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Checklist: When do I need a broadcasting licence?

According to the new Interstate Media Treaty (Medienstaatsvertrag), many internet streams, but also some “classic” TV and radio programmes are licence-free. This checklist only applies to nationwide offers. If you have any questions about the licensing of local or regional programmes, please contact the state media authority of your federal state.
The following applies in principle: each offering must be examined individually.

Offerings that are not to be classified as broadcasting are exempt from licensing from the outset. The criteria according to which this is assessed are explained in Sections 1 through 4. Even if your offering is classified as broadcasting, it may be exempt from licensing under certain conditions. These requirements are explained in Sections 5 and 6.



Am I a broadcaster?

1. What is broadcasting?

Pursuant to Section 2 (1) of the German State Media Treaty, broadcasting is deemed to exist if an offer directed at the general public is distributed simultaneously along a broadcasting schedule and designed in a journalistic-editorial manner. The individual requirements are explained below in Sections 2 through 4.

As a rule, all audio and video services on demand, where users determine an individual starting time, are not broadcasting. This is currently the case with most videos on YouTube or Facebook, for example.

Whether broadcasting is present is independent of the technical means of dissemination. Broadcasting can be transmitted classically via satellite, cable or terrestrial, but also via the Internet.



2. Do you distribute your offering live, or do you at least determine the time of the broadcast start (linear distribution)?

If users cannot determine themselves when the offering starts or ends, it is considered to be distributed linearly. If you distribute your offering “live”, i.e. at the same time as the real event, it is always a linear distribution.

As a rule of thumb: on-demand services, such as videos on YouTube, are legally considered telemedia; therefore, they do not require a broadcasting licence.



3. Is your offer designed in a journalistic-editorial manner?

On the whole, the journalistic-editorial design does not have to meet standards that are excessively high. Such a design speaks for a certain continuity, permanence and topicality of the offerings, a regular selection and editing of content, as well as a formal standardisation of the individual contributions of the offering, and a certain journalistic orientation or connectivity to the social discourse. The decisive factor is always the assessment in individual cases.

Journalistic-editorial design does not necessarily require professional journalistic activity, but also includes amateur journalism and entertainment offerings.

If journalistic-editorial design elements of classical broadcasting are used to a significant extent (several cameras, moderation/commentary, elaborate cuts, background music, etc.), this can speak for a journalistic-editorial design. The distribution of moving images without any further editing is not journalistic-editorial design (e.g., uncommented live cam broadcasts).



4. Do you distribute your offering within the scope of a broadcasting schedule?

A broadcasting schedule exists if a broadcaster permanently determines the sequence of programmes in terms of content and time without the user being able to change it (§ 2 Para. 2 No. 2 of the Interstate Media Treaty).

The following applies in principle: the more regularly and frequently an offering is disseminated, the more likely a broadcasting schedule is to be adopted. Other criteria are prior announcement of the programmes, e.g. via social networks, or direct communication with the audience.

The merely sporadic distribution of an offering is not to be regarded as a broadcasting schedule.

My offering is broadcasting. Under what conditions is it still licensing-free?

Even if your offering is to be classified as broadcasting according to the aforementioned criteria, the obligation to obtain a licence does not apply if your offering is either of only minor importance for the influencing of individual or public opinion or if it only has a small reach.



6. What is the reach of your offering?

Offerings that have only a small reach are also exempt from licensing.
Low reach is when an offering reaches less than 20,000 concurrent users on average over six months. In the case of Internet streams, the average concurrent user or comparable metrics should usually be used. In the case of classically broadcast radio programmes, the individual case is decisive.

If no figures are available (yet), a forecast must be made.

[Details are regulated in the Statutes on the Freedom of Licensing of the State Media Authorities \(Satzung Zulassungsfreiheit der Landesmedienanstalten\).](#)

5. What relevance does your offering have in the influencing of opinions?

Whether there is only a minor significance for the influencing of individual or public opinion is assessed according to the design level of the offering, the thematic composition, the possibilities of interaction with and between the users opened up by the provider, as well as the frequency and duration of the broadcast.

Only a low relevance to the influencing of opinion may exist – always depending on the individual case – if a programme exclusively or clearly predominantly concerns matters of personal lifestyle or aims at the sale of goods or services. This can be the case, for example, with streams on DIY or crafting topics, but also with pure sales channels and – depending on the orientation and design – let's-plays.

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