



Die vorliegende englische Version ist eine Übersetzung und dient ausschließlich Demonstrationszwecken – maßgeblich bleibt allein die originale Version in deutscher Sprache.

The present English version is a translation and serves for demonstration purposes only – the original German version remains the only decisive one.

Berlin, 20 November 2018

# Checklist for the classification of streaming services on the Internet

Anyone streaming on the Internet should know whether they require a broadcasting licence.

The following questions are for the purposes of initial orientation and legal classification:

As a basic rule: each service must be checked individually.

Videos “on-demand”, in which the person watching chooses their own start time, do not require a licence. This is currently the case, for example, with the majority of videos on YouTube, Vimeo or Facebook.

As pure audio streaming services, internet radio stations are also not subject to licencing requirements. They must register with the responsible Media Authority if they are distributed across 500 or more ports. If they are distributed across fewer than 500 ports, they are free to register with the responsible Media Authority voluntarily. More information and a form for registering an Internet radio station can be found here:

<http://www.die-medienanstalten.de/themen/radio>



## 1. What is broadcasting?

The definition of broadcasting is laid out in Article 2 paragraphs 1 and 3 of the Interstate Broadcasting Treaty. There is no distinction in this definition between “classic” services, such as television, and newer services, such as streaming on the Internet.



According to the current legal framework, a service is defined as “broadcasting” if it is broadcast along a schedule and the content is journalistic and editorial.

## 2. Is your service distributed live, or do you at least determine the time the broadcast starts (linear distribution)?

If users cannot determine for themselves when the service starts or ends, the offer is distributed linearly. “Live” also means that the service can be received at the same time the actual event being broadcast is taking place.



As a rule of thumb: On-demand services, such as videos on YouTube, are legally regarded as telemedia services, and do not require a broadcasting licence.





### 3. Does your service contain journalistic and editorial content?

The distribution of moving images that have no further editing techniques applied to them (e.g. live cam broadcasts that lack commentary) is not classed as journalistic and editorial composition. Journalistic and editorial composition is assumed if the content of your service has already been judged to be journalistic and editorial, and/or if it contains elements of classic broadcasting services (e.g. the use of several cameras, the option of selecting different image sections by means of zooming and panning, or a commentary on the events being broadcast).



### 4. Do you distribute your service along a broadcast schedule?

The criteria for accepting that a so-called broadcast schedule is in place include regularity, frequency and timeliness. Further criteria include making announcements via social media, to ensure your audience knows when your next stream is taking place, or engaging in direct communication with the public. Addressing the audience, the prior acquisition of rights, or your service being laid out in instalments – these are all further indications of a broadcasting schedule.



These criteria do not all need to be demonstrable at the same time. Even if one criterion is presented, it may qualify as a broadcast schedule.



The one-time or sporadic distribution of a service (e.g. a one-time live broadcast) is usually not considered to be a broadcasting plan.

### 5. Does your service reach at least 500 potential users at the same time?

Your service is exempt from the licencing requirement if it extends to fewer than 500 potential users at the same time. The number of people who actually use your service does not matter. For a large number of services, such as YouTube, Twitch, Periscope and Facebook, a restriction to under 500 potential users is technically not possible, so that this reason for exclusion does not apply here.



### 6. Who can you turn to if you have questions?

Should you come to the conclusion that your service requires a broadcasting licence, if you plan to develop your broadcasting service, or if you are still unsure of your own assessment after having conducted a self-assessment, then please get in touch with your local Media Authority. There, you can have your service evaluated and, if necessary, receive advice on what you need to do to either apply for a broadcasting licence, or to ensure



that your service is being provided in a way that does not overstep the threshold with regards to the licencing requirement. Operating a broadcasting service without a licence constitutes a regulatory offense.



This advice is available to you free of charge.

A list of the Media Authorities can be found here: <http://www.die-medienanstalten.de/ueber-uns/landesmedienanstalten>

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