

Information Sheet

Political advertising in broadcasting and telemedia

What does „political advertising“ or „advertising of a political nature“ mean?

There is no legal definition of political advertising. A definition is contained in Section 11 (1) of the Advertising Statutes - *WerbeS* of the German State Media Authorities (*Landesmedienanstalten*).

Section 11 (1) of the Advertising Statutes (*WerbeS*) defines advertising of a political nature as third-party content that is disseminated for the purpose of presenting or in the interest of party-political, socio-political or comparable objectives. Section 11 (2) of the Advertising Statutes (*WerbeS*) expands the definition to include editorial political topic placement, i.e., editorial content of the provider which is disseminated on behalf of or in the interest of state bodies, parties or electoral associations or of any other third parties, in order to influence the formation of political opinion.

Examples of political advertising are not only commercials by political parties (election advertising), image advertising by ministries and other state institutions, but also advertising by companies, private individuals or other third parties for legislative initiatives and political petitions. Political advertising is usually paid content. Simple expressions of opinion on political issues do not, generally, constitute political advertising. The question as to whether or not political advertising is involved must therefore always be examined and decided on a case-by-case basis.

So-called “contributions in the service of the public” as defined in Section 8 (9) sentence 2 of the German State Media Treaty (*MStV*) are not considered to be political advertising. This is content that directly or indirectly makes an appeal for responsible, socially desirable behaviour in the general interest (such as appeals for donations for charitable purposes) or provides information about the consequences of individual behaviour.

What rules apply to broadcasting?

Political advertising is generally not permitted in broadcasting (radio or television). An exception is election advertising by participating parties in the run-up to elections. The parties themselves are responsible for the content of their election advertising.

Whether or not an offer constitutes broadcasting can be checked using the [Broadcasting Licence Checklist](#) or enquired about at the competent state media authority of the federal state.

What rules apply to broadcast-like telemedia?

Political advertising is also inadmissible in broadcast-like telemedia.

A telemedium is broadcast-like if the overall impression is characterised by content that is similar to radio and television. A typical aspect of broadcast-like telemedia is that they resemble broadcast programmes in terms of content, i.e., with regard to the formats

presented (radio plays, feature films, series, documentaries, etc.) as well as in the compilation of individual programmes under their own editorial responsibility. The length of the formats is not the decisive factor. Unlike broadcasting, however, broadcast-like telemedia are not offered linearly, but on demand.

This particularly includes online video and audio libraries (e.g., media libraries of TV and radio stations), in most cases YouTube channels and podcasts. In the case of social media profiles (Facebook, Twitter, Instagram, TikTok, etc.), it depends on whether and to what extent video and audio content is included. This must be examined and decided on a case-by-case basis.

What rules apply to simple telemedia?

In all other telemedia (i.e., those not similar to broadcasting), political advertising is generally permissible.

This applies to all internet offerings that contain no, or little, video and audio content – e.g., classic blogs or websites and accounts that mainly consist of image and text offerings.

However, political advertising in simple telemedia must be specifically labelled as such. The advertiser or client must be clearly and appropriately indicated (Section 22 (1) sentence 3 of the German State Media Treaty - *MStV*). This can be done by formulations such as “financed by X”, or “advertisement by X”. In addition, the labelling should be placed at the beginning of the offered content. If the client and the source of the advertised content are not one and the same, this must be made clear. Details on advertising labelling can be found in the [link to advertising matrix] of the media institutions.

What rules apply to political advertising on media platforms, video-sharing services and media intermediaries?

The ban on political advertising does not apply to media platforms (e.g., Joyn, Zattoo), video sharing services (e.g., YouTube) or media intermediaries (e.g., Google, Facebook). This is because these are, generally, not broadcast-like in themselves, but simple telemedia.

Whether the content provider/channel operator or the platform is responsible for political advertising displayed on these platforms depends on the degree of influence that the content provider has on the type of advertising displayed. On some platforms, the content provider has the option of deactivating advertising from the “Politics” category so that no political advertising is displayed within the sphere of the content provider’s own platforms. If the content provider does not make use of this option, there is a strong argument that they are responsible for political advertising displayed within the sphere of their own content. If, on the other hand, the content provider has no influence over the display of advertising within the sphere of their own content, the platforms usually bear the responsibility. However, this can only be decided on a case-by-case basis. Even if political advertising is permissible according to this criterion, the special labelling obligations that apply to political advertising in simple telemedia must always be complied with (see above).