bodies has been established: the state media authorities (*Landesmedienanstalten*), which are authorities under public law organized on the *Länder* level (see 6.). Here, the dominant model is that one regulatory body has scope of competencies for one *Land*. Only Berlin and Brandenburg, and Hamburg and Schleswig-Holstein share one *Landesmedienanstalt*.

Apart from these bodies, the broadcasting councils for public service broadcasting and the state media authorities, there are plenty of other institutions, some of them part of the state media authorities (see 6.), which are responsible for the regulation of special fields. These are named here with their German names including their abbreviation, the English translations and their responsibilities:¹

Abbr.	German	English	Responsibility
KEF	Kommission zur Ermittlung des Finanzbedarfs der Rundfunkanstalten	Commission for the investigation of the financial needs of PSB	To evaluate the budget of the public service broadcasters and decide on the determination of the broadcasting fee
KEK	Kommission zur Ermittlung der Konzentration im Medienbereich	Commission for the investigation of media concentration	To ensure plurality in the commercial broadcasting sector by deciding on admission or negation of licensing of nationwide broadcasting
ZAK	Kommission für Zulassung und Aufsicht	Commission for licensing and supervision	Licensing and supervision of commercial broadcasting according to the provisions of the broadcasting law
KJM	Kommission für Jugendmedien-schutz ¹	Commission for protection of youth in media	To ensure the coordination of the responsibilities of protections of youth in the media on the federal level, concerning commercial broadcasting
FSF	Freiwillige Selbstkontrolle Fernsehen	Voluntary Selfcontrol TV	An association founded by the commercial broadcasters to organize a pre-control for youth protection, esp. with respect to representation of violence and sexual behavior
BNetzA	Bundesnetzagentur	Federal network agency	Federal regulation of the technical infrastructure for telecommunication (and other services)

¹ There are many more self-regulatory bodies for different sectors of the media

Because of this complexity of regulatory bodies, we will concentrate in the following on the regulation only of public and commercial broadcasting and leave out those regulatory fields, which fall into the competency of another body. Further we will concentrate on one national (*ZDF*) and one regional (*WDR*) broadcaster for public service broadcasting, and on one supervisory body for the commercial broadcasting in one country state (*LfM* in North Rhine-Westphalia) and another supervisory body for commercial broadcasting in two country states (*MAHSH* for Hamburg and Schleswig-Holstein).

2. LEGAL FRAMEWORK

Media regulation in Germany is following the general principle of federalism and is in the hand of the country states (*Länder*). This means that all nationwide media laws have to be settled by an agreement of the different *Länder*. This is especially true for the broadcasting laws, which are elaborated as the interstate treaties (*Rundfunkstaatsvertrag*²). These interstate treaties are adapted to new requirements (e.g. by EU regulations) and amended on a frequent base. At present the 15th amendment of the broadcastings interstate treaty (*Rundfunkänderungsstaatsvertrag*³) is in force.

The broadcasting law (*Rundfunkstaatsvertrag*) contains a section on the broadcasting council of the *ZDF*, whose composition and tasks are also defined within the *ZDF Staatsvertrag* and the by-laws of the *ZDF*. The regulations for the broadcasting council, the administrative council and the directors general of all regional broadcasters including *WDR* are laid down in the broadcasting law of the country state (*Landesrundfunkgesetz*⁴). These legal texts provide detailed stipulations for the composition of the broadcasting councils which shall guaranty their independence from state authorities. Accordingly, the stipulations for the *Länder* based supervisory bodies for commercial broadcasting (*Landesmedienanstalten*) are laid down in the broadcasting laws of the country state as well (*Landesrundfunkgesetze*⁵).

In addition there is a law for financing of public broadcasting (*Rundfunkgebührenstaatsvertrag*⁶), an interstate treaty for protection of youth in the media (*Jugendmedienschutzstaatsvertrag*⁷), a telecommunications law (*Telekommunikationsgesetz*⁸), and a law with regulations for the internet (*Telemediengesetz*⁹). The difference in the latter two lies within the distinction of pure individual communication (as e.g. telephone via internet) and the online services which lie in between of individual communication and broadcasting (in other words: individual and mass communication).

² http://www.rlp.de/no_cache/ministerpraesident/staatskanzlei/medien/?cid=104467&did=62428&sechash=e157e5ee

³ http://www.rlp.de/no_cache/ministerpraesident/staatskanzlei/medien/?cid=104467&did=62428&sechash=e157e5ee

⁴ <http://www.lfm-nrw.de/fileadmin/lfm-nrw/Medienrecht/lmg2009.pdf>

⁵ <http://www.die-medienanstalten.de/service/rechtsgrundlagen/landesmediengesetze.html>

⁶ <http://www.gez.de/e160/e161/e392/Staatsvertrag.pdf>

⁷ http://www.kjm-online.de/files/pdf1/_JMStV_Stand_13_RStV_mit_Titel_deutsch3.pdf

⁸ http://www.gesetze-im-internet.de/tkg_2004/BJNR119000004.html

⁹ <http://www.gesetze-im-internet.de/bundesrecht/tmg/gesamt.pdf>

3. LEGITIMIZING/UNDERLYING VALUES

The all overarching values concerning the communication freedoms are laid down in the constitution (*Grundgesetz*¹⁰). Its article 5 stipulates that freedom of opinion shall be given for anything spoken, written or represented in a picture. It includes freedom of information, freedom of broadcasting and film, although these freedoms are limited according to the general laws and the laws concerning protections of youth and protection of dignity.

The fundamental ratio of the German broadcasting system can be found in historical origins. After the disaster of Nazi-dictatorship with radio of a pure instrument of Nazi-ideology, the primordial intention of building up broadcasting in Germany was its independence from any vested interests, either from state authorities or economic actors. Independence of broadcasting in this sense is a core value of the German media system which had been underlined and interpreted in various fundamental decisions of the German supreme court – the constitutional court (*Bundesverfassungsgericht*). The constitutional court has since its first fundamental decision on the freedom of press¹¹ a decisive influence on media freedom in general and on broadcasting in special. In several decisions it shaped the German dual system of public service and commercial broadcasting, stating that commercial broadcasting must not exist without public service broadcasting and that public service broadcasting has a guaranty of existence and development. This means, that it is entitled to take part into new technological developments and that its funding should allow for a sound programming¹².

Broadcasting freedom is defined as a serving freedom, meaning that it should serve the democratic needs of society. This idea had been upheld as well within the transformation of the EU subsidy compromise and the EU broadcasting communication of 2009. In the according broadcasting law it is stated that new online services of the public service broadcasters should serve the cultural, social and democratic needs of society.

In order to serve these needs, plurality is both a core value and an aim of media regulation. The German constitution starts from the assumption that pluralism is vital for democracy and that therefore broadcasting has to ensure the plurality of opinions. Therefore, the structures of the media sector are widely orientated to the federal structure of the state and it lies within the duties of the country states to ensure this pluralism in broadcasting. Two competing models shall guarantee pluralism: the interior plurality and the exterior plurality, the first meaning that it is the plural composition of the broadcasting organization, as it is given with the broadcasting councils, which guarantees diversity. Exterior pluralism means that a variety of services and offers on the media market will cater for a variety of opinions represented in the media as a whole.

Besides the forming of the media system and their regulation on the level of the country states, the influence of EU media politics on the national laws is more and more a given fact, which shall not be explained here.

¹⁰ <http://www.bundestag.de/dokumente/rechtsgrundlagen/grundgesetz/index.html>

¹¹ The so called Spiegel-Urteil, a decision in 1966 which condemned the search of the newsroom of Der Spiegel, a famous weekly magazine, by police in 1962.

¹² BVerfG 1961, 1971, 1981, 1986, 1987, 1991, 1992, 1994, 1995, 1998

4. FUNCTIONS AND PERFORMANCE

As it has been spelled out in sections 0., 1. and 2., the different regulatory bodies have each of them different legal grounds, where their duties and obligations are laid down. We will here specify the functions of the broadcastings councils for public service broadcasting, on the one hand, and the supervisory bodies in the country states for commercial broadcasting, on the other. Until now there are no converging tendencies within German media regulation.

Generally, German media law is designed on the principle of the freedom from state intervention. But, due to the characteristics of information goods leading to market failure, broadcasting is believed to require not only supervision whether broadcasting complies with legal provisions or not, but also supporting regulation of the state for safeguarding its functionality and independence from political or other societal groups. Functionality means that the German law allows commercial broadcasting only if a basic service is guaranteed for the citizen by the public service broadcasting, which means the provision of information and entertainment programs following certain quality standards, the possibility for the citizen to receive these programs and plurality of opinion (*Grundversorgungsauftrag*). On these grounds, the regulation authorities differ concerning its organization and performance of supervision and control. From an organizational perspective, the broadcasting and television councils are independent bodies within the public service broadcasting organizations, whereas the state media authorities are separate organizations controlling commercial broadcasting from the outside.

The broadcasting councils within the public service broadcasting corporations in the country states have as a main and most important task to elect the CEO of the corporation. They advise the CEO on all programming questions, approve and decide on the budget and deal with complaints of the audiences, which those are entitled to give in on the base of the remit, laid down in the interstate treaty, programming principles and specific guidelines. Another important document, guiding the task of the broadcasting councils, is the self-obligation declaration (*Selbstverpflichtungserklärung*¹³). This is a tool which has been introduced with the 7th amendment of the interstate treaty of broadcasting, forcing the public broadcasters to define for a given period their aims and instruments for the development of the channels they broadcast. The functions of the broadcasting councils can be compared to those of a board of directors.

Regulation of the commercial broadcasters is organized in another body (*Landesmedienanstalt*), which has very different shapes in the country states. It can have as the deciding body a media council, a general assembly or a commission or a committee. Nevertheless, the underlying principle is the same as with the public broadcasters, which is that the plurality of the society should be represented within these bodies. Each *Land* has then a proper law, defining how the composition of these bodies is done in detail.

These supervisory bodies decide on licensing of commercial broadcasters or cancellation of the license, allocation of frequencies, supervision of platforms, control of programming according to the laws and of media concentration, and decide on licenses of online

¹³ <http://www.ard.de/intern/standpunkte/-/id=1756626/property=download/nid=8236/kwbeb8/selbstverpflichtung.pdf>

services which fall under the law of broadcasting. Apart from these regulatory tasks, the *Landesmedienanstalten* also have competencies in the development of technical and infra-structural development, citizen channels, research and promotion of media literacy.

In order to ensure diversity of programming as well as aligning matters on the national level, the state media authorities cooperate through the *ALM (Arbeitsgemeinschaft der Landesmedienanstalten)* in different decision-taking councils and commissions, some of them already mentioned above (see 1.). These are the *ZAK (Kommission für Zulassung und Aufsicht* or Commission on Licensing and Supervision), the *DLM (Direktorenkonferenz der Landesmedienanstalten* or Conference of Directors of the State Media Authorities), the *GVK (Gremienvorsitzendenkonferenz* or Conference of Chairpersons of the Decision-Taking Councils), the *KJM (Kommission für Jugendmedienschutz* or Commission for the Protection of Minors in the Media) and the *KEK (Kommission zur Ermittlung der Konzentration im Medienbereich* or Commission on Concentration in the Media). Representatives for editorial and advertising content, for the platform regulation and digital access advise the commissions. The joint management office of the state media authorities is located in Berlin.

Both regulatory modes are non-state, non-governmental forms and rely on the representation of the so called socially relevant groups. They may include government representatives, but they are in the minority of both bodies. Anyway, a great share of the regulatory bodies' members represents governments or political parties. Within the television council of the *ZDF*, for example, there are 16 representatives of each federal state and three representatives of the Federal Republic of Germany, as well as 12 representatives of the political parties. Furthermore, nearly all members belong to one or the other of the so called circles of friends, which are either linked with the Christian Democratic Party or with the Social Democratic Party on the national and regional levels. The administrative councils are even more integrated in the political sphere (see 6.).

Another problem caused by the organizational structure of the media regulation bodies is their limited power of enforcement. The state media authorities are criticized for their failure to take action against the violation of statutory provisions. An example was the long-lasting conflict between *Pro7Sat1 Media AG* and *ZAK* about the program *9Live* because of its violation of gambling legislation of the state media authorities. Another year-long controversy between the same company and the *Landeszentrale für Medien und Kommunikation in Rhineland-Palatinate (LMK)* is about so called third broadcaster licenses (*Drittssendelizenzen*) and lead to the change of channel *Sat.1's* regulation authority from *LMK* to *MA HSH* in Hamburg and Schleswig-Holstein. Under these provisions of *Rhineland-Palatinate's* broadcasting law, commercial TV stations have to provide airtime to independent producers and have to pay them for their broadcasts. The intention of this regulation is to ensure plurality. In 2012 *LMK* nominated the production companies *dtcp* and *Live and Pictures* for a third term of five years beginning in 2013, which did not match *Sat.1's* interests. For this reason *Sat.1* applied at *ZAK* to get the license to broadcast in a state in Germany, which will regulate differently concerning this rule, and also got permission to do so from June 2013. The change will not affect the regional job market, because *Sat.1's* headquarters are located in Unterföhring, a place close to Munich. Again, this shows the complexity of the German regulation system.

5. ENFORCEMENT MECHANISMS/ACCOUNTABILITY

Again, we will consider here only the regulation of public service and commercial broadcasting, as it is performed by the bodies presented before. With regard to the regulation of the public service broadcasting, it is an ongoing argument and debate, that the broadcasting councils are too much involved into the corporations structure and that they – for several reasons – are not able to enforce efficient control. These arguments are mainly given by those who are interested in the containment of public service broadcasting and in restricting its scope and activities. They are also brought forward by those who plea for a professionalization of the broadcasting councils. This is a point which is on one hand true with respect of the fact that the broadcasting councils work on a purely voluntary base, with no salary but only an expense allowance. They have in the corporations a small office with some staff to support their work, but compared to the area of monopolist public service broadcasting when this structure was established, media policy has become much more complex, so that the argument of professionalization has some plausibility. Nevertheless this system has until nowadays proved to fulfill its main obligation: to guarantee the independence of broadcasting from state and government authorities.

Enforcement of the legal prescriptions and proving accountability is supervised by the broadcasting and administrative councils, meaning that they have as the main instrument of enforcement the control on the budget and the election (or deselection) of the CEO. Of course, any breeches of laws can be persecuted by the courts.

The case is to some degree similar with those bodies supervising commercial broadcasting (*Landesmedienanstalten*) and there are some differences as well. It is again the media councils – the plural composed organs within the bodies – who decide on the enforcement of legal requirements for the commercial broadcasters. They have as well the competencies of sanctions.

6. INSTITUTIONAL ORGANIZATION/COMPOSITION

The public broadcasting Service *ZDF* (*Zweites Deutsches Fernsehen* or Second German Television) is the only national PBS in Germany, located in Mainz. It is established and run as a nonprofit institution jointly by the federal states. It is governed by the Television Council (*Fernsehrat*) with 77 members representing the political parties and civil society.

The Administrative Council is the supervisory body of the *ZDF*, responsible for corporate guidelines and budget control. Furthermore it participates in all important decision making procedures such as the election of the Director General or the editor-in-chief, which require the consent of the Administrative Council. As members of the Administrative Council serve five of the leaders of the federal states, as well as the Federal Chancellery Minister of State and Commissioner for Culture and the Media and eight other members which are elected by the TV Council.

The *WDR* (*Westdeutscher Rundfunk*) is the biggest public broadcasting corporation in Germany with its headquarter located in Cologne and studios in 10 other cities of North-Rhine Westphalia (*NRW*). It operates the regional TV program in NRW as well as six regional

radio networks. All programs are transmitted regionally and nationally. As a member of the Association of Public Broadcasting Corporations in the Federal Republic of Germany (*ARD*), the network of the German federal public broadcasting corporations, the *WDR* runs eight of its 29 studios abroad and one foreign office in the *ARD* network of Radio and TV correspondents.

In the TV Council of the *WDR* serve 48 members on a voluntarily basis, representing the state legislature of *NRW* and civil society. The supervising Administrative Council of the *WDR* has nine members, seven elected by the TV Council and two by the personnel board for a term of six years. It takes part in decision making about personnel but not about the program and does the financial oversight and auditing.

The German commercial broadcasting is organized and controlled by the 14 state media authorities on the basis of state media legislation. Also the state media authorities for commercial television generally consist of two bodies, the main and the executive body, the latter performing the implementation of the regulation decisions and representing the institution. But in detail the organizational structures of the state media authorities differ between the *Länder* especially concerning the composition of the main decision-making body, which are either consisting of representatives of the government (*Versammlungsmodell*), the parties and the different societal groups, or of a small group of experts (*Sachverständigenbeirat*).

The *LfM* (*Landesanstalt für Medien NRW* or Regional Office for the Media North-Rhine-Westphalia) is the biggest single state media authority with around 50 staff members. It has its headquarters in Düsseldorf and is headed by a director and a deputy director, as well as the Media Commission with 28 members, six of them elected by the North Rhine-Westphalian Parliament. The other 21 members are nominated by different social groups specified in the *NRW* Media Law. The members of the Media Commission serve for six years on volunteer basis. It includes four standing committees, preparing the decision making: the Committee for Budget and Finance, the Committee for Media Development, the Committee for Research and Media Competence, and the Committee for Programming.

The *MA HSH* (*Medienanstalt Hamburg/Schleswig-Holstein*) is one of the two multiple-state media authorities in Germany and is located in Hamburg. These two states have decided to harmonize their media regulation and also public broadcasting operation because of their small size. The director of the *MA HSH* is elected by the Media Council for five years and has the function of a supreme authority as well as the chief executive of the about 25 employees. The position requires the qualification to exercise the functions of a judge because the director has not only to represent the *MA HSH* in public but also to plead its cases in court.

The Media Council of the *MA HSH* has 14 honorary members. Socially relevant groups, organizations and associations can propose seven representatives with adequate qualification for the Media Council to the Parliament of the Free and Hanseatic City of Hamburg and the Parliament of Schleswig Holstein for election. Two representatives need to be qualified to exercise the functions of a judge.

7. FUNDING

The television and broadcasting councils and the administrative councils are part of the Public Service Organizations in Germany. Their members are working on a voluntary base, supported by small offices at the public broadcasting corporations' premises. For the constantly working committees there is a regular budget. This was 2,44 Mio € for the TV council of ZDF in 2011. The WDR broadcasting council's budget is not published.

The German Interstate Treaty on the Broadcasting License Fee (*Rundfunkgebührenstaatsvertrag*) determines in Article 7 that the state media authorities under public law are funded by license fees, which includes the above mentioned central commissions. Article 10 of the Interstate Treaty on the Financing of Public Service Broadcasting (*Rundfunkfinanzierungsstaatsvertrag*) defines the shares as 1,9275 % of the basic licence fee and 1,8818 % of the license fee for television collected in the respective region. The funding is furthermore determined by the different media acts adopted by the federal states applicable to the regional broadcasters. Besides the funding from licence fees, the regulation authorities demand fees for their legal acts. The MA HSH also charges the private broadcasters under their authority a fee which is settled annually and must not exceed 3% of the broadcaster's revenues (Article 48 of the Media Treaty HSH). In 2011 the overall budget of MA HSH was 3.214.000 € and of LfM was 15.545.000 €.

8. REGULATION IN CONTEXT

Media freedom and freedom of expression are guaranteed in Germany within the Constitution (*Grundgesetz*, Art.5). Due to the strong federalism of Germany, there is a variety of actors on different levels. The central actors in the German audiovisual media policy are the political parties, especially the *Länder* organizations of the two large parties, the conservative CDU and the social democratic SPD, which control much of the public broadcasting sector.

After years of strong polarization from the 1950s to the 1970s, media policy is now again based on a broad consensus between the *Länder*. In an agreement between all *Länder*, the basics of a "dual system" of broadcasting have been put in place. It includes regulation for media concentration, stating that one company cannot control more than 30 percent of all TV ratings. The high degree of media concentration, especially the two big groups of TV channels (*Senderfamilien*), is causing concern (see below).

In recent times, debates about the future of German public service broadcasting are more and more influenced by decisions and challenges of the EU. State subsidies do not exist neither within the print sector nor in the electronic media, although special aids, as a reduced value added tax rate and reduced prices for distributing print products via mail, serve as a state generated support for the press.

Germans spend about 225 minutes per day on television, split about evenly between public and commercial programmers. All regional public broadcasters commonly founded the ARD (*Arbeitsgemeinschaft der Rundfunkanstalten Deutschlands*) regulatory body, and contribute according to their size to the nation-wide TV channel *Das Erste* (the first and

oldest TV program). In addition they each independently organize a regional programme (III Program) that offers regional content and more culturally and educationally oriented programming.

The Second German Television *ZDF* (*Zweites Deutsches Fernsehen*) is based on an agreement of all *Länder* (*ZDF-Staatsvertrag*) and is located in Mainz. *ARD* and *ZDF* jointly offer a number of specialized programs: *Arte* (together with France), *3Sat* (together with Austria and Switzerland), *Kika* (for children), and *Phoenix* (events and documentation). Both, *ARD* and *ZDF* have each three specialized digital channels.

Today German commercial television is controlled by two media groups calling themselves broadcaster families (*Senderfamilien*). One, formerly owned by Leo Kirch, is named *ProSiebenSAT.1Media AG* and consists of *Sat 1*, *Pro 7*, *N24*, *Kabel 1* and *sixx* and others (market share 2011: 20.6 percent¹⁴). In 2006 it was acquired by the Anglo-American investment funds *Permira and Kohlberg, Kravis & Co. (KKR)* and took over the *SBS* activities of these funds in ten other European countries.

The other family is controlled by the German giant *Bertelsmann*, the largest media company outside of the US and a global player (largest bookseller in the world): *RTL Group S.A.* owns TV channels in about a dozen European countries. In Germany the family includes *RTL*, *RTL II*, *Super RTL*, *VOX*, *n-tv* (market share 2011: 26,5 percent¹⁵). Many more programs were offered in 2012, some of them independently-owned special-interest channels, while others are subsidiaries of international conglomerates such as *Viacom*, *Disney*, or *NBC Universal*. In large cities such as Berlin, Hamburg etc. regional commercial TV has been established. Germany has an above-average percentage of cable households: 17,72 of 35,49 million households; another 16,17 receive their signal via satellite, leaving only a small share for terrestrial reception¹⁶.

The market share of all public service broadcasters in television is at 41.6 percent, of which *ARD* has a market share of 12,4 percent, *ZDF* 12,1 percent, the third channels 12,5 percent. Among the private channels *RTL* (14 percent), *SAT1* (10.2 percent) and *ProSieben* (6.3 percent) have the biggest audience shares¹⁷. The television advertising market participates in the whole advertising market with a share of 42,4 percent; the radio advertising share is 5.6 percent (print: 38,4 percent).¹⁸

The only pay-TV company *Premiere* had been founded by Leo Kirch and went bankrupt. It was recently taken over by Rupert Murdoch and in 2009 it was renamed *Sky* and integrated into Murdoch's European *Sky* empire. Compared to other European countries, pay-TV is not very successful, due to the many freely accessible channels. In 2011 about 3 million viewers subscribed to *Sky*¹⁹.

¹⁴ <http://www.kek-online.de/kek/medien/zuschauer/2011.pdf>

¹⁵ <http://www.kek-online.de/kek/medien/zuschauer/2011.pdf>

¹⁶ http://www.ard.de/intern/medienbasisdaten/empfangssituation/technische_20reichweiten/-/id=54848/1hwge2l/index.html

¹⁷ <http://www.kek-online.de/kek/medien/zuschauer/2011.pdf>

¹⁸ http://www.ard.de/intern/medienbasisdaten/medienwirtschaft/anteil_20der_20klassischen_20medien_20an_20der_20werb/-/id=54944/1k3w2sh/index.html

¹⁹ <http://www.focus.de/finanzen/news/unternehmen/mehr-als-drei-millionen-abonnenten-sky-deutschland-will-2013->

Radio is a popular medium in Germany: the average daily consumption is 186 minutes (2011)²⁰, of which slightly more than a half comes from public service broadcasters. They usually offer a number – around six – of programs on a regional basis, sometimes with local limitations, concentrating on general audiences as well as special target groups (culture, news, youth etc.). In addition there are two national radio programs, based in Berlin (*Deutschlandradio Kultur*) and Cologne (*Deutschlandfunk*, mainly news) with public funding, based on another *Länder*-level agreement.

Commercial radio is licensed in all *Länder*-states, therefore it follows mostly a regional pattern. There are no national broadcasters, but some that are active in several *Länder* (*NRJ* for youth, *Klassik Radio*). In two Southern *Länder* local commercial radio is the rule. In North Rhine-Westphalia, the largest state, 45 local stations work commercially but with local, non-commercial windows. Non-commercial radio exists but is regulated differently in each state. Some states allow community stations, others prefer public access (also for television), educational stations, campus stations etc. One *Land* has no activities at all. All in all, the situation is extremely diverse.

The largest company in the field of telecommunications is *Deutsche Telekom*, formerly the state administration for telephony and still partly owned by the federal government. It has entered the market of Internet TV, but so far the resonance is limited: its subsidiary *T-Home* entertain provides IPTV for about 1,6 million subscribers (2012).

In 2011 about 73,3 percent of all Germans were using online services; more than 70 percent of them use a broadband line. Online is an established medium and is especially popular among young people: 100 percent of those in the age range of 14 to 19 use it regularly. Among all Internet users about half of them report that they use the Net for up-to-date information. The demand for online video content is also marking a significant growth with more than 68 percent of all onliners using moving images online (28 percent in 2006). All major media in print and broadcasting maintain an online website; the most successful in news had been *Spiegel-online* and was overtaken in 2011 by *bild.de*.

Germany is on the way to digitization. Most terrestrial TV is digitized (DVB-T) and Berlin was the first city worldwide to switch off analogue transmission. The shift from analogue to digital terrestrial television has been completed in April 2012. Digital radio was first introduced in 1999 and the country is covered by a network of DAB transmitters. *DW* also offers short wave programming in DRM. The echo to digital radio was minimal, though, and some services have been terminated.

9. IGNORED DIMENSIONS

Given the extremely diverse and complex situation of media regulation in Germany, it is not a surprise that discussions are going on if and how this regulatory mediascape could be simplified. On the one hand, the existence of very small public service broadcaster as

gewinn-machen_aid_709780.html

²⁰ http://www.ard.de/intern/medienbasisdaten/mediennutzung/zeitbudget_20f_26_23252_3Br_20audiovisuelle_20medien/-/id=54984/sfyd65/index.html

Radio Bremen create again and again the concern about the survival of these corporations and the economic and political ration behind. On the other hand, the federalist principle of regulating commercial broadcasting comes to its limits as the case of *SAT.1* getting its license from another regulatory body (see 4.) in order to have a more convenient regulation shows. Shutting down broadcasting corporations and centralizing the state authorities are the main future trends which are therefore discussed. As all those institutions have a long standing institutionalization and strong lobbies behind them because of the federalist spirit in Germany, it can be doubted that there will be any decisive changing outcomes in the near future.