RTR

COMMUNICATIONS REPORT

2021

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2021

Austrian Regulatory Authority for Broadcasting and Telecommunications
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Table of contents communications report 2021

	Preface	**6**
1	**RTR and the regulatory authorities**	**10**
1.1	Our company: we stand for competition and media diversity	10
1.2	RTR's financial statements for 2021	14
1.3	National regulatory authorities KommAustria, TKK and PCK	19
2	**Activities of KommAustria**	**22**
2.1	Access to media markets	22
2.2	Legal supervision (including reference to conciliation activities)	27
2.3	Public communications networks and services	32
2.4	Platform regulation	33
2.5	Act on Transparency in Media Cooperation and Funding	34
2.6	Administration and coordination of broadcasting frequencies	35
2.7	International activities	41
2.8	Press and journalism subsidies	43
2.9	KommAustria reporting on media	48
3	**Activities of RTR: department Media Division**	**126**
3.1	Complaints board annual report	126
3.2	Management of funds and grants	136
4	**Regulatory activities of the TKK**	**152**
4.1	Measures to ensure competition	152
4.2	Network deployment and infrastructure use	153
4.3	Net neutrality	154
4.4	Ensuring legally compliant terms of contract	155
4.5	Mobile and broadband spectrum	156
4.6	Network cooperation	159
4.7	Universal service	160
4.8	Electronic signatures and trust services	160
5	**Activities of RTR Telecommunications and Postal Services Division**	**164**
5.1	Conciliation – an alternative to the courts	164
5.2	Third-party services	167

5.3	Communications parameters: administration of the Austrian number range	168
5.4	Emergency communications	169
5.5	Ordinances	170
5.6	Security of networks and services	170
5.7	Single information point for infrastructures	173
5.8	Universal service	175
5.9	International affairs	175
6	**Regulatory activities in the postal sector**	**182**
6.1	Procedures before the PCK	182
6.2	Procedures before RTR	184
6.3	End-user conciliation procedures	185
7	**RTR’s activities as a competence centre**	**190**
7.1	Selected activities of the Media Division	190
7.2	Selected activities of the Telecommunications and Postal Services Division	192
7.3	Public relations: information and transparency	194
8	**Market developments from a regulatory viewpoint**	**198**
8.1	The Austrian communications and advertising markets	198
8.2	Trends in the telecommunications markets	222
8.3	Developments in the Austrian postal market	238
	Appendix	**244**
	Tables	244
	Figures	244
	Publishing Information	**247**

Preface

Dear Reader,

In absorbing the impact of the coronavirus pandemic in the past two years, we have been reminded more than once of the tremendous health risks each and every one of us are constantly exposed to. But systems and processes that visibly or invisibly play a role in our day-to-day lives can also fall into radical imbalance, often unexpectedly and rapidly. This instability, evident in all areas of life, has simultaneously ignited the digital transformation process in each and every sphere, including business, public administration and society at large – and with little preparation. Probably for the first time, the capacity of the available infrastructure was tested to its limits, to an extent we could have hardly anticipated. Previously, apart from discussions regarding long-term scenarios and the announcement of policy plans, digital transformation had mostly been approached in a somewhat relaxed manner in practice. But from the spring of 2020 on, progress became much more rapid.

And what role did we as regulatory authorities play in this process? In the year under review, we were active in Austria's media, telecommunications and postal markets through regulatory and administrative measures as well as funding, working in the interests of market participants and the population. Our goal was to ensure stable conditions and to encourage progress through fair competition. As regulators we have a common, central commitment to support digital transformation in Austria – in a discourse with market participants, public administrators, interest group representatives and the population at large.

This involves focusing our efforts, while giving priority to economic goals and consumer policy interests on the one hand and, on the other, to key issues falling under social policy and democracy as well as fundamental rights. To be able to act more fully in accordance with this commitment, even more so than in recent years, we will take a more strongly convergent approach to the issues that we encounter in future.

In our role as a competence centre for the markets we regulate, we share our interdisciplinary expertise in the technical, economic and legal domains with interested members of the public. Research, reports, conferences and online databases provide a foundation for a broad in-depth discourse here.

The 2021 Communications Report you have before you again serves to document our regulatory activities in compliance with the statutory reporting requirements set out in the KommAustria Act as well as the Telecommunications Act and the Postal Market Act. The report also delivers insight into all of the services we provide, which extend beyond mere compliance with the regulatory remit as defined under law.

Finally, we hope that this Communications Report will once again succeed in providing you with a comprehensive impression of our work and activities, and that the accompanying data and analyses will serve as a decision-making basis that supports you in your particular area of responsibility.

With this in mind, best wishes,

Vienna,
June 2022

Michael Ogris

Chairperson
Austrian Communications Authority
(KommAustria)

Nikolaus Schaller

Chairperson
Telekom-Control-Kommission (TKK) and
Post-Control-Kommission (PCK)

Roland Neustädter

Managing Director
Austrian Regulatory Authority for
Broadcasting and Telecommunications (RTR)
Media Division

Klaus M. Steinmaurer

Managing Director
Austrian Regulatory Authority for Broadcasting
and Telecommunications (RTR)
Telecommunications and Postal Services Division

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01

RTR and the regulatory authorities

1	**RTR and the regulatory authorities**	**10**
1.1	Our company: we stand for competition and media diversity	10
1.2	RTR's financial statements for 2021	14
1.3	National regulatory authorities KommAustria, TKK and PCK	19

01 RTR and the regulatory authorities

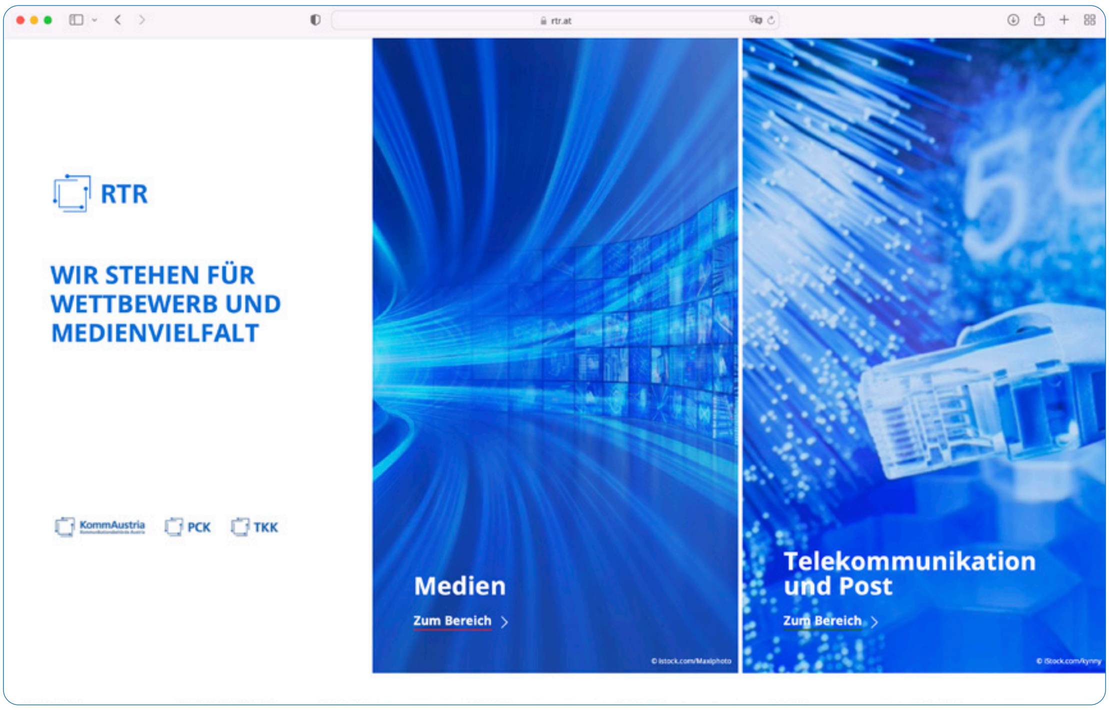
1.1 Our company: we stand for competition and media diversity

The Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) is wholly owned by the Republic of Austria. RTR's core mandate is to promote competition in the broadcasting, telecommunications and postal markets, while achieving the goals set out in the KommAustria Act and the Telecommunications Act. RTR is headed by two managing directors and is structured into two specialist divisions: the Media Division, and the Telecommunications and Postal Services Division. RTR also serves as an administrative agency, providing support to the Austrian Communications Authority (KommAustria), the Telekom-Control-Kommission (TKK) and the Post-Control-Kommission (PCK). RTR uses the funds under its administration to support projects in the broadcasting and media sectors. The two specialist divisions within RTR additionally offer alternative dispute resolution services, including via RTR's officially recognised conciliation bodies for consumers.

In the 2021 reporting year, Oliver Stribl headed the Media Division and Klaus M. Steinmaurer was the Managing Director of the Telecommunications and Postal Services Division.

As a public corporation, RTR follows the requirements of the 2017 Federal Public Corporate Governance Code, which takes into account the special responsibility and duty to exercise the diligence owing upon public authorities – as owners of state property – towards such property and thus towards the public. The RTR Corporate Governance Report is published (in German) on the RTR website at www.rtr.at/de/rtr/Aufsichtsrat.

Further information on RTR can be viewed at www.rtr.at.



RTR staff members: specialists competent in their areas of expertise

The figure below shows the relative proportion of personnel assigned to the two specialist divisions and the service area.

Figure 01: Service departments, media division, and telecommunications and postal services division, average FTEs in 2021

51.55%
54.860 FTEs
Telecommunications and Postal Services Division

Operational support for TKK
Operational support for PCK
Spectrum award
Network security
Numbering
User protection
Trust services
Single information points for infrastructures
BEREC/ENISA/ERGP

15.99%
17.017 FTEs
Service

Financial contribution
IT
Controlling
HR management
General administration

32.46%
34.542 FTEs
Media Division

Operational support for KommAustria
Frequency management
Digitisation Fund
AUSTRIAN TELEVISION FUND
Non-Commercial Broadcasting Fund
Private Broadcasting Fund
Press and journalism subsidies
Act on Transparency in Media Cooperation and Funding
User protection

New statutory remit resulted in an increase of around four FTEs in the Media Division. In most other cases, staff size in 2021 remained the same compared with previous years, as shown in the table below. Minor fluctuations in staff size are to be largely attributed to cases of parental leave and to changes in employees' working hours (for instance due to parents switching to part-time work).

Table 01: RTR staff size 2019 – 2021

Staff level Average FTEs	2019		2020		2021	
Telecommunications and Postal Services Division	54.629	53.88%	55.721	53.67%	54.860	51.55%
Media Division	29.758	29.35%	30.744	29.61%	34.542	32.46%
Services	16.996	16.76%	17.354	16.72%	17.017	15.99%
Total for RTR	**101.383**	**100.00%**	**103.819**	**100.00%**	**106.419**	**100.00%**

RTR serves as a digital authority during the COVID-19 pandemic

Since the beginning of the initial COVID-19 measures in March 2020, working from home proved to be highly effective for protecting all stakeholders and employees. This was equally true for RTR as well as the authorities KommAustria, PCK and TKK. In 2021, working from home had become a well-established routine.

All administrative transactions at RTR can be executed digitally; physical client contact, where necessary, always took place in compliance with the relevant coronavirus regulations. Thus, in the second year of the pandemic as well, RTR contributed to the measures taken by the Austrian federal government to limit the spread of COVID-19.

Crisis team, 'coronavirus house regulations' and the '3-G' rule: internal COVID management

At RTR, all of the action taken in view of the COVID-19 situation was based on the motto: we protect ourselves and others. Again in 2021, an internal coronavirus crisis team coordinated the performance and communication of coronavirus measures and was available to answer any questions from staff members.

In agreement with the works council, the rules in the 'coronavirus house regulations' applying to staff office attendance were amended as necessary in line with the relevant situation. These house regulations set out all necessary protective measures (such as social distancing, disinfection, ventilation, face masks, maximum room occupancy).

In September 2021, a '3-G' rule for entering RTR's offices was introduced, in agreement with the works council and RTR's data protection officer, to minimise the risk of COVID-19 infection at the workplace.

Further digitisation within services

After the entire financial services department (including controlling and accounting) had been migrated to new business software (an ERP tool) and thus converted to a digital system in 2020, the 2021 reporting year focused on preparations for extending the ERP tool by an HR application. With the start of 2022, alongside a basic module for electronic personnel files, the ERP tool was used to record working hours and to manage sickness and holiday leave.

Training and knowledge sharing during the ongoing pandemic

The expertise of our staff members is the defining quality of RTR's work as a regulatory authority. Correspondingly, both the personal and the professional dimensions of staff development play a key role at RTR. Opportunities for training and education remained limited as a result of the continued measures taken to counteract COVID-19. In the reporting year, 85 employees made use of a total of 166 working days for education and training. The education and training took place predominantly online.

Depending on the situation, internal communication and knowledge sharing took place either on site or in digital-only or hybrid form.

Despite hampering conditions, two interns did in fact have the opportunity to experience working at RTR first-hand in the summer months.

Challenges in everyday digital business activities

The IT-team was asked to provide optimum support to employees working from home during the 2021 reporting year. Furthermore, focus was placed on 'hybrid working.' This meant that equipment in the meeting rooms was extended with tools for hybrid meetings, to be used even after the COVID-19 pandemic.

The IT-team additionally focused on the ongoing further expanding the eGovernment portal at RTR as well as improving technical details of the RTR website.

Occupational health at RTR

Again in 2020, measures for promoting health focused on the pandemic. Planned sporting events had to be cancelled, but RTR nonetheless in late 2021 again participated in the Vienna Business Challenge, in which companies compete by tallying all of their employees' exercise minutes. RTR took fourth place within group 4 (businesses with 50–200 employees) and 22nd place in Austria as a whole.

All of the presentations and workshops on the subject of health that are regularly offered at RTR were held online.

The health and safety officers at RTR organised coronavirus vaccination appointments for staff members. In addition to the administration of vaccinations and provision of vaccination advice, other activities of RTR's occupational health physician also focused on COVID-19 in 2021: she provided advice to the internal coronavirus crisis team and tips on how to set up an ergonomic workstation in home offices.

Equality at RTR

Equality is stipulated in a works agreement as one of RTR's remits. The agreement requires an equality and family support policy to be drawn up every two years, to define personnel and organisational measures for promoting equality. This includes a guideline on gender-appropriate language, an income equality report and the promotion of career opportunities for women, as well as regulations on the reconciliation of work and family life, and education and training measures. These agendas are supported by the role of equal opportunities officer, which was re-awarded in the reporting year as required every three years.

The guideline on gender-sensitive language was revised in the summer and presented to the management. It will be published simultaneously with the 2022 equality policy. To prepare the equality policy, all employees were given the opportunity to participate in a comprehensive survey on equality issues in November 2021. The objective of this survey was to provide an overview of potential issues and, in particular, to distinguish the concerns of employees of various genders and ages. The findings can be used to address significant divergences on issues when designing the equality policy and to accordingly develop targeted measures.

As for many other areas, equality work at RTR was severely affected by the COVID-19 pandemic in 2021, with training events for employees continuing to take place digitally.

1.2 RTR's financial statements for 2021

The external auditors at Confida Wirtschaftstreuhandges mbH have issued an unqualified audit certificate confirming RTR's financial statements for the 2021 business year (1 January to 31 December 2021). The financial statements presented below were prepared in accordance with the Austrian Commercial Code (UGB) as amended.

The profit and loss account and balance sheet, as shown in RTR's financial statements, are presented below.

Funding for the Regulatory Authority for Broadcasting and Telecommunications (RTR) derives from different sources depending on the areas of activity in question. Market participants are required by law to assume a portion of financing, while public funding is also tapped. The financial contribution is calculated based on each entity's estimated revenues in relation to total sector revenues. Once the actual revenues have been determined, the actual financial contributions are calculated and compared with the estimated financial contributions. To simplify administration, entities falling below a certain revenue limit, or threshold, are not required to pay financial contributions.

In 2021, RTR received federal funds amounting to EUR 2.300 million to finance media regulation; the share of funding provided by the market was 50 per cent, equivalent to EUR 2.276 million. For duties relating to the supervision of communication platforms, RTR received a subsidy of EUR 80,000. Market participants had to pay a 51.72 per cent share, corresponding to EUR 85,000. The Austrian federal government provided EUR 65,000 for the supervision of video-sharing platforms, while market participants assumed a share of 43.78 per cent at EUR 50,000.

Public funds totalling EUR 2.781 million were awarded for the regulation of the telecoms market; market participants contributed EUR 5.018 million, which corresponds to 64.34 per cent. For postal service regulation, EUR 0.232 million was allocated from the federal budget, with the remaining expenditure, amounting to EUR 0.424 million or 64.65 per cent of the total, contributed by market participants.

Public financing covers the funds (Digitisation Fund, Austrian Television Fund, Private Broadcasting Fund and the Non-Commercial Broadcasting Fund), compensation for necessary spectrum changes (Articles 33a et seq. KommAustria Act, KOG) and the supervisory body for trust services.

More information is available at www.rtr.at.

RTR closed the business year running from 1 January to 31 December 2021 with a balanced result.

Table 02: Profit and loss account for the 2021 business year (1 January to 31 December 2021)

	2021 In EUR		2020 In EUR thousands	
1. **Net income**		14,874,194.72		14,273
2. **Other operating income**				
a) Income from the disposal of fixed assets (excluding financial assets)	2,677.68			
b) Income from the release of provisions	12,919.13		9	
c) Other	618,795.59	634,392.40	974	983
3. **Personnel expenses**				
a) Salaries	-8,119,921.52		-7,887	
b) Social expenses				
ba) Pension insurance expenses	-266,903.91		-258	
bb) Severance pay expenses and contributions to staff provision funds	-122,165.30		-117	
bc) Statutory social insurance contributions as well as payroll-related fees and mandatory contributions	-1,970,239.20		-1,915	
bd) Other	-106,671.40	-10,585,901.33	-94	-10,271
4. **Amortisation and write-downs of intangible assets, depreciation and write-downs of tangible assets**				
a) Depreciation, amortisation and write-downs	-706,455.80		-550	
b) Release of investment grants	50,447.82	-656,007.98	115	-435
5. **Other operating expenses**				
a) Other	-4,227,277.84	-4,227,277.84	-4,552	-4,552
6. **Subtotal of items 1 to 5**		39,399.97		-3
7. **Income from other securities held as long-term investments**		24,638.08		32
8. **Other interest and similar income**		93,49		
9. **Expenses for financial assets**				
Impairment	-13,395.00	-16,995.00		-4
10. **Interest and similar expenses**		-11,230.76		-1
11. **Subtotal of items 7 to 11**		-3,494.19		28
12. **Result before taxes**		35,905.78		25
13. **Taxes on income**		-9,665.50		-25
14. **Result after taxes/net annual income**		26,240.28		1
15. **Appropriation to profit reserves**				
Appropriation to free reserves		-26,240.28		-1
19. **Net result**		0.00		0

Sector-specific expenditure in RTR's specialist divisions

In the annual financial statements submitted by RTR, funding use is not reported by division. For this reason, table 03 lists the main items of RTR's profit and loss accounts broken down by the Telecommunications and Postal Services Division and the Media Division (as specified in Art. 19 Par. 3 no. 3 KOG).

Table 03: RTR's income and expenses by division

In EUR thousands	Telecommunications and Postal Services	Media	Total
Net income	8,618	6,256	14,874
Other operating income	51	583	634
Personnel expenses	-6,704	-3,882	-10,586
Depreciation, amortisation and write-downs	-416	-240	-656
Other operating expenses	-1,519	-2,709	-4,228
Operating result	30	8	38
Financial result	-2	-1	-3
Result before taxes	28	7	35
Taxes on income	-5	-4	-9
Result after taxes/annual surplus or deficit	23	3	26
Appropriation to/release of profit reserves	-23	0	-23
Profit carried forward	0	-3	-3
Net result	**0**	**0**	**0**

RTR's income and expenses for the individual areas of activity within each division are presented in the annex to the annual accounts as at 31 December 2021 as adopted by the general assembly. The individual areas within the Telecommunications and Postal Services Division are: telecoms regulation, supervisory body for trust services, and postal services regulation. The areas within the Media Division are: media regulation, compensation for necessary spectrum changes (Art. 33a KOG), Digitisation Fund, Austrian Television Fund and broadcasting funds (refer to www.rtr.at).

Table 04: Balance sheet as at 31 December 2021 – assets

	2021-12-31 In EUR		2020-12-31 In EUR thousands	
A. Fixed assets				
I. Intangible assets				
1. Industrial property and similar rights	1,078,329.58		977	
2. Prepayments	0.00	1,078,329.58	25	1,002
II. Tangible assets				
1. Buildings on third-party land	122,164.96		205	
2. Other assets, operating and office equipment	348,862.23	471,027.19	405	610
III. Financial assets				
Long-term securities		1,916,713.16		2,934
		3,466,069.93		4,546
B. Current assets				
I. Receivables and other assets				
1. Trade receivables	1,304,931.10		453	
(With a maturity >1 year EUR 0; previous year: EUR 0)				
2. Other receivables and assets	68,920.87	1,373,851.97	37	490
(With a maturity >1 year EUR 16,855.66; previous year: EUR 0)				
II. Cash at bank and in hand		3,375,289.68		3,157
		4,749,141.65		3,647
C. Prepaid expenses		138,897.04		157
D. Trustee accounts – funds		26,530,577.48		27,221
		34,884,686.10		**35,571**

Table 05: Balance sheet as at 31 December 2021 – liabilities

	2021-12-31 In EUR		2020-12-31 In EUR thousands	
A. Equity capital				
I. Called-up and paid-in nominal capital	3,633,641.71		3,634	
II. Capital reserves				
Committed	1,924.59		2	
III. Profit reserves				
Other reserves / free reserves	68,141.26		42	
IV. Net result	0.00		0	
Profit carried forward (previous year: EUR 0)	0.00	3,703,707.56	0	3,678
B. Special item: investment grant		74,540.25		125
C. Provisions				
1. Provisions for severance pay	157,600.00		147	
2. Other provisions	1,516,105.00	1,673,705.00	1,527	1,674
D. Liabilities				
1. Trade payables	723,547.90		1,082	
(With a maturity <1 year EUR 724; previous year: EUR 1,082 thousand;				
with a maturity >1 year EUR 0; previous year: EUR 0)				
2. Other liabilities	2,036,520.50	2,760,068.40	1,740	2,822
(With a maturity <1 year EUR 2,036,520.50; previous year: EUR 1,740 thousand;				
with a maturity >1 year EUR 0; previous year: EUR 0;				
due to taxes EUR 303,543.74; previous year: EUR 443 thousand;				
due to social security obligations EUR 195,532.50; previous year: EUR 189 thousand)				
E. Trustee obligations – funds		26.672.664,89		27.272
		34.884.686,10		**35.571**

1.3 National regulatory authorities KommAustria, TKK and PCK

One of RTR's main responsibilities is to serve as the administrative agency for the national regulatory authorities KommAustria, TKK and PCK, introduced briefly below.

Austrian Communications Authority (KommAustria)

The Austrian Telecommunications Authority (KommAustria) is Austria's independent and autonomous regulatory and supervisory authority with responsibility for electronic audio and audiovisual media. In fulfilling every facet of its remit, the authority is supported by the RTR Media Division.

KommAustria consists of five members who are nominated by the federal government and appointed by the Austrian president for a term of six years. The members of KommAustria are independent in the performance of their duties and not bound by instructions from any other authority. Michael Ogris served as chair of KommAustria during the reporting year and Susanne Lackner served as deputy chair.

Details on KommAustria, including rules of procedure and distribution of duties, are published (in German) at https://www.rtr.at/medien/wer_wir_sind/KommAustria/KommAustria.de.html.

Telekom-Control-Kommission (TKK) and Post-Control-Kommission (PCK)

The TKK is responsible for regulating the telecommunications market in Austria. The PCK is the regulator for the postal services market. The two regulatory authorities are assisted by the experts at RTR's Telecommunications and Postal Services Division.

The TKK and PCK each comprise three primary members and three substitute members who act independently and autonomously. Each member is appointed by the federal government for a term of five years. During the year under review, Nikolaus Schaller, justice at the Vienna Regional Court (Oberlandesgericht), held the position of chair. Elfriede Solé, senior official with the Austrian Supreme Court of Justice, served as deputy chair.

Details on the TKK and the PCK are published (in German) at
https://www.rtr.at/TKP/wer_wir_sind/tkk/TKK.de.html
and https://www.rtr.at/TKP/wer_wir_sind/pck/startseite.de.html.

www.rtr.at

02

Activities of KommAustria

2	**Activities of KommAustria**	**22**
2.1	Access to media markets	22
2.2	Legal supervision (including reference to conciliation activities)	27
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2.6	Administration and coordination of broadcasting frequencies	35
2.7	International activities	41
2.8	Press and journalism subsidies	43
2.9	KommAustria reporting on media	48

02 Activities of KommAustria

2.1 Access to media markets

KommAustria regulates access to media markets, specifically by assigning broadcasting frequencies, issuing broadcasting licences, accepting and reviewing notifications from cable broadcasters and other providers of audiovisual media services, and by reviewing new services prior to launch by the ORF or its subsidiaries. This work also includes the issuing of multiplex licences to radio and television broadcasters.

2.1.1 Private radio broadcasting licences

The licensing procedures by KommAustria during the period under review were conducted in response to applications for creating new coverage areas or expanding existing ones, as well as to officially invite tenders for licences due to expire at the end of the legal term. In addition, numerous licences were granted for radio event broadcasting and educational broadcasting.

2.1.1.1 Nationwide radio broadcasting

Since December 2014, KRONEHIT Radio BetriebsgmbH. has held a (subsequent) licence, limited to ten years, authorising private terrestrial broadcasting throughout Austria. The network broadcasts KRONEHIT, an adult contemporary radio format, in most of Austria.

KRONEHIT Radio BetriebsgmbH had consequently been assigned authorisation for a total of 168 frequencies and twelve tunnel radio systems, as of the end of this reporting period.

A second nationwide licence had been awarded for the first time in early 2019, to Antenne „Österreich" and Medieninnovationen GmbH (now Radio Austria GmbH). Under this licence, the Radio Austria network has been on air since November 2019.

On issue of the licence, Radio Austria GmbH was assigned 48 frequencies, potentially allowing coverage of 61 per cent of the resident population. To expand and improve coverage under the licence, three additional frequencies were assigned during 2021, along with a permit for an additional single-frequency broadcasting system, while two procedures for awarding further transmission capacities were still pending at the end of the reporting period.

2.1.1.2 Regional and local radio broadcasting

In the local and regional terrestrial broadcasting sector, a total of 28 licensing procedures were carried out in 2021, twelve of which had not yet been completed by the end of the reporting period.

Licences were issued as follows:

Table 06: Licenses issued in 2021, by licence holder and licence area

Licence holder	Coverage area	Licence assignment final
Radio Eins Privatradio Gesellschaft m.b.H.	Vienna, Lower Austria and Burgenland	No
ANTENNE VORARLBERG GmbH	Vorarlberg	Yes
Mehrsprachiges Offenes Radio MORA (private association)	'Oberpullendorf und Umgebung' (Oberpullendorf and environs)	Yes
AGORA – Verein Agora Arbeitsgemeinschaft offenes Radio – Avtonomno gibanje odprtega radia	Settlement area of the Slovenian minority in Carinthia and the town of Soboth in Styria	Yes
Radio Maria Österreich – Der Sender mit Sendung	'St. Pölten 95,5 MHz'	Yes
Freier Rundfunk Oberösterreich GmbH	'Linz (105,0 MHz) und Teile des Eferdinger Beckens' (Linz (105.0 MHz) and parts of the Eferding Basin)	Yes
WELLE SALZBURG GmbH	'Stadt Salzburg und Salzachtal' (City of Salzburg and the Salzach Valley)	Yes
Freier Rundfunk Salzburg, Verein zur Förderung von freien, lokalen Radio- und Fernsehprojekten	'Stadt Salzburg (107,5 MHz)' (City of Salzburg (107.5 MHz))	Yes
DOGSTONE ENTERTAINMENT GmbH	'Innergebirg'	Yes
Radio Event GmbH	'Teile der Stadt Graz und des Bezirks Graz-Umgebung' (Parts of the city of Graz and Graz-Umgebung district)	Yes
U1 Tirol Medien GmbH	'Nordtirol' (Northern Tyrol)	Yes
Pay + Internet Payment Service GmbH	'Tiroler Oberland' (Upper Tyrol)	Yes
Verein Freies Radio Innsbruck FREIRAD Verein zur Förderung der Meinungsvielfalt und Freiheit der Meinungsäußerung	'Innsbruck 105,9 MHz und Teile des Bezirkes Innsbruck-Land' (Innsbruck 105.9 MHz and parts of Innsbruck-Land district)	Yes
Radio Maria Österreich – Der Sender mit Sendung	'Innsbruck 91,1 MHz'	Yes
Antenne Salzburg GmbH	'Innsbruck und Teile des Inntals' (Innsbruck and parts of the Inn Valley)	Yes
Verein zur Förderung und Unterstützung von Freien Lokalen Nichtkommerziellen Radioprojekten	'Wien 94,0 MHz' (Vienna 94.0 MHz)	Yes

A total of eight licensing procedures were still pending at the end of the reporting period: each of these is to be reassigned by means of an official invitation to tender, following licence expiry.

Four other licensing procedures, in response to requests filed by parties for establishing new coverage areas, were still pending at the end of the reporting period.

In a number of other instances, parties requested frequencies to expand existing coverage areas or improve coverage in existing areas. In these cases, frequencies as listed below were assigned through a total of six decisions:

- 'KOESSEN 2 (Gruberalm) 102,6 MHz' and 'WAIDRING 2 (Sonnwendstraße) 107,4 MHz', to Regionalradio Tirol GmbH
- The existing frequency supported at the broadcasting locations: 'ABTENAU 2 (Gschwandtlahn) 106,7 MHz', 'LOFER 2 (Loferer Alm Loderbichl) 106,7 MHz', 'OBERTAUERN 2 (Zehnerkar) 106,7 MHz', 'RADSTADT (Jakobsberg) 106,7 MHz', 'SAALBACH 2 (Wildenkarkogel) 106,7 MHz', 'SAALFELDEN 4 (Pabing Mobilfunkmast) 106,7 MHz', 'SCHLADMING 6 (Hauser Kaibling Senderlift) 106,7 MHz', 'SCHWARZACH PG (Gern) 106,7 MHz' and 'ZELL AM SEE 3 (Lechnereck) 106,7 MHz'; to Antenne Salzburg GmbH
- 'S GILGEN (Zwölferhorn) 107,5 MHz' and 'S GILGEN (Zwölferhorn) 94,2 MHz', to Antenne Salzburg GmbH
- 'GOLLING (Haarberg) 105,0 MHz', to WELLE SALZBURG GmbH
- 'JENBACH 3 (Kanzelkehre) 98,60 MHz', to T-ROCK GmbH
- 'EISENSTADT (Föllig) 95,1 MHz', to N & C Privatradio Betriebs GmbH.

2.1.1.3 Event radio and educational radio licences

An event radio broadcasting licence is granted for a maximum of three months, authorising broadcasting in the vicinity of and simultaneously with an independent public event. Licences were granted for a total of eleven event radio broadcasts in 2021.

Educational radio licences are granted to education or training institutions, authorising them to locally broadcast radio formats related in function to the duties of the particular institution. Such licences can be granted for a maximum of one year. Six educational radio licences were granted in 2021.

2.1.1.4 Procedures under telecommunications law

To simplify administration, KommAustria is empowered to act as a kind of 'one-stop shop', additionally authorising it to issue permits under telecommunications law that are required for the radio equipment used in broadcasting. The specific legal basis is the Telecommunications Act 2003 (TKG 2003), which was in effect until 31 October 2021, and the Telecommunications Act 2021 (TKG 2021), which has been in effect as of 1 November 2021. Permits under telecommunications law are issued either in conjunction with a permit under broadcasting law or with no direct reference to broadcasting law, in the latter case solely on the basis of an application under telecommunications law. These latter cases usually involve technical changes planned for radio equipment, such as the use of new transmitter antennas, the relocation of transmission sites or increased transmission power.

In 2021, KommAustria approved four changes to radio equipment, one application to increase power output, and one application allowing private radio broadcasters to conduct test transmissions. During the reporting period, an application was also received for approval to set up and operate tunnel radio systems in the province of Vorarlberg. This procedure was pending at the end of the period under review. In addition, KommAustria approved 31 requests for permission to operate radio equipment within broadcasting frequency bands but for non-broadcasting purposes (for example to cover drive-in cinemas, conferences and similar events).

2.1.1.5 Radio broadcasting spectrum assigned to the ORF

As part of its responsibility for assigning radio broadcasting spectrum and for issuing corresponding permits under telecommunications law, KommAustria also plays a role in cases where the ORF uses radio transmission systems.

In this context, a total of three procedures were carried out in 2021, all of which related to the renewal or modification of radio equipment permits previously assigned to the ORF.

2.1.1.6 Nationwide digital radio

In relation to the nationwide MUX I multiplex platforms, four station line-up changes were approved in the reporting period.

Three new nationwide stations were also approved.

At the end of 2021, the overall station line-up comprised 16 stations and two ancillary services. With 14 broadcasting systems in operation, DAB+ achieved a technical coverage rate of 84 per cent of the Austrian population in 2021.

2.1.1.7 Regional and local digital radio

In the period under review, no licences were issued for operating new regional multiplex platforms for digital terrestrial radio. Accordingly, as of the end of the reporting period, only one valid licence had been issued for operating a regional multiplex platform, providing service to around 2.2 million people in greater Vienna.

The station line-up comprised 14 stations and two ancillary services at the end of 2021. Three stations ceased broadcasting in 2021 while three new licences were issued in the same period. This means that one station slot was available on the multiplex platform at the end of 2021.

2.1.1.8 Licences for satellite radio

KommAustria issued no licences for satellite radio in 2021.

2.1.1.9 Radio stations subject to notification requirements

In the 2021 reporting period, KommAustria was notified of one new cable radio station.

2.1.2 Approvals and notifications relating to audiovisual media services and multiplex platforms

2.1.2.1 Nationwide television

Two changes to the channel line-ups of the nationwide multiplex platforms A and B as well as the D, E and F multiplexes were approved during the reporting period.

2.1.2.2 Regional and local television

In the period under review, no licences for operating new regional multiplex platforms (multiplex C) were issued. At the end of 2021, KommAustria put out to tender the planning, setup and operation of local and regional terrestrial multiplex platforms for digital terrestrial television service to five coverage areas.

As of the end of the period under review, 15 licences to operate local multiplex platforms were valid, covering roughly 64 per cent of the Austrian population. Two changes to channel line-ups were also approved in this area.

2.1.2.3 Television pilot projects

The 5G broadcast and UHD pilot projects previously launched in 2019 or 2020 were extended. Furthermore, a channel line-up change was approved for UHD trials, as was a channel line-up change for 5G broadcasting.

The local pilot project was extended and approval renewed for trialling the general business and technical feasibility of broadcasting digital terrestrial television in the vicinity of Turracher Höhe. In addition, an application to extend the licence for trial use of the terrestrial multiplex platform '5G broadcast test operation' and a temporary application for trial operation were received.

2.1.2.4 Satellite television licences

KommAustria issued satellite licenses for two television channels in 2021 (ATV2 and 'ATV – Magazin Murtal mit Hauser Kaiblinger Wetterpanorama'). Two licensing procedures were still pending at the end of 2021.

2.1.2.5 Media services subject to notification requirements

A total of 68 audiovisual on-demand media services, 11 cable television channels and 22 television channels broadcast over the internet were notified to KommAustria in the 2021 reporting period. In addition, 27 applications for assessment in accordance with Art. 9 Par. 8 of the Audiovisual Media Services Act (AMD-G) were received.

2.1.3 Approvals and notifications of new ORF online services

In the 2021 reporting year, the ORF notified six changes to ORF service plans, for kundendienst.ORF.at, der.ORF.at, themenschwerpunkt.ORF.at, sport.orf.at, news.orf.at and radiothek.orf.

KommAustria also carried out two prior evaluation procedures in the 2021 reporting period. The service plan for the topos.ORF.at online service was approved in the reporting year in accordance with Art. 6b of the ORF Act (ORF-G). A prior evaluation procedure for a public online classical music platform (www.myfidelio.at) had not yet been completed by the end of the reporting year.

2.2 Legal supervision (including reference to conciliation activities)

2.2.1 Commercial communications

In the reporting period, evaluations of 59 audiovisual media services and radio stations were carried out as part of monthly advertising monitoring duties. Six procedures were also conducted on the authority's initiative after prompting. For the 2021 reporting year, within evaluations of broadcasts and content, focus was placed on the services offered by 'influencers' and on audiovisual services from newspapers.

ORF broadcasts were evaluated as follows in 2021: the regional radio stations Radio Niederösterreich, Radio Tirol, Radio Steiermark, Radio Oberösterreich, Radio Wien, Radio Kärnten and Radio Vorarlberg were evaluated once each, while the national radio station Ö3 was evaluated twice, and Ö1 and FM4 were each evaluated once. On the basis of the evaluations, procedures were initiated in three cases, with two of these procedures not yet completed with final effect.

In terms of the ORF's national television channels, ORF eins was monitored on three occasions, ORF 2 was monitored on five occasions (three times involving varying regional windows), ORF III was monitored twice and ORF Sport Plus once. On the basis of the evaluations, procedures were initiated in five cases, with three of these procedures not yet completed with final effect.

Among ORF's online services, the starmania.orf.at and sport.orf.at services were evaluated in 2021.

In the private radio segment, the stations of eight broadcasters were evaluated. In two cases, procedures were initiated due to infringements of advertising regulations; two of these procedures have not yet been completed with final effect.

Among private television broadcasters, 13 channels were evaluated. Procedures due to infringement of advertising regulations were initiated in nine cases, which still await final decisions.

Broadcasts offered by 13 providers of on-demand audiovisual media services were evaluated. One procedure initiated due to infringement of advertising regulations has not yet been completed with final effect.

2.2.2 Programming principles

In their television and radio programmes, broadcasters are required to uphold the principles of objectivity and diversity of opinions.

Similar principles are set forth in the ORF-G for the ORF, which in all of its service offerings is required to strive for quality, innovation, integration, equal rights and mutual understanding. Information must be comprehensive, independent, impartial and objective, and help the public freely form opinions and so contribute to democratic discourse.

Based on its public service remit, the ORF is also obliged to reflect the diversity of opinions represented in public life and to respect human dignity, personality rights and individual privacy rights. Commentaries, analyses and presentations must be objective and based on verifiable facts.

A total of seven procedures involving complaints of alleged breaches of programming principles by the ORF were initiated in the period under review.

The cases mostly involved alleged breaches of the principles of objectivity and impartiality in ORF reporting. In four cases, complaints were dismissed due to failure to comply with orders to remedy deficiencies. In one procedure, KommAustria found the complaint to have become void. Complaint were dismissed in two cases on grounds of lacking legitimacy. In an additional case, a statement of the facts was submitted. Four complaint procedures are still pending with KommAustria.

In one procedure, KommAustria identified an infringement of the ORF-G.

Within the scope of legal supervision of private broadcasters, three requests for a review as part of official duties were submitted to KommAustria during the reporting period, alleging that broadcasters had breached programming principles.

2.2.3 Specific supervision of the ORF and its subsidiaries

2.2.3.1 Purpose of business, public mandate and bodies

During the 2021 reporting period, KommAustria initiated two infringement procedures on account of suspected overstepping of the permitted limits to providing supplementary programme content in public online services, one case involving TVthek.ORF.at and the other tirol.ORF.at. These infringement procedures could not be completed within the reporting period.

During the 2021 reporting period, a statement of facts was submitted in relation to the ORF' purpose of business; in response, an infringement procedure was initiated as part of official duties. Furthermore, two complaints were initiated involving the activities of Gebühren Info Service GmbH (GIS), both of which were concluded with final decisions. In addition, two complaints were filed against the ORF while not making specific reference to a provision of the ORF Act.

Also in the 2021 reporting period, KommAustria initiated a procedure to review for the years 2019–2020 the procedure for defining and revising the quality assurance system based on Art. 4a ORF-G.

2.2.3.2 Supervision of business activities

As part of supervising the ORF's business activities, during the 2021 reporting year KommAustria audited the consolidated financial statements and the individual financial statements as at 31 December 2020. In this case, the KommAustria audit commission issued, based on the service agreement, audit reports with unqualified audit certificates.

A key part of the supervision of ORF business activities is undertaking a business audit to ascertain whether ORF management is complying with the principles of economy, efficiency and expediency. In the 2021 reporting year, the business audit for the 2020 business year was materially concluded with the submission of the audit report by the audit commission.

On 18 October 2021, the Director General presented on behalf of the ORF the resolution by the Foundation Council dated 14 October 2021, which set the new programme fees effective as of the first day of the month following the end of the three-month period defined in Art. 31 Par. 9 ORF-G, pending no objection during that period. Based on this provision, where a resolution by the Foundation Council setting new programme fees does not comply with the provisions of Art. 31 Par. 1 to 8 ORF-G, KommAustria must repeal the resolution within a period of three months from receipt. Any new programme fees set do not become effective before the end of the three-month verification period.

Under the provision, KommAustria must issue an official formal decision (Bescheid) only for the case where the Foundation Council resolution is repealed. In the event that KommAustria does not decide to repeal the resolution, the statutory arrangement implicitly provides for the regulatory authority to withhold its opinion.

The review of the Foundation Council resolution entails two aspects: firstly, verification of compliance with the formal requirements specified for setting the new fees (i.e. request by the Director General, resolution by the Foundation Council, approval by the Audience Council) and secondly, a review of the specific content of the request or resolution with regard to compliance with the terms of the cited provisions (in particular, correct calculations, comprehensibility and plausibility of the underlying figures and assumptions).

In October 2021, KommAustria requested a review by the ORF audit commission to determine whether the assumptions underlying the request by the Director General and, similarly, the Foundation Council resolution were plausible and whether the assumptions complied with the specifications listed in Art. 31 ORF-G. The audit report was submitted to KommAustria in December 2021. On the basis of the audit report submitted to KommAustria, it concluded in January 2022 that the Foundation Council resolution did not conflict with the provisions of Art. 31 Par. 1 to 8 ORF-G. KommAustria consequently did not repeal the resolution by the Foundation Council within the three-month audit verification period. The resolution of the Foundation Council with regard to setting the new programme fees subsequently took effect as of 1 February 2022, after the three-month period.

During the reporting period, KommAustria also completed four procedures, pursuant to Art. 38b ORF-G, to confiscate from the ORF revenues unlawfully gained through breaching advertising provisions.

2.2.4 Specific supervision of private providers

One main area of KommAustria's responsibilities in the way of legal supervision involves monitoring ownership of private broadcasters and media service providers as well as multiplex operators.

The aim here is to ensure consistent compliance with the legal prerequisites for broadcasting or for providing a media service even after a licence is issued or a service notified. Such prerequisites include professional, financial and organisational qualifications, absence of grounds for disqualification, and safeguarding a diversity of opinions (by avoiding excessively concentrated media ownership). Any breach of or failure to adhere to these (licensing) conditions constitutes grounds for revoking the broadcasting licence or for prohibiting broadcasts.

With regard to (direct and indirect) ownership or membership shares, with effect from 1 January 2021 the Private Radio Act (PrR-G) and Audiovisual Media Services Act (AMD-G) require broadcasters to submit up-to-date information relating to direct and indirect ownership, address and representative authorisation, on an annual basis by 31 December each year. Changes in ownership or membership shares after the licence or notification date must be reported to KommAustria by the broadcaster within four weeks after the change takes legal effect, where the change could affect the assessment of whether compliance is given with requirements pursuant to Art. 10 and 11 AMD-G or Art. 7 et seq. PrR-G, or of whether the broadcaster is established in Austria, pursuant to Art. 3 AMD-G.

In four cases in the 2021 reporting year, KommAustria carried out procedures to identify infringements involving tardy compliance or non-compliance with the obligation to report changes in ownership (as required before 1 January 2021). Six open procedures to identify infringements involving tardy compliance or non-compliance with requirements to report changes in ownership were completed in the reporting period (under the legal situation prior to 1 January 2021). Two administrative penal procedures were also initiated and completed in response to parties' belated or missing reporting of ownership changes.

In those cases where new partners acquire more than 50 per cent of the shares in a broadcaster, prior to the transfer of shares, an official decision must be obtained from KommAustria to determine whether the relevant legal prerequisites for broadcasting will continue to be met under the new conditions. In the 2021 reporting period, one such procedure was completed pursuant to the AMD-G (under the legal situation prior to 1 January 2021).

Another area of activity under the legal supervision of KommAustria is the option for radio broadcasters to request an assessment decision from KommAustria to determine whether a planned programming change actually represents a fundamental change of the programme format. Whether a change in programme format is fundamental is to be decided based on the original licence decision. No official approval is necessary for implementing the programming change in cases where in its decision KommAustria does not identify any resulting fundamental change of the programme format. The broadcaster is required to obtain official approval, though, if KommAustria determines that a planned change does in fact constitute a fundamental change in programming. One change in programming was approved for radio broadcasters and two pending procedures were completed within the reporting period.

Under the AMD-G, holders of broadcasting licences for satellite television and digital terrestrial television channels also have the option of applying for approval of major changes to television channels they broadcast via satellite or digital terrestrial transmitter. As these licences are not issued by way of a competitive selection procedure, more flexible options for channel changes are available. Five such procedures were conducted and completed during the reporting year. One infringement procedure was initiated and completed during the reporting period due to tardy notification of a distribution mode change and an additional open procedure was completed. Three administrative penal procedures were also initiated during the reporting period due to tardy notification of a distribution mode change, although these have not yet been completed.

Holders of licences for multiplex platforms similarly have the option of making changes to the channel line-up being broadcast. They can request a decision to determine whether the prerequisites for the licence to operate a multiplex platform will continue to be met after making the change. KommAustria conducted and completed a total of six such procedures in the 2021 reporting year.

KommAustria also completed in the 2021 reporting year one procedure due to non-submission or late submission of requested broadcast recordings, and one procedure for failing to publish an item in a ruling.

KommAustria additionally completed in the 2021 reporting year two procedures due to breach of journalists' duty to exercise care and for failure to protect human dignity. These procedures are pending with the Federal Administrative Court.

2.2.5 Market research

As part of the 2020 survey of reach and market shares (2020 market research survey), a survey of 469 providers was initially carried out on behalf of KommAustria by the RTR Media Division using a special eRTR application.

KommAustria subsequently requested 62 media services providers to provide information about reach (market shares), level of coverage and user or viewer figures, details required in order to compile the market report.

Failing to provide this information, one media services provider was issued a decision demanding compliance, and the provider responded.

2.2.6 Promotion of accessibility

Since 1 January 2021, the AMD-G has included provisions to promote accessibility. As a result, media services providers have taken active steps to make their content accessible to people with disabilities, especially for people with sight and hearing limitations and people with intellectual disabilities. Accessibility of content should be achieved through a gradual and incremental process that results in more and more accessible content each year. The AMD-G specifies for media services providers to draw up action plans as a means of implementation.

To harmonise these action plans, KommAustria enacted regulations to ensure the comparability of data and to standardise the form and content, and set up a separate web interface in the eRTR-Portal profiling the action plans, so that thirteen plans had been registered as of the end of 2021.

2.2.7 Promotion of European works

In the reporting year, KommAustria issued an ordinance relating to assessing the minimum share of European works in on-demand audiovisual media services (Ordinance on European Works – On-Demand Services) based on Art. 40 Par. 2 and 3 AMD-G. This ordinance specifies how the minimum share of the European works is determined in terms of the number of titles, the data to be reported, and the revenue, employees and viewer figures to be considered marginal within the meaning of Art. 40 Par. 2 AMD-G, thus releasing any providers of on-demand media services who do not achieve these levels with their services from the obligations pursuant to Art. 40 Par. 1 AMD-G. Finally, the cases are set out where the requirement to reach the minimum share of European works would be considered unfeasible or unjustifiable.

Also in the reporting year, other procedures were initiated or completed, including an infringement procedure against a broadcaster due to failure to notify programme figures in accordance with Art. 50 and 51 AMD-G for 2020, as well as, for 2019, seven infringement procedures against media services providers of on-demand audiovisual media services, and four administrative penal procedures due to an infringement of Art. 40 Par. 2 AMD-G.

2.2.8 Conciliation procedures in media

The RTR Media Division acts on behalf of KommAustria among other things as the conciliation body for complaints relating to communications networks and services used in broadcasting. The main prerequisite for a conciliation procedure is a previously unsuccessful attempt by the customer and operator or provider to reach an agreement. In the course of a conciliation procedure, RTR attempts to negotiate a mutually agreeable solution or informs the participants of its position on the case in question. The conciliation body received 90 complaints in the period under review. Details about conciliation cases are available in the annual conciliation report.

2.3 Public communications networks and services

The new Telecommunications Act 2021 (TKG 2021) entered into effect as of 1 November 2021, replacing TKG 2003. The responsibilities of KommAustria pursuant to TKG 2021 remain essentially unchanged (cf. Art. 199 TKG 2021).

Operators and providers must notify to KommAustria any planned provision of a public communications network or offer of a public communications service used to transmit broadcasts (radio and television programmes) or to offer additional broadcasting services, as well as any changes to or discontinuation of such services. This notification requirement applies to all providers of such communications networks and all parties offering such services in Austria, regardless of their domicile. After receiving a complete notification report, KommAustria issues a confirmation (general authorisation) pursuant to Art. 6 Par. 3 in conjunction with Art. 199 Par. 2 No. 1 TKG 2021.

In practice, this notification requirement is especially significant in the case of broadcasting activities by cable network operators and IPTV providers. On the basis of the legal opinion of the European Court of Justice and its ruling of 30 April 2014 in case C-475/12, UPC DTH, certain services are considered broadcasting services and thus subject to notification requirements. Such services consist in detail of providing access rights to a package of programmes which contains radio and audiovisual broadcast services and is transmitted via satellite or cable in return for a fee.

Notification was made of one new broadcasting network during the reporting period, while eleven broadcasting networks were discontinued.

Additional information can be found on the RTR website at https://www.rtr.at/medien/was_wir_tun/mediendienste/bewilligung_neuer_angebote/linfrastruktur/infrastruktur.de.html (in German).

Pursuant to the TKG 2003, and now the TKG 2021, KommAustria is also responsible for regulating competition among public communications networks and services used for radio and TV broadcasting. In a related case involving Österreichische Rundfunksender GmbH & Co KG and ORS comm GmbH & Co KG (ORS), KommAustria issued a decision on 31 January 2018, ruling that there was effective competition within the wholesale 'market for access to transmission systems and the digital terrestrial transmission of television signals to end users', and that no further need for sector-specific regulation existed. Later, in a procedure also involving ORS, KommAustria published a decision on 1 August 2018 declaring the wholesale market for 'analogue terrestrial transmission of FM radio broadcasting signals to end users' to be a relevant market subject to sector-specific regulation. In the 2021 reporting year, KommAustria also reviewed ORS' adherence imposed obligations with relation to the wholesale market for FM radio in 2020, specifically with regard to the cost accounting system and the question of whether the rates offered were in line with the costs of efficient service provision.

2.4 Platform regulation

Legislation regulating video-sharing and communications platforms entered into force in Austria on 1 January 2021 (amendment to the AMD-G, Federal Law Gazette I No. 150/2020, and the Communications Platforms Act (KoPl-G), Federal Law Gazette I No. 151/2020).

Through the amended AMD-G, rules now apply not only to providers of media services but also to those of video-sharing platforms, thereby taking an additional step towards achieving a fair competitive environment while protecting minors and users from harmful content on video platforms.

The KoPl-G, which aims to protect users of communications platforms, obligates providers of large communications platforms to adopt measures for effectively and transparently addressing specified illegal content.

KommAustria is the regulatory and supervisory authority entrusted with ensuring that this legislation is enforced.

2.4.1 Communications platforms

As of 31 December 2021, a total of nine communications platforms from eight different service providers fell under the KoPl-G.

The supervisory authority is required to maintain a register of the service providers falling under this Federal Act and to publish it appropriately, as specified in Art. 1 Par. 6 KoPl-G. The register is available on KommAustria's website at https://www.rtr.at/medien/service/verzeichnisse/plattformen/Verzeichnis_Kommunikationsplattform.de.html (in German).

Four of the above-mentioned providers requested an assessment decision from the authority to determine whether the KoPl-G applies to them. In all four cases, the authority reached the decision that the platforms offered did indeed fall within the scope of the KoPl-G.

Complaints were filed against this decision. In three rulings, the Federal Administrative Court confirmed the applicability of the KoPl-G on the platforms, while one procedure is still pending with the Federal Administrative Court (BVwG).

The three affected platform operators raised an objection to the findings of the BVwG. Two of the platform operators requested a suspensory effect which was approved by the BVwG.

The appeal proceedings are currently pending before the Supreme Administrative Court.

The listed platforms have largely accommodated the requirements set forth in the law, by setting up systems for user notifications of illegal content, publishing transparency reports and appointing authorised correspondence recipients.

A total of 19 administrative penal procedures were initiated in response to non-compliance with the provisions of the KoPl-G.

Art. 4 Par. 1 KoPl-G obliges service providers to prepare a report relating to their actions in response to claims of illegal content, either on an annual basis or, where the service provider has over a million registered users, biannually. KommAustria has issued an ordinance specifying detailed provisions governing the layout of these reports and the scope of the reporting requirement, to ensure that the reports provide informative value and can easily be compared.

2.4.2 Video-sharing platforms

As of 31 December 2021, two video-sharing platform providers were considered to be established in Austria and were thus subject to legal supervision by KommAustria.

Under Art. 54c Par. 5 AMD-G, the authority is required to publish a register of video-sharing platforms as a means of establishing jurisdiction when cooperating with non-Austrian regulatory authorities and the European Commission. The register can be found at https://www.rtr.at/medien/service/verzeichnisse/plattformen/Verzeichnis_Video-Sharing-Plattform.de.html (in German).

2.5 Act on Transparency in Media Cooperation and Funding

The main objective of the Act on Transparency in Media Cooperation and Funding (MedKF-TG) is to ensure full transparency when public authorities award advertising contracts or funding (cf. government bill in annex 1276 to the shorthand verbatim records of the National Council, 24th legislative period).

The MedKF-TG consequently requires certain legal entities to provide KommAustria with quarterly reports of expenses resulting from advertising placed in periodical media and from grants awarded to media owners, specifically all legal entities that under constitutional and ordinary legal provisions are subject to business auditing by the Court of Audit. As the independent recipient of the reports, KommAustria has the duty of verifying compliance with reporting requirements.

Towards achieving full transparency of advertising contracts and funding, the MedKF-TG sets out two disclosure measures.

Firstly, KommAustria publishes quarterly lists classifying legal entities under those that have fulfilled their reporting obligations by the regular reporting deadline and those that have not. The second measure is to disclose, here again on a quarterly basis, the data reported by the legal entities. This involves data on those media products that were actually awarded advertising contracts, as well as details of the specific (legal) persons who received media funding.

This information can be viewed (in German) at www.rtr.at/medien/was_wir_tun/medientransparenz/veroeffentlichungen/veroeffentlichungen.de.html.

Reports have been submitted for a total of 38 quarters since the MedKF-TG entered into force on 1 July 2012. After a clear trend towards increasing reporting discipline in the initial quarters, the reporting rate has in recent years reached a consistently a high level, also seen in 2021. On annual average, more than 99.9 per cent of the legal entities required to report had complied. One administrative penal procedure was initiated in 2021 due to failure to report, while one penal procedure was conducted in response to apparently inaccurate or incomplete reports.

In contrast, there has been an increase in requests by legal entities for assessment decisions clarifying that the reporting obligation pursuant to MedKF-TG did not apply, with responses to 15 requests being completed in 2021.

An analysis of recent quarters also revealed that about 80 per cent of the regularly examined legal entities had submitted zero reports. The majority of these cases involve municipal associations (sewage treatment associations, water supply associations, district social and healthcare bodies, citizenship associations, register office associations, and planning associations). Municipal associations account for just under 2,000 of the roughly 5,300 legal entities currently required to file.

2.6 Administration and coordination of broadcasting frequencies

Terrestrial broadcasting spectrum, used for receiving radio and television via antenna, is managed in Austria by media authority KommAustria. The authority is supported in this work by the department for broadcasting frequency management within the Media Division (RFFM) at RTR.

In 2021, several video conference meetings took place between the two currently active frequency negotiation groups in which RFFM also participates.

The first negotiation group comprises Austria, Czechia, Hungary and Slovakia, while the second includes Austria, Bosnia and Herzegovina, Croatia, Hungary, Serbia, Romania and Slovenia.

During the negotiations, focus was placed in both groups on the equal distribution of the available DAB+ frequencies among the participating countries.

The current international terrestrial frequency plan Geneva 2006 (GE06) formed the basis of the negotiations. The frequency plan includes an Allotment Plan designating very high frequency band III (VHF band III), between 174 MHz and 230 MHz, for DAB+.

In order for this existing Allotment Plan to be implemented in specific DAB+ broadcasting networks, especially in part with 'high-tower high-power' broadcasting systems, multilateral frequency negotiations are required with the competent authorities in the aforementioned countries.

Initial conditions for terrestrial digital radio via DAB+ currently very significantly among neighbouring countries.

The Czech Republic is meanwhile operating a very well-established national DAB+ multiplex that transmits existing FM radio stations as well as new public radio stations.

A number of local multiplexes also started operating, often consisting of just one, very weak DAB+ transmitter. This has resulted in many small, locally limited geographical coverage areas.

Slovakia is in the process of preparing a 'major' call for DAB+ tenders for next year. Among other things, plans are afoot to include in future DAB+ multiplexes those public channels that are currently still being transmitted by medium wave, with the aim of subsequently decommissioning the medium wave transmitters.

Hungary is not currently planning any specific invitations to tender for DAB+ multiplexes, although it is actively involved in frequency planning activities so that licences may be issued as quickly as possible when DAB+ is subsequently rolled out in Hungary.

Slovenia has been successfully operating DAB+ multiplexes for some time, whereas Croatia started regular operation of a national DAB+ multiplex in November 2021 after an extended pilot phase.

In western Austria, pending planning for using DAB+frequency block 5A within Tyrol's Außerfern region was successfully completed with Germany and Switzerland. This preliminarily completes Austria's frequency planning activities for defining, together with the neighbouring countries affected, an Assignment Plan covering the provinces of Vorarlberg, Tyrol, Salzburg and Upper Austria.

Theoretically, this means that technical frequency prerequisites have been met for eight DAB+ coverage areas in these provinces.

A few rounds of bilateral talks were held with Germany in the reporting year, after implementation of the DAB+ multiplexes in Bavaria had resulted in several changes. An example is the second Germany-wide multiplex, which in Bavaria is now divided into two different frequency blocks. Technical parameters have to be adhered to so that the resulting changes remain compatible with the Austrian frequency plan.

Switzerland continues to be heavily involved in the DAB+ coordination efforts. Its networks are being successively expanded, with technical parameters being optimised and adapted.

In the context of international coordination work and frequency negotiations, digital television (DVB-T/T2) was not a major topic in the reporting year. There is currently no need for changes, either in Austria or its neighbouring countries. Italy has formally begun international coordination procedures for numerous DVB-T/T2 transmitters; these were preconsulted with Austria in bilateral negotiations back in 2017.

With respect to UHF, the trials in Vienna continued to be a central focus. Two channels were available for the current ORS trials in the reporting year. One of these was used for the transmission of television channels in the UHD standard, the other served for testing the 5G broadcast standard. At least parts of Vienna could be supplied with test signals through the use of these resources, which were again coordinated with neighbouring countries for a period of one year.

Again in 2021, there were numerous coordination procedures with neighbouring countries regarding the FM radio range.

Another issue that the RFFM department at RTR concentrated heavily on during the reporting year is the future of terrestrial television in the remaining ultra high frequency (UHF) range after 2030. Based on EU Decision 2017/899, published in 2017, relating to the use of spectrum in the 700 MHz band, a path has already been forged at EU level and consequently the use of terrestrial broadcasting is subject to evaluation. By 2025, a strategy specifying how these frequencies will be used in Europe beginning in 2030 is to be defined for the UHF band 470 to 694 MHz.

2.6.1 Collaboration in licensing and assignment procedures

Broadcasting frequency management (RFFM) contributes with its evaluation reports to decisions by KommAustria regarding licences for the use of broadcasting frequencies. First and foremost, in connection with issuing new licences or expanding or consolidating existing licences, such reports must evaluate the technical feasibility, the extent of population coverage and the usage options for the spectrum to be put to tender.

2.6.1.1 Focus activities in analogue radio in the 2021 reporting year

During the reporting period, KommAustria once again published new invitations to tender for radio licences and for re-awarding licences that had expired after the ten-year term. For these procedures, the spectrum evaluation reports recalculated the geographical coverage areas and the population receiving coverage, by referring to updated population figures supplied by Statistics Austria.

Also in relation to the FM range, there were many procedures, some new requests but also change requests for existing radio broadcasting systems, for which evaluation reports needed to be prepared and international coordination procedures completed.

Analogue single-frequency FM systems were again the subject of many requests from radio operators in 2021. An invitation to tender was issued for two large-area single-frequency networks in the province of Salzburg.

Together with the telecommunications office, 28 requests for radio equipment in the broadcast spectrum were planned, evaluated, processed and approved, with 19 of these for drive-in cinemas throughout Austria. Total demand for broadcasting frequencies for drive-in cinemas as well as for sports and cultural events, usually for audio description, has returned to normal levels compared with the previous year, when the number of applications was exceptionally high.

2.6.1.2 Focus activities in digital television

The licence for trial use of digital frequencies pursuant to Art. 22 AMD-G (5G broadcasting trials) was renewed for another year. The two locations ‘Wien 1 (Kahlenberg)’ and ‘Wien 8 (Liesing)’ will continue to broadcast on channel 45 until at least 30 June 2022. Transmissions from ‘Wien 8’ are additionally broadcast over 2 MHz within channel 46. Slovakia thus made channel 45 available to Austria for another year.

2.6.1.3 Focus activities in digital radio

In the year under review, no changes regarding station expansion or conversion occurred with the nationwide multiplex platform (MUX I), or the regional multiplex platform (MUX II) that provides coverage to the City of Vienna and its environs. This currently means that, in accordance with the specifications of the GEO6 agreement, indoor service via portable receivers is supplied to approximately 84 per cent of Austrian residents, via DAB+ signals from at least one multiplex and 15 radio stations.

2.6.2 Frequency coordination procedures and frequency usage

The following table lists for the reporting year the number of international broadcasting frequency coordination procedures completed where Austria was a participant:

Table 07: Number of international broadcasting frequency coordination procedures in 2021

Country	Analogue radio	Digital radio	Digital television
Austria	32	0	4
Bosnia	0	0	0
Germany	16	46	1
Italy	0	0	620
Croatia	0	0	0
Poland	7	0	0
Switzerland	19	27	2
Slovakia	5	2	0
Slovenia	19	0	0
Czechia	13	5	13
Hungary	4	0	0
TOTAL	**115**	**80**	**640**

2.6.3 Measurement projects

Despite the pandemic, measurement tours were also conducted in this year, if only to a limited extent.

In the Vienna area, for example, the effects of relocating the 88.6 MHz frequency from the Kahlenberg to the Hermannskogel site was evaluated. Extensive measurements were taken in combination with test transmissions in the course of implementing a new broadcasting location in Vienna's 11th district, with the associated impact on existing FM networks in Vienna's environs and across the borders to Slovakia and Hungary examined.

In the Salzburg area, FM measurements were conducted in the Golling vicinity as part of procedures for extending coverage.

Another point of focus in this year involved quantifying the disruptive effects of Croatian and Slovenian T-DAB+ transmitters in southern Lower Austria. Specific attention was given to the potential impact on the Wechsel area covered by the Semmering transmitter.

With regard to DVB-T, focus was placed on checking several MUX C licences in terms of the transmitters in operation and in their line-up of channels and services.

2.6.4 Frequency register

The frequency register and transmitter map currently lists over 1,400 radio transmitters in the FM band, with power output ranging from less than 1 W to 100 kW.

The ORF accounts for roughly 850 frequencies, while the remaining 550 or so frequencies are used by private broadcasters. In terms of the power classes of individual frequencies, most of the high-power spectrum can be ascribed to ORF stations.

In the 470 to 694 MHz television frequency band, at the end of 2021, the currently approved DVB-T/T2 transmitters in the frequency register were distributed among the individual multiplex platforms as shown below.

Table 08: Approved DVB-T/T2 transmitters (as of 31 December 2021)

Multiplex	No. of transmitters
DVB-T2 multiplex A (ORS multiplex)	316
DVB-T2 multiplex B (ORS multiplex)	43
DVB-T/T2 multiplex C (regional/local multiplex platforms)	35
DVB-T2 multiplex D (ORS comm multiplex)	43
DVB-T2 multiplex E (ORS comm multiplex)	43
DVB-T2 multiplex F (ORS comm multiplex)	43

The 35 base stations in the DVB-T/T2 multiplex C platform are operated by a total of 14 licence holders in addition to ORS comm.

In VHF band III, which is reserved for DAB+, the following DAB+ multiplexes were approved as at the end of 2021:

Table 09: Approved DAB+ transmitters (as of 31 December 2021)

Multiplex	No. of transmitters
DAB+ multiplex I (ORS comm)	14
DAB+ multiplex II (RTG Radio Technikum GmbH)	1

Data on approved broadcasting transmitters are available to the public on the RTR website (www.rtr.at) in the form of a transmitter map[01], which was fully revised in the year under review, as well as tables based on Open Data.

[01] See https://senderkataster.rtr.at/

2.6.5 Contributions to working groups under international organisations

2.6.5.1 Participation in study group 6 (SG 6) of the International Telecommunication Union (ITU)

Broadcasting frequency management (RFFM) regularly participates in this international working group. Main topics in the reporting year included the following:

avoidance of interference between mobile services and broadcasting, expansion of existing broadcasting standards in the ITU to include the 5G broadcast standard, DAB+ measurement procedures with a focus on coverage measurement, and power capacity measurements of DAB+ broadcasting networks. In addition, documents were presented relating to: test transmissions in the UHD-TV standard, a test report from China regarding a possible new 5G NR broadcast standard, and a report from Brazil on the further development of local terrestrial broadcasting with the title "TV.3.0 Project"; these documents were also adopted into the SG 6 work programme on the future of broadcasting.

2.6.5.2 Participation in the Project Team D (PTD) and the Task Group 6/1 (TG 6/1) work groups

As part of preparations for the upcoming WRC-23 (World Radiocommunication Conference 23), work in these two groups continued in 2021 regarding the future use of the television frequency band after 2030 (also referred to as the third digital dividend).

2.6.5.3 PTD project team of the European Conference of Postal and Telecommunications Administrations (CEPT)

The project team worked on the following tasks as part of preparations for WRC-23:

- Draft of a common European proposal to address agenda item 1.5 of the WRC-23 ('Review the spectrum use and spectrum needs of existing services in 470–960 MHz in Region 1 and consider regulatory actions in 470–694 MHz in Region 1')
- Work to set out a common approach within the CEPT
- Examination of all conceivable mutual impact on communications services potentially using this spectrum band in future

Ultimately, an attempt will be made within the framework of the Electronic Communications Committee (ECC) to define a shared European position for WRC-23.

2.6.5.4 ITU TG 6/1

Within the TG 6/1 work group of the ITU, three sub-groups were formed as part of the preparations for agenda item 1.5 of the WRC-23 in a report by the Conference Preparatory Meeting (CPM). The aim is to prepare specific options for the decisions to be taken at WRC-23. To date, these discussions have always been highly controversial and not always constructive. Most African states, as well as Europe, have not yet defined their strategy since the decision-making process within the CEPT has not yet been concluded. On the other hand, the United Arab Emirates (UAE), Saudi Arabia and Egypt have already adopted a firm position and are strongly lobbying for opening up the UHF band 470–692 MHz for mobile use.

2.7 International activities

2.7.1 KommAustria and ERGA

International collaboration by KommAustria with and within the European Regulators Group for Audiovisual Media Services (ERGA) continued in 2021 as previously. As a result of the ongoing situation caused by the pandemic, all consultation took place via video conference and written correspondence. KommAustria and RTR-GmbH contributed actively to all three work groups in 2021 (see below) in the best interests of the Austrian media market. International cooperation within ERGA is aimed at ensuring a highly uniform interpretation of the Audiovisual Media Services Directive (AVMSD), the EU legal basis most significant for regulatory activities. This is to be without prejudice to national discretion in implementing the Regulation. Additionally, sharing of experience with implementation is to be encouraged. In the following, we report on activities and results of the individual work groups.

2.7.1.1 AVMSD work group

Two priorities were set in this work group. The first applies to recording and comparing how the Directive has been implemented by the individual Member States. This involved defining those audiovisual media services that are of general interest (Art 7a AVMSD) and creating guidelines to ensure that the rules for video-sharing platforms are implemented consistently.

The other priority applied predominantly to a regulatory area new to many regulatory authorities, the phenomenon known as 'vloggers' (in Austria, these may be subsumed under the category of on-demand services as defined in Art. 2 Z 4 AMD-G). A corresponding analysis was compiled that includes recommendations for regulation of this area (known as the ERGA Vlogger's Guide), with significant input provided by KommAustria.

2.7.1.2 Work group for the future media regulatory framework

The main focus of this work group was the further development of a position by ERGA on the legislative proposals of the European Commission for the regulation of media and online content, specifically the Commission proposal of a Digital Services Act (DSA), and its impact on national media markets.

2.7.1.3 Disinformation work group

ERGA's previous successful efforts in connection with disinformation were continued. This was primarily in response to the Commission's request for supervision to ensure compliance with the disinformation code of conduct, which addresses platforms. Proposals were also developed for potentially tightening the code of conduct.

2.7.1.4 Action group on implementation of the ERGA Memorandum of Understanding (MoU)

The MoU, which was adopted in 2020, enables structured, cross-border cooperation between regulatory authorities, especially where national regulatory authorities' options for action are restricted by the country of origin principle. For such cooperation, uniform rules, standards, approaches, response times and reaction patterns have now been defined.

2.7.1.5 Action group on economic impacts of the COVID-19 crisis

This action group was appointed for a limited period of time in April 2020 exclusively as a result of developments during the pandemic. It continued activities throughout 2021 and was engaged in analysing the economic impacts of the COVID-19 crisis on audiovisual media services providers. The results from 2020 have in fact already made clear that the media sector as a whole was hard hit by heavy economic losses.

2.7.1.6 Media competence action group

This work group's task was to exchange information relating to the use of regulatory instruments, campaigns and projects that aim to sharpen user awareness. Particular attention was paid to video sharing platforms. In 2021, representatives of the RTR conciliation body recently set up under the Communications Platforms Act (KoPl-G) actively participated in this action group.

ERGA's work programme for 2022 was finally agreed at the last ERGA plenary meeting, where Karim Ibourki (director of Belgian regulatory authority CSA) was elected ERGA chair for 2022.

2.7.2 KommAustria and EPRA

As a platform extending beyond the borders of the European Union, the European Platform of Regulatory Authorities (EPRA) takes in 55 media regulatory authorities from 47 countries. The platform concentrated on the following points during efforts in 2021:

- Main regulatory topic of 'hate speech'
- Cooperation with regulatory authorities from adjacent sectors on regulation of online platforms
- Artificial intelligence in future technology

KommAustria and employees of RTR-GmbH have also cooperated actively within the EPRA and contributed towards the results of implementing the EPRA work programme for 2021.

2.7.2.1 Main regulatory topic of 'hate speech'

EPRA's international activities targeting the issue of hate speech are aimed at ensuring that challenges such as defining and classifying hate speech are covered under various legal grounds (terrorist content in a new EU regulation or a national definition of illegal and/or harmful content); mechanisms were also developed for lodging complaints or having such content removed, as well as other complementary approaches.

2.7.2.2 Cooperation with regulatory authorities from adjacent sectors on regulation of online platforms

Why and how regulatory authorities of audiovisual media services should work with other sector regulatory authorities (such as those from the areas of telecommunications, competition, data protection or consumer protection authorities) was discussed, to the end of useful insights for effective regulation of online platforms in the interests of citizens, consumers and the industry.

2.7.2.3 Artificial intelligence in future technology

Here views were shared on the instruments and technologies that regulatory authorities of audiovisual media services could use to support them in their work. This could be possible in relation to automated identification of illegal and/or harmful content, for example. Such a method has already been implemented by some authorities on a trial basis. The object is thus to examine the impact and potential uses of artificial intelligence for the missions of regulatory authorities, as well as the resulting benefits.

2.7.3 Cooperation of consumer protection authorities

To counter intra-EU (cross-border) infringements of certain significant consumer protection regulations – regulations on commercial communication falling under the Audiovisual Media Services Act (AMD-G) – a network of consumer protection authorities has been set up, with the aim of addressing and preventing harmful practices. Since 2006, the competent authority here has been KommAustria, which is networked with other European authorities by way of administrative cooperation procedures, specifically through enforcement activities, requests for information and warnings.

KommAustria was involved here in the amendment process of the Cooperation of Consumer Protection Authorities Act. Furthermore, KommAustria is responsible for supervising the communications portal set up for the consumer protection authorities by the European Commission.

The central liaison office, which in Austria is the Federal Ministry of Social Affairs, Health, Care and Consumer Protection, ensures effective coordination between various competent authorities participating in this network and other authorities at Member State level.

2.8 Press and journalism subsidies

The federal press and journalism subsidies are direct support measures in the form of financial contributions. Decisions on the allocation of subsidies are made by the Austrian Communications Authority (KommAustria), with the administration of press and journalism grants being assigned to one member of the authority. The Press Subsidies Commission and the Journalism Subsidies Advisory Board have been set up as bodies to advise on these matters. The legal bases for the allocation of grants are the Press Subsidies Act 2004 (PresseFG 2004), the press subsidies guidelines published annually by KommAustria, and Section II of the Press Subsidies Act 1984 (PubFG). Rules for the funds-sourced grants for self-regulation of the press are also set out in the Press Subsidies Act (Art. 12a PresseFG 2004).

The promotion of self-regulation in the area of commercial communication (Art. 33 KommAustria Act, KOG) and, since 2021, self-regulation for the protection of minors (Art 32b KOG) also fall within KommAustria's scope of responsibility. No provision has been made for an advisory body to promote these self-regulation bodies. The legal bases for the allocation of grants are the aforementioned statutory provisions and the respective funding guidelines published by KommAustria.

2.8.1 Press subsidies

In 2021, KommAustria received 108 applications for subsidies in accordance with the PresseFG 2004. KommAustria awarded funding in 104 cases, while four applications had to be rejected for not meeting legal requirements.

The groups eligible for subsidies under the PresseFG 2004 are as follows:

- Publishers of daily and weekly newspapers
- Institutions for training journalists
- Research projects relating to the press sector
- Press clubs
- A self-regulation body for the press sector

Table 10: Press subsidies – grant amounts, applications and approval rates, 2017–2021

Year	Grant amount (EUR)	Requests	Approvals	Approval rate in %
2017	8,912,000.00	105	104	99.05
2018	8,863,000.00	110	108	98.18
2019	8,863,000.00	115	111	96.52
2020	27,452,664.00	243	205	84.36
2021	8,881,000.00	108	104	96.30

Notes:
1) This list also includes fund-sourced grants for the Austrian Press Council as similarly set out in the PresseFG 2004, as in previous years.
2) The total amount for 2020 encompasses the following types of special COVID-19 aid, in addition to the normal press subsidies: increase in distribution subsidies for daily and weekly newspapers under Art. 17 Par. 8a PresseFG, contribution to printing costs for free and paid-for daily newspapers under Art. 12b PresseFG, and extraordinary funding for free and paid-for weekly newspapers, paid-for magazines, regional newspapers and online newspapers under Art. 12c PresseFG 2004.

The following amounts and applications were allotted to the individual funding areas:

Table 11: Total press subsidies 2021 by funding areas

Total press subsidies in 2021	Funding	Requests	Granted
Distribution subsidies under Section II PresseFG 2004 (dailies and weeklies)	3,885,000.00	47	45
Special subsidies under Section III PresseFG	3,242,000.00	6	4
QPromotion of quality and securing the future under Section IV PresseFG	1,560,000.00	54	54
Self-regulation in matters relating to the press/Austrian Press Council	194,000.00	1	1
Total	**8,881,000.00**	**108**	**104**

Details on grant awards have been published on the RTR website www.rtr.at.

2.8.2 Journalism subsidies – promotion of print periodicals

Section II of the Federal Act on Subsidies for Political Education and Journalism 1984 (PubFG) provides for the promotion of journalism that serves the purpose of educating citizens, through contributing high-quality analysis of relevant issues stemming from the spheres of policymaking, culture and world views. The periodicals that receive funding as a whole represent a broad spectrum of content. The publications range from feminist periodicals to journals that are centred on religious topics or discuss political and scientific issues. Also included are periodicals by associations that are active in the fields mentioned above and are familiar with the topics through practical experience.

In 2021, KommAustria received 75 applications for funding of a print periodical in accordance with Section II PubFG 1984, complying with 73 requests while rejecting two due to failure to meet statutory funding requirements.

KommAustria decides the level of funding on a case-by-case basis, giving due consideration to recommendations made by the Journalism Subsidies Advisory Board as well as to the scope, circulation, resources and financial situation of the relevant print periodical. By law, grants may be no less than 0.4 per cent and no more than 4 per cent of the funds designated for this purpose in the Federal Finance Act (BFG). As in previous years, EUR 340,000 was available for this funding in 2021. The subsidy amounts ranged from EUR 1,360 to EUR 12,626.80.

Table 12: Journalism subsidies – grant amounts, applications and approval rates, 2017–2021

Year	Grant amount (EUR)	Requests	Approvals	Approval rate in %
2017	340,000	80	67	83.8
2018	340,000	80	74	92.5
2019	340,000	75	73	97.3
2020	340,000	77	72	93.5
2021	340,000	75	73	97.3

Details on grant awards have been published on the RTR website www.rtr.at.

2.8.3 Funding for self-regulation of the press

Funding from the Fund for the Promotion of Self-Regulation of the Press (Fonds zur Förderung der Selbstkontrolle der Presse) may be allocated to a recognised self-regulatory body within the Austrian press to ensure the independence of the body in question, ensure that the duties set forth in its articles of association are carried out, and to effectively enforce its decisions and resolutions.

As the only party applying for funding, the Austrian Press Council requested from KommAustria a cost contribution of EUR 194,000 for 2021, which was subsequently approved.

In 2021, the Austrian Press Council processed 647 cases. A total of 645 cases were submitted to the Press Council from outside parties, while in two cases the body's senates reviewed cases arising from their own observations. Of Austria's dailies, only Kronen Zeitung continue to refuse recognition of the Press Council's arbitrator status. In the meantime, the newspaper Heute has acknowledged the code of conduct and the Press Council's status as arbitrator and has been a member of the Press Council as of 1 May 2021.

Table 13: Press Council – number of cases handled and cost contributions, 2017–2021

Year	Cases	Cost contribution in euros
2017	320	225,000
2018	302	176,000
2019	297	196,000
2020	418	196,000
2021	647	194,000

2.8.4 Funding for self-regulation of commercial communication

The Fund for the Promotion of Self-Regulation in Commercial Communication has been allocated EUR 75,000 each year since 2021 (previously EUR 50,000 a year). Pursuant to Art 33 KOG, this amount can be granted to a recognised self-regulatory body in the field of media commercial communication.

The objectives of this kind of financial support, which was set up in 2009, are to ensure the independence of the body in question, to ensure that the duties set forth in its articles of association are carried out, and to effectively enforce its decisions and resolutions.

Starting with 2021, the granting of the full amount of the funds available became dependent on a self-regulatory body's conduct guidelines, including provisions with regard to inappropriate audiovisual commercial communication relating to alcoholic drinks, and for audiovisual commercial communication that is unsuitable for children and relates to foodstuffs and drinks containing nutrients or substances with a nutritional or physiological effect, in particular those such as fat, trans-fatty acids, salt/sodium and sugars, excessive intakes of which are not recommended as part of the overall diet.

As the sole applicant, the Österreichische Gesellschaft zur Selbstkontrolle der Werbewirtschaft – Österreichischer Werberat received all funding in 2021. A total of 413 complaints were submitted to the Austrian Advertising Council and 254 decisions were handed down in 2021.

2.8.5 Promotion of self-regulation for the protection of minors

An option for promoting a self-regulatory body for the protection of minors was set up as of 1 January 2021. The corresponding fund is provided with EUR 75,000 a year. This amount can be granted to a representative self-regulatory body for the protection of minors pursuant to Art. 32b KOG, to ensure the independence of the body in question, to ensure that the duties set forth in its articles of association are carried out, and to effectively enforce its decisions and resolutions.

In addition to the formal requirements in Art. 32a Par. 2 KOG, in order to allow funds to be allocated for promoting a self-regulatory body in this area, the body's conduct guidelines must contain criteria defining a minimum level of information that allows viewers to assess the potential harmfulness of content for minors, based on a description of content type in easily understood terms.

Two funding deadlines (15 October 2021 and 31 January 2022) were defined for the 2021 grant period.

As the only applicant, the Verein zur Selbstkontrolle audiovisueller Medienangebote zum Schutz von Minderjährigen (in brief: Jugendmedienschutzverein), which was founded in June 2021, received EUR 16,192.24 during the first funding period in 2021. Funding applied for as part of the second funding period will not be calculated or disbursed until 2022.

2.9 KommAustria reporting on media

2.9.1 Requirements for the protection of minors and subsequent implementation

2.9.1.1 Report of the self-regulatory body on the implementation and effectiveness of measures for the protection of minors

2.9.1.1.1 General information

In relation to the protection of minors from audiovisual content that may impair their development, a number of changes were introduced by Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.

The previous system for protecting minors from content that may impair their development, which was for the most part mandatory only for television broadcasters, was extended to providers of on-demand services. Also applicable to all media services was a new requirement to provide viewers with sufficient information for assessing the potential harm posed to minors by the content, by providing viewers with an easily comprehensible description of the nature of such content. In transposing the requirements, the EU Directive also encouraged Member States to make use of co-regulation and to support the promotion of self-regulation by means of an industry code of conduct. To ensure the achievement of an appropriate level of protection, a uniform set of criteria to be fulfilled by self-regulatory bodies was also defined.

The Austrian legislative framework was amended (Federal Law Gazette I No. 150/2020) to incorporate these EU provisions. The core provisions setting out the protection to be guaranteed for minors by providers of audiovisual media services and the corresponding duties of the self-regulatory body are to be found in Art. 39 of the Audiovisual Media Services Act (AMD-G) and Art. 10a of the ORF Act (ORF-G). Regulations pertaining to self-regulatory bodies and the funding of a self-regulatory body for the purposes of youth protection by the Republic of Austria have been set out in Art. 32a and Art. 32b of the KommAustria Act (KOG).

Based on these provisions, a self-regulatory body is for the first time tasked with certain aspects of the establishment and verification of compliance with the industry-wide youth protection system, which is based on the aims of the EU Directive. The effectiveness of this self-regulatory system is then subjected to a subsequent audit by KommAustria.

To facilitate such a follow-up audit, the legislation provides for the reporting requirements listed below.

Pursuant to Art. 32a Par. 2 No. 5 KOG, a self-regulatory body is to prepare a report every year concerning its activities, its established goals, and the measures and decisions taken in accordance with No. 3 and 4, and publish this report in a suitable format (activity report).

Pursuant to Art. 32b Par. 4 KOG, an annual report addressing the effectiveness of the provisions of the conduct guidelines, as well as the type, number and outcome of complaints, must be submitted to KommAustria by 31 March of the following year. KommAustria is to publish an activity report (Art. 19, effectiveness report) presenting its assessment of and recommendations for effectiveness.

Pursuant to Art. 39 Par. 5 AMD-G, a self-regulatory body for the protection of minors (Art. 32a together with Art. 32b KOG) will provide the regulatory authority with a report about progress made towards achieving compliance with the duty to provide information using references (Art. 4), incumbent on media service providers (Art. 32a Par. 2 No. 5 KOG). In its activity report, the regulatory authority is to present the current status in meeting the obligation described in Par. 4. The regulatory authority can enclose with this report an evaluation aimed at improving the effectiveness of how information is made available.

In the following sections, the regulatory authority provides, on the basis of the reports it has duly received, a short overview of the general legal framework for self- and co-regulation in relation to the protection of minors, and a synopsis of the newly formed self-regulatory body, together with its conduct guidelines and rules of procedure and their effectiveness. The authority then describes the state of play regarding the fulfilment of the duty to provide guidance, and concludes by presenting – as far as is possible, given the relative newness of the body – its assessment of and recommendations for improving the effectiveness of the self-regulation system.

2.9.1.1.2 Legal framework for co- and self-regulation in relation to the protection of minors in Austria

A system of self-regulation is characterised by the fact that the affected economic operators specify the guidelines for their conduct themselves, based on the general legislative framework, and are also themselves responsible for the effective sanctioning of breaches of this conduct guidelines.

While self-regulation is encouraged as a supplementary approach to transposing the provisions of the Directive, it does not exempt national policymakers from their duty to transpose the Directive. Austrian policymakers therefore envisaged a number of new provisions on the relationship between self-regulation and state legal supervision in the areas addressed by the Directive since, as required by Recital 14 of the EU Directive, *"[c]o-regulation should allow for the possibility of state intervention in the event of its objectives not being met."* (Cf. explanatory notes to government bill 462, enclosure to stenographic record of National Council, 27th legislative period, General Part and Special Part, on Art. 1 No. 39.)

In the context of co-regulation as supported by the Directive, Art. 39 Par. 4 to 7 AMD-G accordingly contains provisions that initially call on the industry to directly establish this kind of system and submit regular reports on implementation. Par. 5 utilises the powers granted by Art. 4a Par. 3 of the EU Directive, whereby the evaluation of effectiveness may be transferred to the regulatory authority in order to create a legal relationship between self-regulation and the national legislature. Should the hypothetical scenario of a systemic failure occur, the regulatory authority shall respond by issuing a corresponding ordinance, for which a consultation with representative stakeholders must be held beforehand.

*„**Article 39**. (1)–(3) ...*

(4) Taking into consideration existing conduct guidelines of a self-regulation body for the protection of minors, media service providers shall issue and comply with guidelines on how to make available to viewers sufficient information to assess the potential harmfulness of content for minors by describing the nature of the content listed in Par. 1 by means of references that are easily understandable for users.

To ensure uniform conduct guidelines across Austria, media service providers shall support and contribute to initiatives to establish and improve the efficiency of self-regulation (Art. 32a KOG).

(5) A self-regulation body for the protection of minors (Art. 32a in connection with Art. 32b KOG) shall report to the regulatory authority on the current state regarding implementation of the obligation to make information available by means of references (Art. 4) (Art. 32a Par. 2 No. 5 KOG). The regulatory authority shall present the current state regarding the implementation of the obligation described in Par. 4 in its activity report (Art. 19 KOG). The regulatory authority can enclose with this report an evaluation aimed at improving the effectiveness of how information is made available.

(6) If the regulatory authority finds that within six months of entry into force of the Federal Act promulgated in Federal Law Gazette I No. 150/2020 no self-regulation body for the protection of minors as referred to in Art. 32a in connection with Art. 32b KOG has been established in the scope of self-regulation (Art. 32a KOG), and, within a period of another two months, also no conduct guidelines have been issued that are used by a representative part of media service providers, including the Austrian Broadcasting Corporation, the regulatory authority shall specify, by way of a regulation issued within six months of making the finding, the manner in which all media service providers shall make available to viewers sufficient information to assess the potential harmfulness of content for minors by describing the nature of the content listed in Par. 1 by means of references that are easily understandable for users.

(7) Before a regulation as referred to in Par. 6 is issued, the relevant interest groups in the field of audiovisual media services and youth welfare as well as the Federal Ministry of Education, Science and Research, the Federal Ministry of Labour, Family and Youth, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection and the Federal Ministry of Justice shall be given the opportunity to submit statements. The aforementioned entities shall make proposals to the regulatory authority on how to label harmful content. The regulatory authority shall verify at regular intervals, but at least every two years, whether or not there is still a need for issuing a regulation. If, after having consulted the aforementioned federal ministries, the regulatory authority comes to the conclusion that sufficient and efficient measures have been taken in the scope of self-regulation in accordance with the requirements of Art. 32a KOG, the regulatory authority shall set aside the regulation."

Austrian legislation also requires the ORF to support and contribute to self-regulation initiatives, in accordance with Art. 10a Par. 3 ORF-G:

"Protection of minors

Article 10a. *(1)–(2) ...*

(3) [...] The Austrian Broadcasting Corporation shall support and contribute to initiatives of self-regulation bodies (Art. 32a KOG) to ensure uniform conduct guidelines throughout Austria. Art. 39 Par. 4 to 6 AMD-G shall be applied with the proviso that the Austrian Broadcasting Corporation, in deviation from Par. 5 first sentence, must report on measures to identify and describe content in its annual report."

On the basis of the provisions from EU legislation, Art. 32a KOG codifies standards for recognised self-regulatory bodies of this kind, so as to safeguard the effectiveness of self- and co-regulation measures, particularly those aimed at protecting consumers and protecting public health.

"Self-regulatory bodies

Article 32a.

(1) The activities of recognised self-regulatory bodies may be encouraged in order to support the achievement of the goal of ensuring compliance with minimum European standards on the part of content providers.

(2) A recognised self-regulatory body is defined as a body with legal personality, which:

1. *guarantees a broad representation of the affected providers, and comprehensive transparency in respect of decision-making criteria, procedures and the enforcement of decisions;*
2. *defines conduct guidelines and rules of procedure that are generally recognised by the primary stakeholders and which clearly define the goals of self-regulation;*
3. *ensures the periodic and transparent monitoring and assessment of the fulfilment of these goals, in any case by an external and independent entity;*
4. *ensures that complaints are effectively handled and that its decisions are enforced, including the imposition of effective and proportionate sanctions in the event of breaches of the conduct guidelines;*
5. *prepares a report concerning its activities, its established goals, and the measures and decisions taken according to No. 3 and 4, and publishes this report in a suitable format.*

(3) Sanctions within the meaning of Par. 2 No. 4 include in particular:

1. *the publication of a decision by the self-regulatory body;*
2. *the publication of a recommendation by the self-regulatory body for future conduct;*
3. *the revocation of a quality mark or positive designation granted according to the body's guidelines;*
4. *potential identification of a breach or warnings in accordance with the body's legal framework.*

(4) Every four years, the self-regulatory body shall provide the regulatory authority with a report on the body's structure and working practice that illustrates its contribution to the goal of achieving compliance with minimum standards on the part of content providers."

With co-regulation, regulatory functions are shared between interest groups and the national regulatory authorities. The tasks of the competent public authorities include the recognition of the co-regulation programme, the auditing of its procedures as well as programme funding. (Cf. explanatory notes to government bill 462, enclosure to stenographic record of National Council, 27th legislative period, on Art. 2 No. 19.) Consequently, by means of Art. 32b KOG, Austrian legislators established a basis for funding a self-regulatory body for the protection of minors:

"Funding of self-regulation for the protection of minors

Article 32b.

(1) To provide financial support to the self-regulatory body in its activities involving the classification of content that could impair the physical, psychological or moral development of minors (Art. 39 AMD-G), EUR 0.075 million of fee income collected pursuant to Art. 3 Par. 1 of the Broadcasting Fees Act (RGG) is to be paid by bank transfer to KommAustria by 31 January of each year, in addition to the amount to be paid pursuant to Art. 35 Par. 1; Art. 35 Par. 1 third and last sentence shall apply. Art. 33 Par. 1 last sentence, Par. 2, 3 and 4 shall apply.

(2) In addition to the formal requirements in Art. 32a Par. 2, in order to allow funds to be allocated for promoting a self-regulatory body in this area, the body's conduct guidelines must contain criteria defining a minimum level of information that allows viewers to assess the potential harmfulness of content for minors, based on a description of content type in easily understood terms.

(3) As part of drawing up the conduct guidelines , the relevant interest groups in the field of audiovisual media services and youth welfare as well as the Federal Ministry of Education, Science and Research, the Federal Ministry of Labour, Family and Youth, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection and the Federal Ministry of Justice shall be given the opportunity to submit statements.

(4) A report addressing the effectiveness of the provisions of the conduct guidelines, as well as the type, number and outcome of complaints, must be submitted to KommAustria by 31 March of the following year. KommAustria shall publish an activity report (Art. 19) presenting its assessment of and recommendations for effectiveness."

2.9.1.1.3 Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services

Even before the entry into force of the amendment on 1 January 2021, industry representatives had organised initial consultations and plans aimed at establishing a self-regulatory body. The first two quarters of 2021 were taken up with in-depth discussions as well as information gathering and preparation throughout the industry, accompanied by regular meetings for providing updates to and consulting with members of KommAustria and the competent media regulatory authorities.

In 2021, the year of the association's formation, the conditions governing both the organisation and the substance of the activities of the association as a self-regulatory body for youth media protection in audiovisual media (TV and on-demand services) were finalised.

The Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services (Verein zur Selbstkontrolle audiovisueller Medienangebote zum Schutz von Minderjährigen) was established on 17 June 2021, thus in advance of the legal target date (30 June 2021). The association bears entry number 1686796152 in the Central Register of Associations (ZVR). The association is based in Vienna.

At the association's first general assembly, which was held in August 2021, the following organisations and companies were admitted as ordinary members:

- Association for Telecommunications and Broadcasting Companies within the Austrian Federal Economic Chamber (Wiedner Hauptstraße 63, 1040 Vienna, represented by Claudius Determann)
- Austrian Broadcasting Corporation (Würzburggasse 30, 1136 Vienna, represented by Klaus Kassai)
- Association of Austrian Private Broadcasters (Kärntner Ring 5–7, 1010 Vienna, represented by Corinna Drumm)

Other members – both ordinary and extraordinary – may be admitted on the terms of the association's constitution. The association presents its articles on its website (https://www.jugendmedienschutz.at).

The articles of association assign leadership responsibilities to a management committee. This committee is tasked with managing the association's business and organisational operations as well as reporting duties, in particular the preparation of and the formal decision to adopt the conduct guidelines and rules of procedure as required by Art. 39 AMD-G. The committee also handles the establishment of and appointments to the expert council as a complaints body, as well as the handling of objections to decisions that impose sanctions on media service providers as a result of breaches of the conduct guidelines.

Current appointments to the management committee are Claudius Determann (president), Corinna Drumm (treasurer) and Klaus Kassai (secretary).

During the general assembly, Gerhard Ettl (ORF) and Barbara Karl (Association for Telecommunications and Broadcasting Companies) were appointed as the association's auditors.

Alice Krieger-Schromm was appointed head of administrative support effective November 2021. Key duties in this role include providing support to the management committee in its association activities while managing the association's office and ongoing business activities, as well as handling specific tasks as delegated by the management committee, with one particular duty here being to ensure the effective management of procedures and complaints in accordance with the rules of procedure.

In line with the association's rules of procedure, the expert council makes decisions on such complaints as may be filed as a result of alleged breaches of the conduct guidelines on the part of media service providers. The following individuals have been appointed to the expert council:

- Lisa Golda, ProSiebenSat.1 PULS 4 GmbH, legal counsel
- Frank Holderied, ServusTV, head of programming, purchasing and in-house fiction content productions
- Claudia Horvath-Polak, ORF, filmand series youth protection/member of the Youth Media Commission

- Andreas Ney, Austrian Federal Economic Chamber/Association for Telecoms/Broadcasting, deputy managing director
- Lisa Zuckerstätter, ORF, access services – youth protection officer

In accordance with its constitution, the association's primary objective is to ensure effective self-regulation so as to protect minors from content in audiovisual media services that could impair their physical, psychological or moral development and which falls within the remit of the Austrian regulatory authorities as a result of applicable legal provisions.

In pursuit of this overarching goal, in accordance with provisions of law and its articles of association, the association acts as follows:

- Establishing of a legal entity that meets the requirements for a self-regulatory body as defined by Art. 32a KOG, first and foremost by ensuring a broad representation of media service providers who have committed to the protection of minors
- Drafting and adoption of conduct guidelines and rules of procedure that are generally recognised by the primary stakeholders – and therefore the providers of audiovisual media services who have committed to the protection of minors – and which unambiguously define the goals of self-regulation
- Ensuring the proper treatment of complaints and the enforcement of decisions, including the imposition of sanctions in the case of breaches of the conduct guidelines, by establishing an administrative support office for handling complaints and by appointing an independent expert council to decide on such complaints
- Guaranteeing full transparency in respect of decision-making criteria, procedures and the enforcement of decisions
- Reporting fully on activities and the effectiveness of the measures taken, in accordance with legal requirements
- Communicating with authorities, ministries and other state and non-state actors, as well as with international associations or organisations pursuing similar goals

2.9.1.1.4 Conduct guidelines

To give the relevant youth protection institutions in Austria the opportunity to contribute to the process of drawing up the conduct guidelines and designing the information system, the self-regulatory body was required to submit the conduct guidelines to a consultation with interest groups working in the field of youth protection and those federal ministries that the act designates to oversee youth protection programmes. This process was initiated by the association in early July 2021 and completed in August. Some of the comments submitted led to modifications of the conduct guidelines as presented in the following.

The conduct guidelines as of August 2021 can be viewed on the association's website (https://www.jugendmedienschutz.at/verhaltensrichtlinien/).

In accordance with the provisions of EU law and Austrian legislation, the conduct guidelines aims to establish an effective and uniform nationwide system for the protection of minors from content in audiovisual services (broadcasting and on-demand services) that has the potential to impair their development. This system should be easily understood by viewers – especially by minors and their legal guardians – and should be recognised and implemented by as many providers as possible.

The guidelines specify (minimum) requirements for the protection of minors in the context of audiovisual services. In cases where providers wish to offer a higher level of protection on a voluntary basis, the guidelines make recommendations for ensuring such initiatives are as uniform as possible.

Content potentially impairing the development of minors must be offered by providers in such a way as to prevent it from being generally viewable or consumable by minors. As part of meeting this requirement, television broadcasters must choose appropriate broadcasting times. Providers of on-demand services must use suitable measures to achieve a level of protection comparable to that offered by broadcasting time slots, either by also restricting the daily accessibility of content potentially impairing development, or through other appropriate measures.

Certain content potentially impairing development is not prohibited by law but is to be classified as particularly harmful, such as the casual depiction of sexual acts (hard-core pornography and other pornographic material that does not meet the criteria for being considered content prohibited by law). Such content may be provided only if measures such as age verification systems or comparable access control measures are in place to ensure that minors are not generally able to use it. News broadcasts and party political broadcasts are exempted from these obligations.

If broadcasts that should typically not be viewed by minors are made freely accessible by television broadcasters during broadcasting times that are less suitable for scheduling such broadcasts from a youth protection perspective, such broadcasts must be identified accordingly (announcement by means of an acoustic signal or the application of a visual identifier throughout the entire broadcast; the ORF must comply with stricter standards that require identification with acoustic signals and visual identifiers throughout the entire broadcast).

In addition to the identification requirement, all media service providers are also required to present viewers with sufficient information for assessing the potential harm posed to minors by the content. Media service providers must describe the nature of the potentially harmful content using references that are easily understood by viewers. Details of these new duties to present information ('information system') are given in the conduct guidelines.

To ensure that programme content potentially impairing development cannot generally be viewed by the minors who are to be protected, television broadcasters undertake to comply with the following broadcasting time slots (depending on the age classification of the programme in question):

- Daytime television, 6 am to 8 pm: Content in programmes broadcast during the day must be suitable for (young and older) children. Accordingly, all programmes broadcast must have content suitable for children in the 12 and under range or, in isolated cases (and if this does not impair the well-being of younger minors), 12 and over (but not 16 and over). All daytime programmes with an age classification of 12 and over must comply with labelling requirements.
- Evening television, 8 to 10 pm: During the evening television slot, programmes are broadcast that fall under the 12 and over category or a lower category or, in isolated cases (and if this does not impair the well-being of younger minors), the 16 and over (but not 18 and over) category. All programmes with an age classification of 16 and over must comply with labelling requirements.
- Late evening television, 10 to 11 pm: During the late evening television slot, programmes are broadcast that fall under the 16 and over category (with labelling) or a lower category.
- Night-time television, 11 pm to 6 am: Programmes falling under any age category can be broadcast during the night-time slot. All programmes falling under the 16 and over or 18 and over age category must comply with labelling requirements.

The self-regulatory body has stated that the guidelines are modelled (and expand) on accepted practice in youth protection in the industry to date, especially as regards questions of selecting broadcasting times or time periods in which content potentially causing harm should be shown or made available, and established practice regarding acoustic and/or visual labelling.

The conduct guidelines also recommend the voluntary provision of additional information (supplementing the recommended age classification and notes on the potential harm) on the part of television broadcasters, which is to be included in information sources accompanying their programming such as EPGs, teletext or specialised online services. However, broadcasters are not required to present such information.

Rules for television programming

As mentioned above, the information system for television broadcasters pursues the goal of presenting viewers – and parents and minors in particular – with sufficient information, in a simple and easily comprehensible format, that allows them to assess the potential harm posed to minors by content.

Specifically, the proposed conduct guidelines requires television broadcasters who broadcast freely accessible programmes outside the recommended broadcasting time slots – thus potentially impairing the development of minors – to offer at the start of the programme simple and easily understood references to the recommended age classification (age reference) and the nature of the potential harm posed by the programme that follows (harm reference or label).

The age references use the international age limits (which have also been applied in Austria for many years) and are oriented towards the classifications from the FSK (voluntary film industry self-regulatory body) and the FSF (voluntary television industry self-regulatory body). Five separate age categories are defined:

- Content is not suitable for minors: 18 and over
- Content is suitable for minors aged at least 16: 16 and over
- Content is suitable for minors aged at least 12: 12 and over
- Content is suitable for children/minors aged at least 6: 6 and over
- Content is suitable for children/minors of any age: 0 (no restrictions)

A classification system provides objective definitions of the type of content considered unsuitable for the individual age categories, since this content has the potential to impair the development of children and minors.

According to the conduct guidelines, content potentially impairing development is further subdivided into the four harm categories of 'violence', 'anxiety', 'inappropriate behaviour' and 'sex'. Harm guidance must further be presented so that, at the start of the programme and as an adjunct to the age warning, at least one of these harm categories is specifically referenced by a visual overlay with a text identifier ('violence', 'anxiety', 'inappropriate behaviour' and/or 'sex').

Before the start of each programme subject to a labelling requirement, the age and harm reference are shown in easily legible lettering of an appropriate size along the top edge of the screen for at least three seconds.

In line with the conduct guidelines, broadcasters are free to supplement the harm reference with more detailed descriptions of the potential harm, but must ensure that these details do not compromise the easy comprehensibility of the reference. While not mandatory, broadcasters are encouraged to include easily accessible age/harm references in the information sources that accompany their programming (such as the EPG, teletext or website).

To ensure that the youth media protection system in Austria is as uniform as possible, a set of assessment standards is required. Accordingly, the conduct guidelines define uniform standards and assessment criteria for each age category. These assessment standards and criteria have been developed while taking the greatest possible account of established assessment criteria recommended by recognised youth protection bodies.

Summing up, it can be stated that, according to the code of conduct, a relevant potential harm is always present in cases where the audiovisual content presents types of behaviour or value systems as positive or acceptable that are incompatible with generally shared social values or in breach of Austrian laws. Both in television programming and within audiovisual media services in general, youth protection does not pursue the objective of pigeonholing certain topics as taboo but instead aims to determine the core values or messaging of a particular service (in whole or in part) and to assess their potential impact on children or adolescents.

Rules for on-demand services

As is the case for television broadcasters, providers of on-demand services must also ensure that programmes potentially impairing the physical, psychological or moral development of minors are provided in a way that prevents them being generally viewable or consumable by minors.

Like television broadcasters, providers of on-demand services must also set up an appropriate information system that allows their users to make informed decisions about the content to be viewed. In line with the conduct guidelines, the age classification system and assessment standards apply mutatis mutandis to on-demand services.

The conduct guidelines states that on-demand services may provide the required level of protection for minors by deploying an effective control system secured by access codes. If a control system based on time of access (effectively replicating the broadcasting time slots used in television) is used, then service providers must use age references and programme-specific harm labelling to designate programmes subject to labelling requirements (based on age category and access time). Additional information provided in support of programming is also recommended but is not mandatory.

2.9.1.1.5 Complaints and sanctioning procedures (code of conduct)

The conduct guidelines, formally designated the association's 'rules of procedure', defines the process for handling complaints and the adoption of decisions on complaints by the expert council. The conduct guidelines also address the possibility of objecting to the council's decisions, the enforcement of such decisions and the imposition of appropriate sanctions on media service providers. The rules of procedure can be accessed from the association's website (see https://www.jugendmedienschutz.at).

The self-regulatory body publishes an annual activity report that informs the general public about a number of topics, including the measures and decisions adopted by the body in the reporting year, as well as the sanctions imposed as a result of breaches of the conduct guidelines.

In 2021, its year of formation, no formal complaints were submitted to the self-regulatory body as a result of a breach of the conduct guidelines. In this context, however, it should be noted that the actual commencement of operations by the self-regulatory body and the public announcement of the same occurred only at the end of the third quarter/beginning of the fourth quarter of the year. Raising public awareness of the self-regulatory body is therefore one of the tasks that is to be addressed during 2022.

2.9.1.1.6 Recognition of the conduct guidelines and rules of procedure

The provisions of Austrian youth protection legislation require the widest possible acceptance of the conduct guidelines and rules of procedure *("rules of procedure that are generally recognised by the primary stakeholders"; Art. 32a KOG)*. To achieve this level of acceptance, the association's founding members took care to ensure that industry representatives cooperated as closely as possible on drafting procedures from the outset.

Beyond the practical involvement of industry representatives, formal recognition (in the form of a documented proof of recognition) of the conduct guidelines and rules of procedure was also required. With reference to their individual obligation as broadcasters or on-demand service providers to create and comply with a specific conduct guidelines (cf. Art. 39 Par. 4 AMD-G), media service providers were advised to fulfil their legal duties by publishing a youth protection declaration on their website, in which they formally recognise and agree to be bound by the conduct guidelines and the rules of procedure set out by the self-regulatory body.

As of 31 December 2021, 58 television broadcasters and 43 on-demand service providers had published a formal recognition of the conduct guidelines and rules of procedure. This group of broadcasters and on-demand service providers that recognise the conduct guidelines and rules of procedure, and have published a formal confirmation of the same, includes almost all major television broadcasters and on-demand service providers (ORF, ProSiebenSat.1 PULS 4 ATV Group, Red Bull Media, Sky Austria, RTL Austria, Schau Media, WH Media, R9 Regional TV, and a large number of other, primarily regional providers). The full list can be accessed from the association's website (https://www.jugendmedienschutz.at/verhaltensrichtlinien/).

Despite this widespread acceptance of the association's conduct guidelines and rules of procedure, a few providers of TV programmes and on-demand services have yet to publish a formal recognition of the same. According to statements made by the self-regulatory body, convincing these providers of the merits of the self-regulation mechanism and the rules of procedure will be a key task for the association over the next few years.

From the perspective of the self-regulatory body, the main points of focus for its work in the coming year are as follows: ensuring that the body's regulatory role is both understood and made use of by the interested public, strengthening the acceptance and awareness of the conduct guidelines and the rules of procedure in the industry, and achieving a more detailed assessment of the practical implementation of the conduct guidelines by providers.

2.9.1.1.7 Effectiveness of the conduct guidelines, and type, number and outcome of complaints

Pursuant to Art. 32b Par. 4 KOG, the self-regulatory body for the protection of minors is to submit an annual report addressing the effectiveness of conduct guidelines provisions, as well as the type, number and outcome of complaints, to KommAustria by 31 March of the following year.

The Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services complied with its reporting duties by the due date. By way of an overall summary and on the basis of the general criteria as specified by Art. 32a Par. 2 KOG, the self-regulatory body considers it possible to define the following effectiveness criteria:

- Conduct guidelines have been created that define the objectives of self-regulation in the field of youth protection for media services
- The conduct guidelines have been recognised by the primary stakeholders
- The conduct guidelines have been implemented and observed

The association's formation, the drafting of the conduct guidelines, their provisions and progress towards their recognition by the primary stakeholders are presented above in detail.

To date, the wide range of activities involved in the formation of the self-regulatory body – mostly completed by the establishment of the administrative support office in the fourth quarter and completed in full by the appointment of the head of administrative support only in November 2021 – have afforded the self-regulatory body no time to prepare a structured evaluation of the implementation of the conduct guidelines by media services providers.

However, in the association's opinion, checks conducted by a process of random sampling and as thought appropriate by the officers of the self-regulatory body, which have focused primarily on programmes offered by primary stakeholders, allow one to conclude that the major providers have duly implemented the conduct guidelines and, in particular, the newly created information system with its age and harm references. The association does not consider this outcome to be surprising, given the exceptionally close involvement of the primary stakeholders in particular with the process of drafting and discussing the conduct guidelines, and, accordingly, the absence of major obstacles to implementation at least within this group of providers.

Several primary stakeholders (e.g. ORF and the ProSiebenSat1Puls4 group of broadcasters) used targeted communications campaigns to inform the public about the introduction of the new conduct guidelines for youth protection and the implementation of the newly created information system in particular, so as to underline their acceptance and implementation of the conduct guidelines.

Alongside steps to improve the acceptance of the self-regulatory body, a more detailed investigation of the implementation of the conduct guidelines will be another work package to be tackled by the self-regulatory body during the 2022 calendar year.

Type, number and outcome of complaints

According to the report from the self-regulatory body, the organisational preconditions necessary for putting the complaint and sanctions procedures into practice were established in good time. The administrative support office and expert council were set up and staffed in the third and fourth quarter of 2021, respectively. As a result, a complaints and sanctions management system in line with the rules of procedure was in place by the start of the fourth quarter. Transparency about actions taken by the association is assured in part by the publication of its decisions (including sanction decisions) on the official website.

In the 2021 calendar year, however, no formal complaints were submitted to the self-regulatory body as a result of a breach of the conduct guidelines.

2.9.1.1.8 Measures for labelling and content description at ORF

In accordance with Art. 10a ORF-G, the ORF summarised its youth protection activities in its television and internet divisions as well as ORF TELETEXT as part of its 2021 annual report.

In this report, the ORF underlined its status as a public media company and the concomitant status of youth protection as an integral part of its day-to-day operations from the outset. Throughout its programming, the ORF makes the most of opportunities to protect minors, with the aim of avoiding any impairment to the physical, psychological or moral development of minors:

- As part of programme commissioning or production
- As part of programme editing
- By exercising due care in the design and scheduling of programme trailers
- By ensuring programming observes scheduling slots
- By employing labels and references

Each broadcast is checked by the responsible editorial team at the production and/or commissioning stage(s). When determining the suitability of a specific programme for a specific age category, the ORF may base such decisions on the recommendations of the Austrian Youth Media Commission (JMK) at the Federal Ministry of Education, Science and Research, and on age classifications used by the German FSK (voluntary film industry self-regulatory body) and German FSF (voluntary television industry self-regulatory body).

Cooperation with the JMK is a key aspect of the support provided to editorial decision-making. Since 2002, the ORF has used the option of submitting programmes to a review committee to obtain a recommended classification.

In accordance with the new legal provisions and the conduct guidelines adopted by the above-mentioned association, the ORF has evaluated and significantly expanded its existing youth protection activities. These include the following:

- **Scheduling by broadcasting time slots**

  As was the case even before the ORF-G amendment, ORF ensures that programme content potentially impairing development is scheduled to comply with strict time slots that are coordinated to the developmental stages of minors. Due attention to this scheduling ensures that any programme content potentially impairing development is broadcast only at times when this content cannot normally be viewed or consumed by minors.

  The industry has agreed on the following broadcasting time slots as suitable for the following kinds of content:

  - Before 8 pm: All programmes broadcast normally must have content suitable for children in the 12 and under range or, in isolated cases (and if this does not impair the well-being of younger minors), 12 and over (but not 16 and over).

  - From 8 pm: From this time onwards, the ORF considers parents and legal guardians to share responsibility for the viewing habits of their young and adolescent children. During the evening television slot (8 to 10 pm), programmes with a higher age classification (12+ and 16+) may be broadcast but not programmes falling under the 18 and above category. Programmes falling under the 18+ age category may be broadcast only during the night-time slot (11 pm to 6 am).

  - From 11 pm: Programmes falling under any age category can be broadcast during the night-time slot (11 pm to 6 am).

- **A new labelling and information system**

  The ORF's programme labelling for the protection of children and adolescents dates back to 1 January 1999. As a result of the ORF-G amendment and with the aim of achieving a uniform industry-wide solution, the existing labelling system was adapted and expanded to include reference to the nature of the harm involved.

  While films and series had been identified as 'X – Not for children' and 'O – Adults only' (as appropriate) from 10 pm onwards, an age reference (12+, 16+ or 18+) is now displayed during the entire programme.

  In linear television, programmes falling under the 16+ or 18+ age category are always labelled as such regardless of their broadcast time. Programmes falling under the age category of 12+ are labelled as such only during daytime television (6 am to 8 pm).

  At the start of a labelled programme – this applies in most cases to feature films and series broadcast after 10 pm – the age reference is supplemented by an acoustic signal and a reference to the nature of the harm involved. These references and/or labels may signify 'violence', 'anxiety', 'inappropriate behaviour' or 'sex.' The information is shown for three seconds at the top edge of the screen.

  News programmes and party political broadcasts are exempted from any requirement to display such labelling.

- **Youth protection in ORF online services and ORF-TELETEXT**

  Programmes falling under the 12+, 16+ or 18+ age category are always labelled with the respective age reference in the ORF TVthek, on Flimmit and tv.ORF.at, and in ORF TELETEXT (regardless of their actual TV broadcasting time slot). A reference to the nature of the potential harm ('violence', 'anxiety', 'inappropriate behaviour' or 'sex') is also shown at all times, either below the player window or in the immediate vicinity of the media title.

Aside from the new activities, youth protection measures have been in place in the ORF TVthek since 2016: by agreement with the competent main ORF departments, certain series or productions are made available as video-on-demand items in the ORF TVthek only between 8 pm and 6 am or 10 pm and 6 am.

Users of the ORF TVthek are informed appropriately about these restricted viewing times when they click to select the corresponding programme. In addition to these arrangements, no advertising is permitted during children's programming.

2.9.1.2 Evaluation, assessment and recommendations to improve effectiveness by KommAustria

Pursuant to Art. 39 Par. 5 AMD-G, a self-regulatory body for the protection of minors will provide the regulatory authority with a report about progress made towards achieving compliance with the duty to provide information using references (Art. 4), incumbent on media service providers (Art. 32a Par. 2 No. 5 KOG). In its activity report, the regulatory authority is to present the current status in meeting the obligation described in Par. 4. The regulatory authority can enclose with this report an evaluation aimed at improving the effectiveness of how information is made available.

Pursuant to Art. 32b Par. 4 KOG, the self-regulatory body for the protection of minors is also to submit an annual report addressing the effectiveness of conduct guidelines provisions, as well as the type, number and outcome of complaints, to KommAustria by 31 March of the following year. The regulatory authority must publish an activity report presenting its assessment of and recommendations on effectiveness.

In this context, it should be noted that 2021 was the year of formation for the new self-regulatory body for youth protection in audiovisual media in Austria. Work therefore focused on establishing the general organisational and substantive framework for the activities of the new self-regulatory body. Within the specific periods as envisaged by applicable law, a self-regulatory body was duly formed, a conduct guidelines and rules of procedure were drawn up, and the recognition of the same was secured from a large number of media service providers.

In the 2021 reporting year, work therefore focused on the many activities necessary for the formation of the self-regulatory body, which were completed in full only in the fourth quarter, through the establishment of the administrative support office and the appointment of the head of administrative support.

Understandably, given these circumstances, no formal complaints had yet been submitted to the self-regulatory body as a result of a breach of the conduct guidelines, nor had the self-regulatory body itself completed a structured evaluation of the implementation of the conduct guidelines by the close of 2021.

As a result of this lack of empirical data and the absence of complaints filed in the year of formation, KommAustria has therefore refrained from preparing an evaluation pursuant to Art. 39 Par. 5 AMD-G for improving the effectiveness of using references to provide information that would enable the assessment of the potential harms posed to minors by media content. Consequently, KommAustria is equally unable to present recommendations on the effectiveness of the code of conduct within the meaning of Art. 32b Par. 4 KOG.

KommAustria nevertheless welcomes the following priorities as announced by the Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services.

The association is namely correct in stating that the effectiveness of the conduct guidelines depends to no small degree on its recognition by the industry's 'primary stakeholders' – an umbrella term used to designate the most important television broadcasters and on-demand service providers operating in Austria. The association has presented a list of the television broadcasters and on-demand service providers who have formally recognised the self-regulatory body's conduct guidelines and rules of procedure.

While the primary stakeholders and major industry players inevitably appear on this list, many smaller television broadcasters and providers of on-demand services have yet to agree to be bound by the guidelines. In light of these facts, KommAustria concurs with the association's assessment that a key objective for future activities must be to convince these remaining providers of the merits of the self-regulation mechanism combined with uniform conduct guidelines.

Looking to the future, other practical tasks that will be crucial to ensuring the success of industry self-regulation as promoted by the relevant legislation include: increasing the visibility and awareness of the self-regulatory body as an industry regulator to the interested public, strengthening the acceptance and knowledge of the conduct guidelines and rules of procedure in the industry, and completing a detailed analysis of the implementation of the conduct guidelines by industry players.

2.9.2 Report on Accessibility

2.9.2.1 Accessibility

"Accessibility is a basic precondition for the equal participation of people with disabilities in an inclusive social life."[02]

There are more than 1.5 million people with disabilities in Austria. Only a small percentage of these disabilities are congenital, or were acquired as a result of an accident or an occupational illness. The vast majority are the result of a disease or disorder.[03] Nor should it be forgotten that disabilities also often affect older people.

The following groups are most likely to experience restrictions to participation:

- People with vision loss or blindness
- People with hearing loss
- People with physical or motor impairments affecting the upper limbs
- People with learning difficulties

The UN Convention on the Rights of Persons with Disabilities – and the subsequent EU Directive on Audiovisual Media Services – introduced 'accessibility' as one of its foundational principles.[04]

In relation to media services, accessibility means ensuring that media are discoverable, accessible and usable by people with disabilities in a general and typical manner without encountering undue difficulty or requiring the aid of another person.

Guaranteeing accessibility of audiovisual content is a key requirement in the context of the obligations entered into by parties to the United Nations Convention on the Rights of Persons with Disabilities.

Accordingly, media service providers should "actively seek to make content accessible to persons with disabilities, in particular with a visual or hearing impairment." Furthermore, media service providers should not neglect the needs of individuals with learning difficulties. Accessibility requirements should be met through a progressive and continuous process, while taking into account the practical and unavoidable constraints that could prevent full accessibility, such as programmes or events broadcast in real time.

The moving image – and therefore the role played by vision – plays a significant role in audiovisual media as a whole. Yet vision is not the only sense that is stimulated by audiovisual content. The 'audio' part of audiovisual media, which may include the spoken word, music and sound effects, is not merely ancillary to visual content but may itself evoke mental pictures and emotions that make the moving image perceptible to the consumer. The current focus of mass media on the primacy of video therefore entails disadvantages both for people with vision loss as well as individuals with hearing difficulties. However, these issues can be mitigated by the deployment of technical aids that accordingly allow these consumers to participate in audiovisual media. Furthermore, modern media tools also permit the creation of technical solutions – such as the incorporation of media content in simple language – that allow people with learning difficulties to access audiovisual media content and therefore participate more fully in an inclusive social and cultural life.

[02] Ulrike Mascher, Chair of the Advisory Council, German Disability Council (DBR)
[03] For figures, see the third report on the situation of people with disabilities, available as "Federal Government Report on the Situation of People with Disabilities" https://www.sozialministerium.at/Themen/Soziales/Menschen-mit-Behinderungen/Bericht-der-Bundesregierung-ueber-die-Lage-der-Menschen-mit-Behinderung.html (accessed 21 April 2022)
[04] Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), last amended by Directive (EU) 2018/1808
[05] Cf. Directive (EU) 2018/1808, Recital 22

2.9.2.2 Legal basis

The Austrian legal framework comprises the Audiovisual Media Services Act (AMD-G) on the one hand and the Federal Austrian Broadcasting Corporation Act (ORF Act, ORF-G) on the other.

Pursuant to Art. 30b Par. 1 AMD-G, media service providers shall achieve a continuous and step-by-step annual increase in programmes that meet accessibility standards compared with programming as at 31 December 2020. This increase is to be achieved throughout all of their channels and programming in accordance with their economic capabilities while also accounting for the financing provided for such measures from public funds.

In terms of live content, the greater degree of effort required to ensure accessibility to this content permits certain technically justifiable exemptions to be made.

To achieve the goals of ensuring accessibility for audiovisual content, Art. 30b Par. 2 AMD-G stipulates that providers of audiovisual media services should take appropriate steps to ensure a continuous and progressive increase in the proportion of their audiovisual content that they have made accessible to people with hearing and vision loss. Media service providers must provide further details of how they intend to implement these measures by preparing an action plan in consultation with a representative organisation acting on behalf of people with vision or hearing impairments and on behalf of people with learning difficulties. This action plan must set out concrete details for a three-year time frame and build on the earlier action plan adopted for the prior period. The plan must also ensure an annual increase in the proportion of programmes meeting accessibility standards (live broadcasts excepted) within the categories of news and current affairs, entertainment, education, arts and culture, and sport. Media service providers must publish the action plan so it is easily and immediately available, and accessible at all times. The action plan must also be submitted to KommAustria in a standardised format.

Exemptions to this requirement are granted to media service providers whose prior-year earnings from their audiovisual media service did not exceed EUR 500,000. Media service providers whose programming is of an exclusively local or regional nature are also granted an exemption to this requirement for the audiovisual media services that they offer.

A failure to prepare or publish the action plan will be sanctioned through the imposition of an administrative penalty. KommAustria may also initiate a supervisory procedure in the event of an action plan not being made available or may respond to a public complaint.

Similar provisions are envisaged for the ORF by the ORF Act (ORF-G).Other key objectives are regulated by Art. 5 ORF-G.

Pursuant to Art. 5 Par. 2 ORF-G, news and current affairs television broadcasts (Art. 3 Par. 1) must be designed, in accordance with technical advances and economic feasibility, to simplify the consumption of such broadcasts by individuals with vision and/or hearing loss and persons with learning disabilities (who need content to be expressed in simple language).

Furthermore, Art. 5 Par. 2 also stipulates that the ORF shall offer at least one news broadcast in simple language during its daytime programming (9 am to 10 pm).

The ORF shall also ensure that appropriate measures are taken to ensure a continuous and progressive increase in the respective proportion of audiovisual content made accessible to people with vision and/or hearing loss, and for individuals with learning difficulties (who need content to be expressed in simple language), in comparison with programming as at 31 December 2020. The ORF may also be granted technically justifiable exemptions in the case of live content.

The ORF must provide further details of the measures intended to increase the aforesaid proportion by preparing an annual action plan in consultation with the Audience Council and with the representative organisations for people with vision or hearing loss and individuals with learning disabilities. This plan must include a detailed, three-year timetable for the annual increase in the proportion of ORF programming and online content that meets accessibility requirements (excepting live broadcasts), within the categories of news and current affairs, entertainment, education, arts and culture, and sport.

Art. 5 Par. 2 ORF-G stipulates an annual increase of at least 2.5 per cent in the categories of news and current affairs, education, and arts and culture, and of at least 4 per cent in the category of entertainment, compared with figures at the end of the prior calendar year. Special importance is attached to ensuring accessibility for all television broadcasts in early evening and main evening programming (7 pm to 10 pm), for online services, for provincial broadcasts in the news and current affairs category, for press conferences and broadcasts reporting on elections or election results, and children's programming in the categories of news and current affairs, and entertainment.

Of these, priority is given to ensuring accessibility for all television broadcasts in early evening and main evening programming (7 pm to 10 pm) as well as online services provided pursuant to Art. 4e Par. 1 No. 4 ORF-G and approved pursuant to Art. 4f Par. 1 ORF-G in conjunction with Art. 6b ORF-G. A further priority is given to provincial broadcasts in the news and current affairs category, press conferences and broadcasts reporting on elections or election results, and children's programming in the categories of news and current affairs, and entertainment.

As at 31 December 2021, a total of ten media service providers had submitted an action plan for their audio-visual media services. Two action plans were submitted in March 2022.

KommAustria is tasked with reporting on the status quo and developments in relation to the duties as described in Art. 30b Par. 1 AMD-G and in Art. 5 Par. 2 ORF-G, together with a comparative presentation of intended target values and the actual values as achieved. Both provisions require the preparation of an annual report on implementation of the measures specified in the action plan and the proportional increase achieved by 31 March of the year after the reporting period. These reports are to be published in the same way as the action plans.

Four media service providers, whom KommAustria assumes are obliged to comply with the provisions of Art. 30b AMD-G, have not submitted an action plan and procedures have therefore been initiated accordingly.

Pursuant to Art. 20b of the KommAustria Act (KOG), RTR has the following remit as a point of contact for complaints and information services relating to accessible audiovisual media services:

- Providing media service providers with appropriate information that will help them to make their content accessible to people with vision and hearing loss, and to people with learning difficulties, who need content to be provided in simplified language.
- Providing programmes of information for the general public.
- Acting as a complaints board for accessibility issues with the content of audiovisual media services, including the provision of an online complaints portal that is easily, readily and continuously available.

2.9.2.3 Reports

For affected media service providers, the reference year is 2020: current achievements in accessible content proportions are to be compared with that year. Media service providers must specify the accessible proportion of all of their programming, within the categories of news and current affairs, entertainment, education, arts and culture, and sport. In accordance with statements provided by affected media service providers, all action plans submitted were prepared following due consultation with a representative organisation acting on behalf of people with vision or hearing impairments and on behalf of people with learning difficulties.

2.9.2.3.1 ProSiebenAustria GmbH

In its action plan, ProSiebenAustria GmbH noted that it has offered accessible content for the last eight years as part of its syndicated ProSieben programming. However, the topic of accessibility receives insufficient attention in ProSieben's Austria-specific programing, broadcast for just over 110 minutes a day. In the reference year (2020), total broadcasting time amounted to 40,254 minutes, of which 0 minutes were accessible and therefore a 0 per cent proportion of overall programming.

At ProSieben Austria, the accessible proportion of television programming is broadcast in the category of entertainment. The broadcaster plans to increase its proportion of accessible content in this same category.

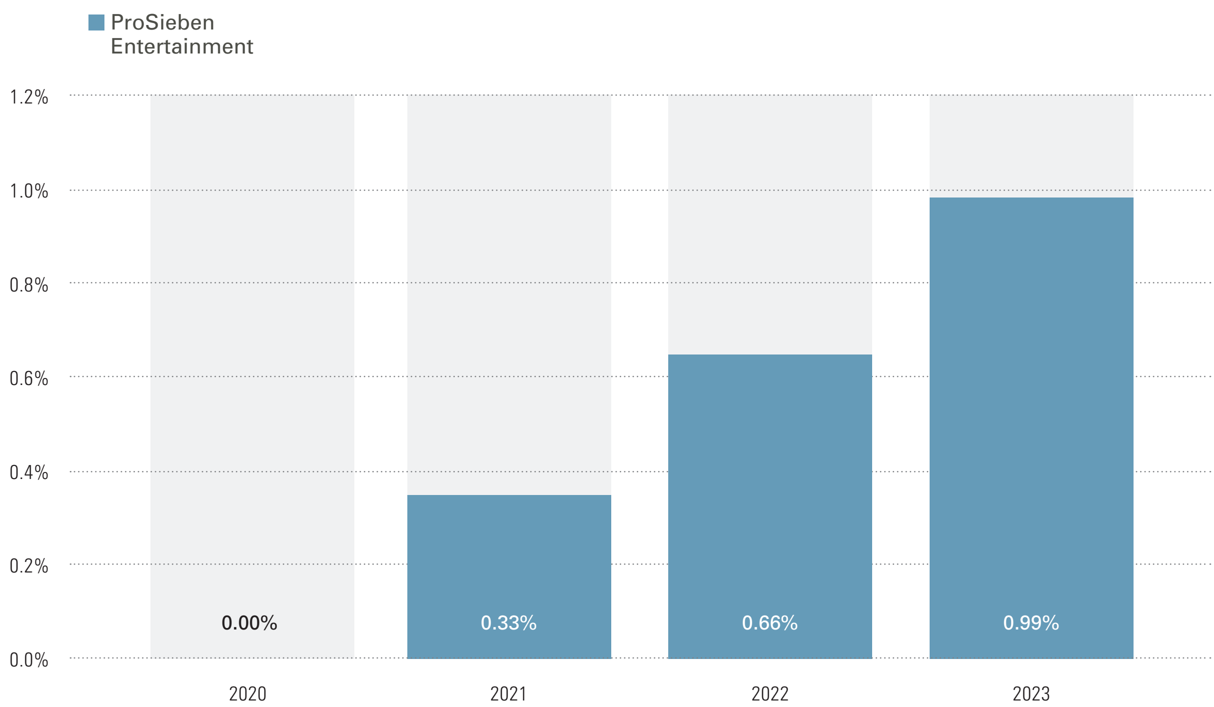
For the years 2021–2023, a progressive increase in the proportion of accessible broadcasts on ProSieben Austria is planned. Existing technical solutions from the group parent company are to be used for the teletext subtitling of entertainment formats focusing on sustainability topics.

An internal working group (Systems Germany, Scheduling and Playout Germany) is also to be set up to coordinate and implement the measures.

The action plan has been published on the corporate website at https://www.prosieben.at/service/barrierefreiheit/barrierefreiheit-prosieben-austria.

Please see the adjacent figure for a breakdown of the increases in figures.

Figure 02: Planned increase for the ProSieben Austria channel according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

ProSieben Austria GmbH fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G by the given due date. In its report, the company stated that the overall volume of Austria-specific programming via ProSieben Austria significantly exceeded the original figure planned (a broadcasting time of 40,254 minutes had been planned but was then higher for the year).

For this reason, the percentage proportion targeted by means of a fixed schedule of broadcasts with accessible content was not achieved (a figure of 0.33 per cent had originally been planned).

The company also stated that Covid-19 had restricted the production of broadcast content (with accessible content) in the second half of the year, with subtitled Austria-specific programming appearing less often as a result of rescheduling issues in syndicated programming. To compensate for this non-fulfilment, the company plans to increase the volume and exceed fulfilment targets in 2022.

In the 2021 reporting period, 49.83 minutes (0.1%) of accessible broadcasts in overall channel programming were subtitled.

ProSieben Austria GmbH provided justifications for its non-fulfilment of the measures and increases set out in the action plan. The company listed the steps that it will take to make up for lost ground and attain the original increase planned by the end of 2022, and to achieve the target increase for 2023.

2.9.2.3.2 SAT.1 Privatrundfunk und Programmgesellschaft mbH

In its action plan, SAT.1 Privatrundfunk und Programmgesellschaft mbH noted that it has offered accessible content for the last eight years as part of its syndicated SAT.1 programming.At SAT.1 Österreich, with daily Austria-specific programming of just under 120 minutes, the topic of accessibility has received insufficient attention to date. In the reference year (2020), total broadcasting time amounted to 44,056 minutes, of which 0 minutes were accessible and therefore a 0 per cent proportion of overall programming.

At SAT.1 Österreich, the accessible proportion of television programming is broadcast in the category of entertainment. The broadcaster plans to increase its proportion of accessible content in this category.

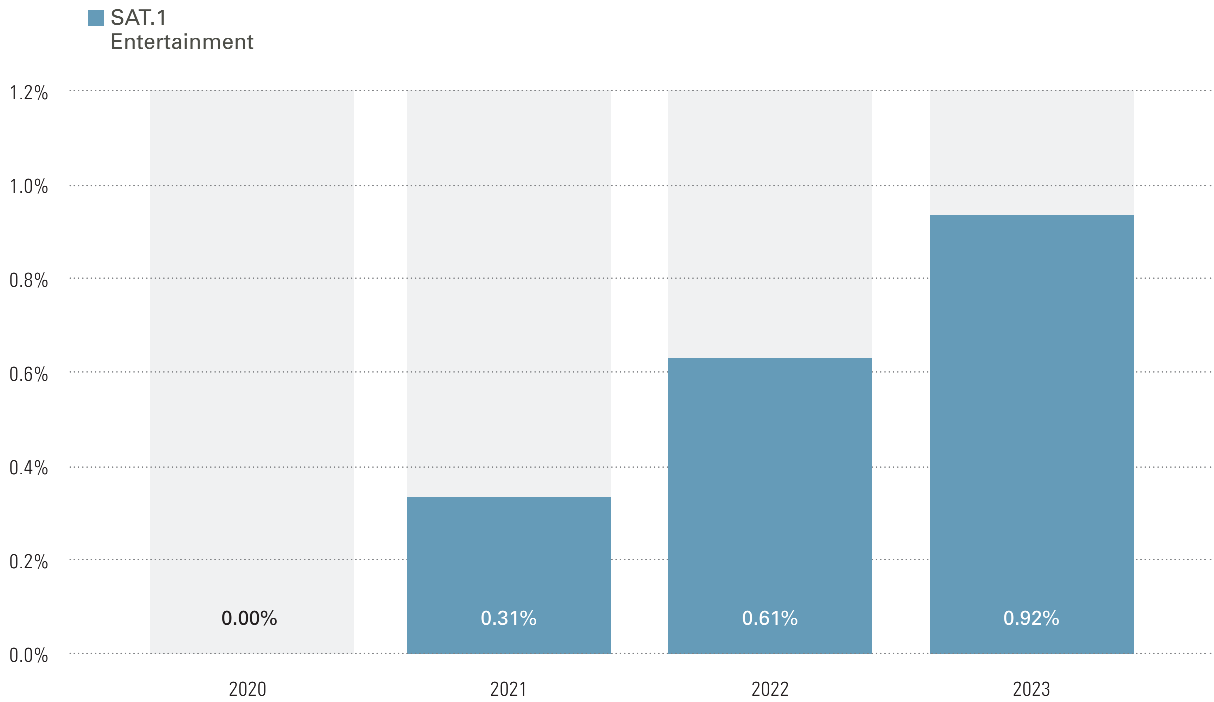
For the years 2021–2023, a progressive increase in the proportion of accessible broadcasts on SAT.1 Österreich is planned. Existing technical solutions from the group parent company are to be used for the teletext subtitling of entertainment formats focusing on sustainability topics.

An internal working group (Systems Germany, Scheduling and Playout Germany) is also to be set up to coordinate and implement the measures.

The action plan has been published on the corporate website at https://www.sat1.at/service/barrierefreiheit/barrierefreiheit-sat-1-oesterreich.

Please see the adjacent figure for a breakdown of the increases in figures.

Figure 03: Planned increase for the SAT.1 Österreich channel according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

SAT.1 Privatrundfunk und Programmgesellschaft mbH fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G by the given due date. In its report, the company stated that the overall volume of Austria-specific programming broadcast via SAT.1 Österreich significantly exceeded the original figure planned (a broadcasting time of 44,056 minutes had been planned but was then much higher for the year).

For this reason, the percentage proportion targeted by means of a fixed schedule of broadcasts with accessible content was not achieved (a figure of 0.31 per cent had originally been planned).

The company also stated that Covid-19 had restricted the production of broadcast content (with accessible content) in the second half of the year, with subtitled Austria-specific programming appearing less often as a result of rescheduling issues in syndicated programming.

To compensate for this non-fulfilment, the company plans to increase the volume and exceed fulfilment targets in 2022.

In the 2021 reporting period, 49.83 minutes (0.1%) of accessible broadcasts in overall channel programming were subtitled.

Furthermore, the percentage figure in the action plan for SAT.1 Österreich for the entertainment category (0.5%) references the total broadcasting time in this category.

SAT.1 Privatrundfunk und Programmgesellschaft mbH provided justifications for its non-fulfilment of the measures and increases set out in the action plan, and listed the steps that it will take to make up for lost ground and attain the original increase planned by the end of 2022, and to achieve the target increase for 2023.

2.9.2.3.3 PULS 4 TV GmbH & Co KG

In its action plan, PULS 4 TV GmbH stated that accessible content had previously received little attention at PULS 4 and PULS 24, although some editorial content had been provided in this context in the past. In the reference year (2020), total broadcasting time at PULS 4 and PULS 24 amounted to 525,600 minutes, of which 0 minutes were accessible and therefore a 0 per cent proportion of overall programming.

At PULS 4 and PULS 24, the accessible proportion of television programming is broadcast in the category of entertainment. The broadcaster plans to increase its proportion of accessible content in this category.

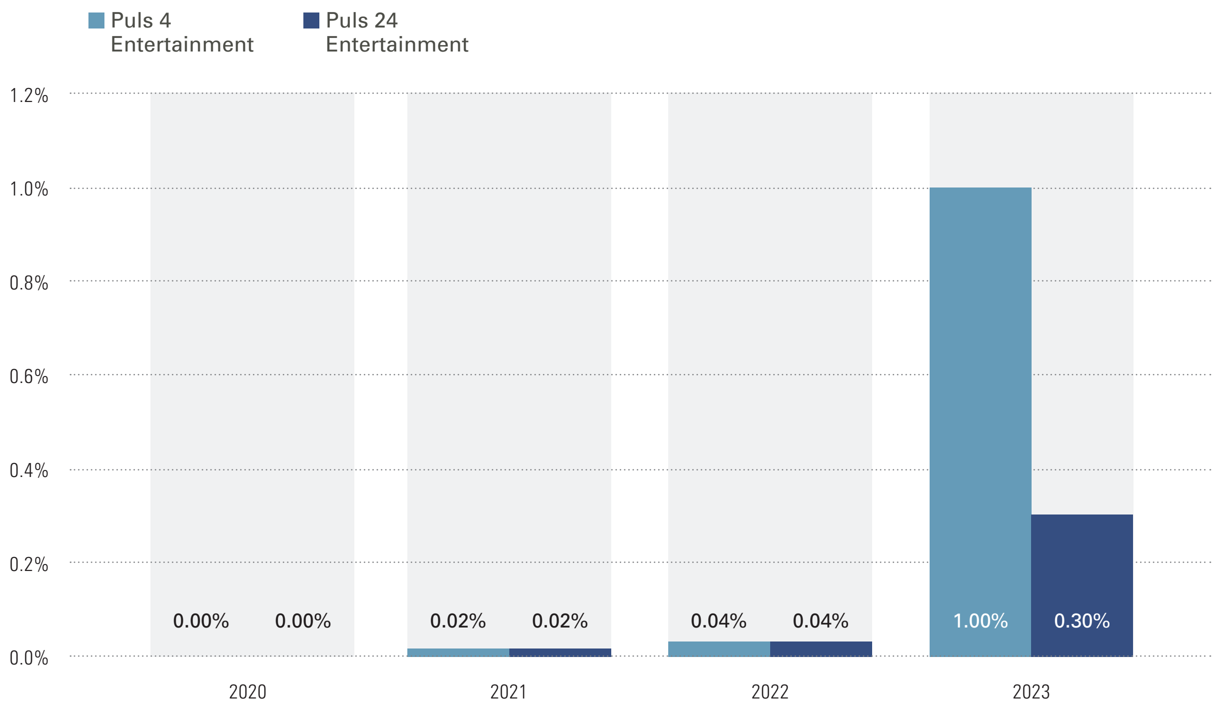
For the years 2021–2023, a progressive increase in the proportion of accessible broadcasts on PULS 4 and PULS 24 is planned. The action plan further states that an internal working group (consisting of the editorial, systems, scheduling and playout teams) was set up in 2021 to coordinate and implement the measures.

Initially, during 2021 and 2022, the annual increase is to be achieved primarily by subtitles in entertainment formats that are hardcoded into moving image content. The expansion of accessible programming is to be accelerated following the implementation of an option to show subtitles via teletext.

The action plans have been published at https://www.puls24.at/service/barrierefreie-inhalte-aktionsplan/255811 and https://www.puls4.com/service/nutzungsbedingungen/barrierefreier-content.

Please see the adjacent figure for a breakdown of the increases in figures.

Figure 04: Planned increase for the PULS 4 and PULS 24 channels according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

PULS 4 TV GmbH & Co KG fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G for both channels by the given due date.

On the PULS 4 channel, 88 minutes (0.02%) of broadcasts were subtitled in the entertainment category. In 2021, the target specified by the action plan was therefore achieved.

PULS 4 TV GmbH & Co KG draws attention to an error that occurred in the action plan for the PULS 24 channel, noting that the percentage figure given for total broadcasting time is incorrect although the figure for minutes is correct.

On the PULS 24 channel, 88 minutes (0.02%) of broadcasts were subtitled in the entertainment category. Accordingly, the figure achieved for the PULS 24 channel exceeds the target in the action plan.

2.9.2.3.4 ATV Privat TV GmbH & Co KG

ATV Privat TV GmbH & Co KG stated that the topic of people with disabilities had received little attention at ATV and ATV2 in the past. The broadcaster had therefore implemented very few accessibility measures in the 2020 reference year.

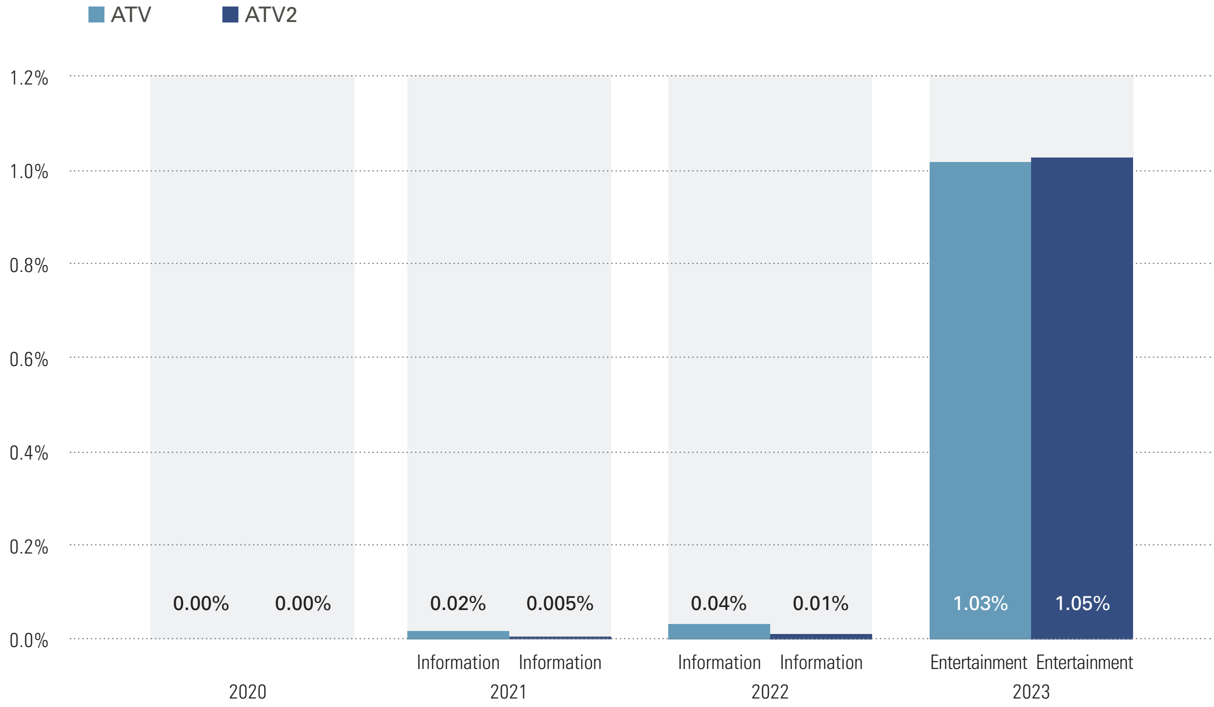
During the period 2021 and 2022, the progressive increase in the proportion of accessible broadcasts on ATV and ATV2 is to be achieved primarily by the inclusion of sign language interpreters in chat shows. From 2023 onwards, the main focus will be on the subtitling of entertainment formats.

After increasing accessible content primarily in the news and current affairs category, the focus will switch to the entertainment category from 2023.

The action plans have been published at https://www.atv.at/service/nutzungsbedingungen/aktionsplan-barrierefreie-inhalte.

Please see the adjacent figure for a breakdown of the increases in figures.

Figure 05: Planned increase for the ATV and ATV2 channels according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

ATV Privat TV GmbH & Co KG fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G for both channels by the given due date.

The percentage figure in the ATV action plan for the news and current affairs category (0.3%) references the total broadcasting time in this category.

For 2021, the figure for accessible broadcasts as a proportion of overall programming in the news and current affairs category on ATV was 104 minutes (0.02%). While this means that the target given for minutes in the action plan was exceeded, according to the annual report, this did not affect the percentage.

Aside from its action plan, ATV Privat TV GmbH & Co KG mentions a further measure introduced, namely providing recordings of 'ATV aktuell – Der Talk' with signing online at https://www.atv.at/tv/atv-aktuell/atv-aktuell-der-talk-2021/atv-aktuell-spezial-der-talk-vom-10122021/atv-aktuell-spezial-der-talk-vom-10122021 and https://www.atv.at/tv/atv-aktuell/atv-aktuell-der-talk-2021/atv-aktuell-spezial-der-talk/atv-aktuell-spezial-der-talk-vom-03122021. This step is to be taken even though website revenues did not in fact oblige ATV to do so (pursuant to Art. 30b AMD-G) in 2021.

The percentage figure in the ATV2 action plan for the news and current affairs category (0.5%) references the total broadcasting time in this category.

Sign language interpreters accompanied broadcasts in the news and current affairs category on ATV2. For 2021, the figure for accessible broadcasts as a proportion of overall programming in the news and current affairs category on ATV2 was 104 minutes (0.02%). For the ATV2 channel, the minutes given in the annual report also exceeded the minutes target in the action plan. This achievement did not affect percentage figures, however.

2.9.2.3.5 Sky Österreich Fernsehen GmbH

Starting in autumn 2021, Sky Sport Austria has broadcast the top match in the Austrian Football Bundesliga every week live with subtitles. After reviewing technical data on this 2021 pilot phase, Sky Österreich Fernsehen GmbH plans to broadcast the following matches with live subtitling in 2022: all top matches on Sunday plus the top matches at the start of the first and second halves of the season.

In 2023, live subtitling services will be further expanded to broadcasts of the Bundesliga match commentary and analysis shows.

Since Sky Sport Austria is a sports channel, targets can only be achieved in the sport category.

According to Sky Österreich Fernsehen GmbH, Blue Movie is the largest legal adult entertainment channel in German-speaking Europe.Programming for this channel is managed by an all-female team.

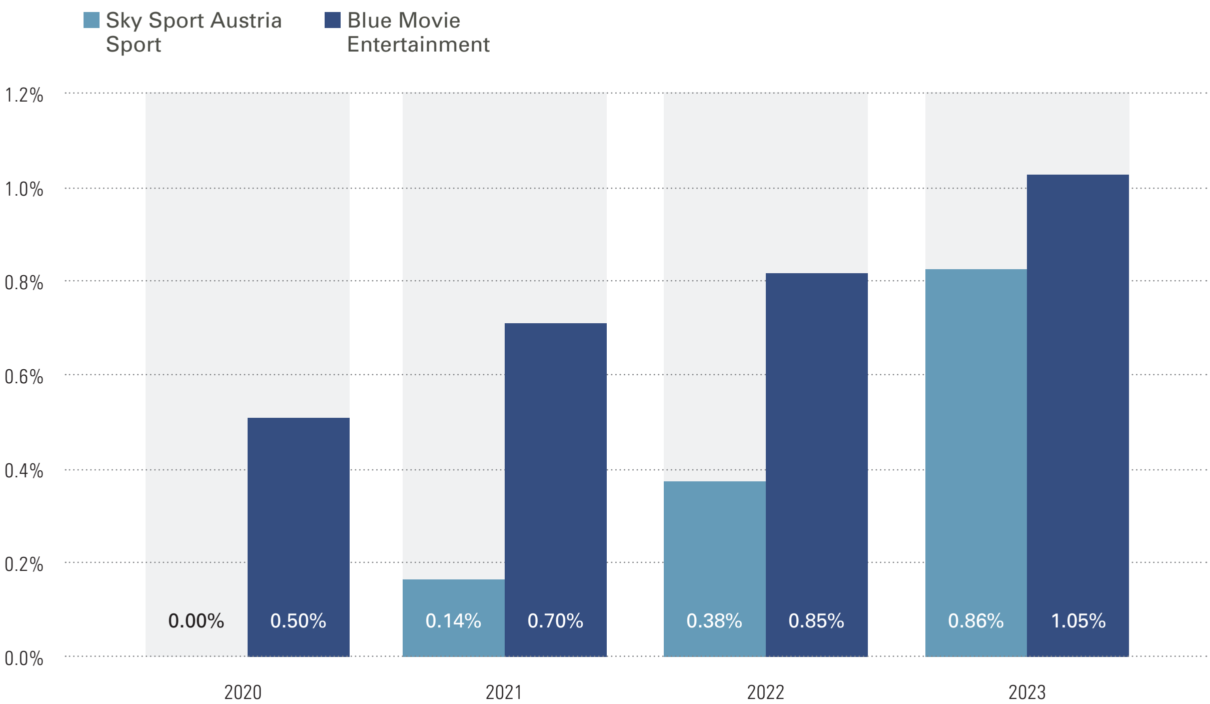
While Blue Movie will also be focusing on subtitling for the period 2021–2023, the topic of accessibility will also be considered during licensing negotiations for new content.

Since Blue Movie is a pure-play entertainment channel, targets can only be achieved in the entertainment category.

The action plan has been published at https://www.sky.at/static/img/abonnieren/Sky-AT_Aktionsplan_Barrierefreiheit_2021-2023_NEU.pdf.

Please see the adjacent figure for a breakdown of the increases in figures.

Figure 06: Planned increase for the Sky Sport Austria and Blue Movie channels according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

Sky Österreich Fernsehen GmbH fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G for both channels by the given due date.

During the reporting period, subtitles were created and added to content by an external service provider. Finalisation and playout on the channel were then handled by SKY Technology.

In the 2021 reporting period, 900 minutes (0.17%) of accessible broadcasts in overall programming for the Sky Sport Austria channel were subtitled. Accordingly, the figure stated in the annual report exceeds the target in the action plan.

In the 2021 reporting period, 3,461 minutes (1.57%) of accessible broadcasts in overall programming for the Blue Movie channel were subtitled. Here too, the figure stated in the annual report thus exceeds the target in the action plan.

2.9.2.3.6 A1now TV GmbH

A1now TV GmbH provides the A1 Xplore TV service. The A1 video library forms part of this service, and provides films and series in a video on demand format. As of this writing, content held in the A1 video library includes around 2,000 films (cinema films), 7,200 TV series, 2,100 series for children and 2,500 erotic films for adults (18+).

Viewers can access a large number of television broadcasters with A1 Xplore TV. Additional features provided include access to streaming apps such as ORF TVthek, Amazon Prime Video and YouTube, as well as electronic programme guides and recording functionality.

A1 Xplore TV subscribers are provided with a dedicated box that can be connected directly to the TV set or can also be used as an app on mobile end-user devices. A1 Xplore TV also plans to extend access to smart TVs in the future.

A remote control is provided for use with the A1 Xplore TV Box and this is also used to access the video library.

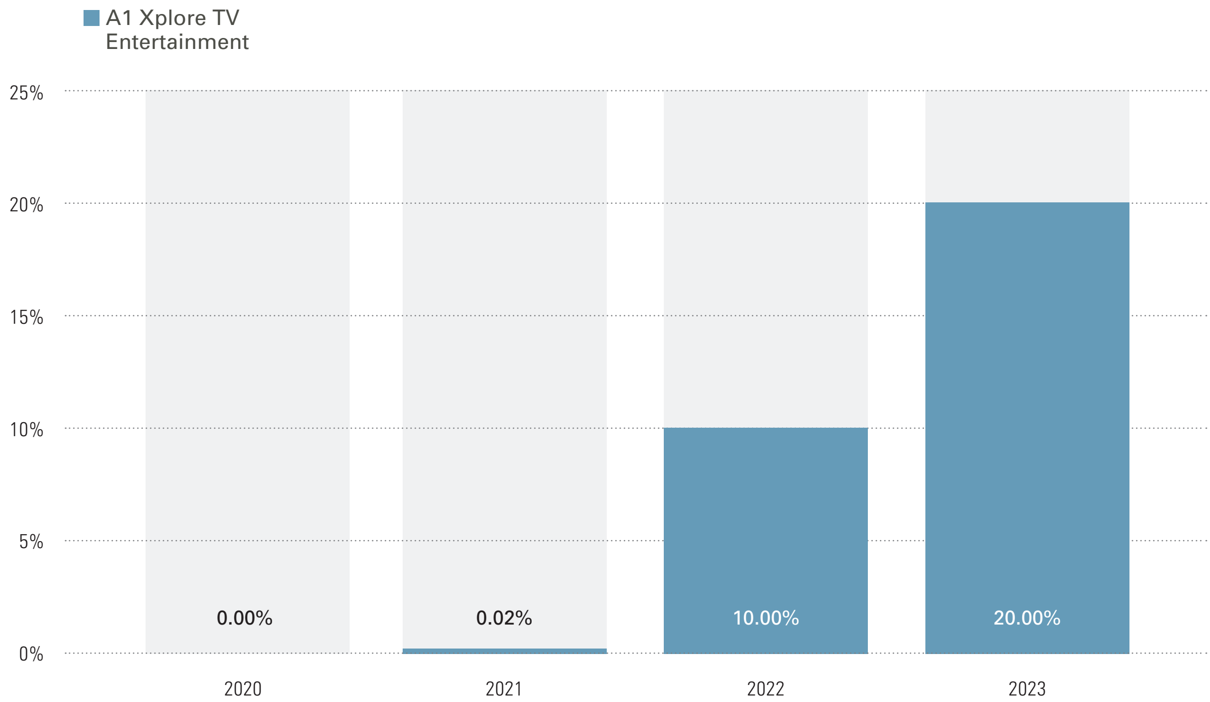
This remote control can be used to activate subtitles: the user accesses a page showing details of the film to find out whether subtitles are supported and in which languages. The language for the audio track or for the subtitles can then be selected in the settings. While the film is running, option buttons are also available for selecting audio and subtitle language variants.

The only category served by the video library is the category of entertainment.

The action plan has been published on the corporate website at https://www.a1.net/agb.

Please see the adjacent figure for a breakdown of the increases in figures.

Figure 07: Planned increase for the A1 Xplore TV channel according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

A1now TV GmbH fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G by the given due date, also noting that technical requirements for displaying subtitles on its platform (user interface/database) had been implemented in the fourth quarter of 2021.

Aside from the action plan, preparatory work had also been completed on voice control of the A1 Xplore TV Box as an alternative to the remote control.

In the 2021 reporting period, 297 minutes (0.03%) of accessible broadcasts in overall channel programming were subtitled. Accordingly, the figure stated in the annual report exceeds the target in the action plan.

2.9.2.3.7 T-Mobile Austria GmbH

Magenta On Demand offers thousands of films and series in a transactional video on demand (TVOD) format for Magenta customers throughout Austria.

Transactional video on demand services utilise a billing format whereby the audiovisual media service offers access to individually streamable titles from the overall catalogue (or parts thereof), which are billed to the respective service user according to the content as accessed.

This video on demand service not only encompasses films and series but also other kinds of TV content that are licensed from major studios (Disney, Universal, Warner Bros, Sony, MGM) and independent studios (e.g. Constantin, Splendid, Ascot Elite, Hoanzl) as well as from producers and TV channels.

All content provided by Magenta On Demand is classified as entertainment, so targets can only be achieved in the entertainment category.

In the 2020 reference year, subtitles were provided for 4,894 hours and 22 minutes of total entertainment content.

With the introduction of electronic sell-through (EST), T-Mobile Austria GmbH plans to increase the proportion of content with subtitling over the next three years.

For some customers, voice control is already available in connection with the Entertain Box 4K. This allows users to navigate through the menu with voice commands and will be further expanded over the next few years.

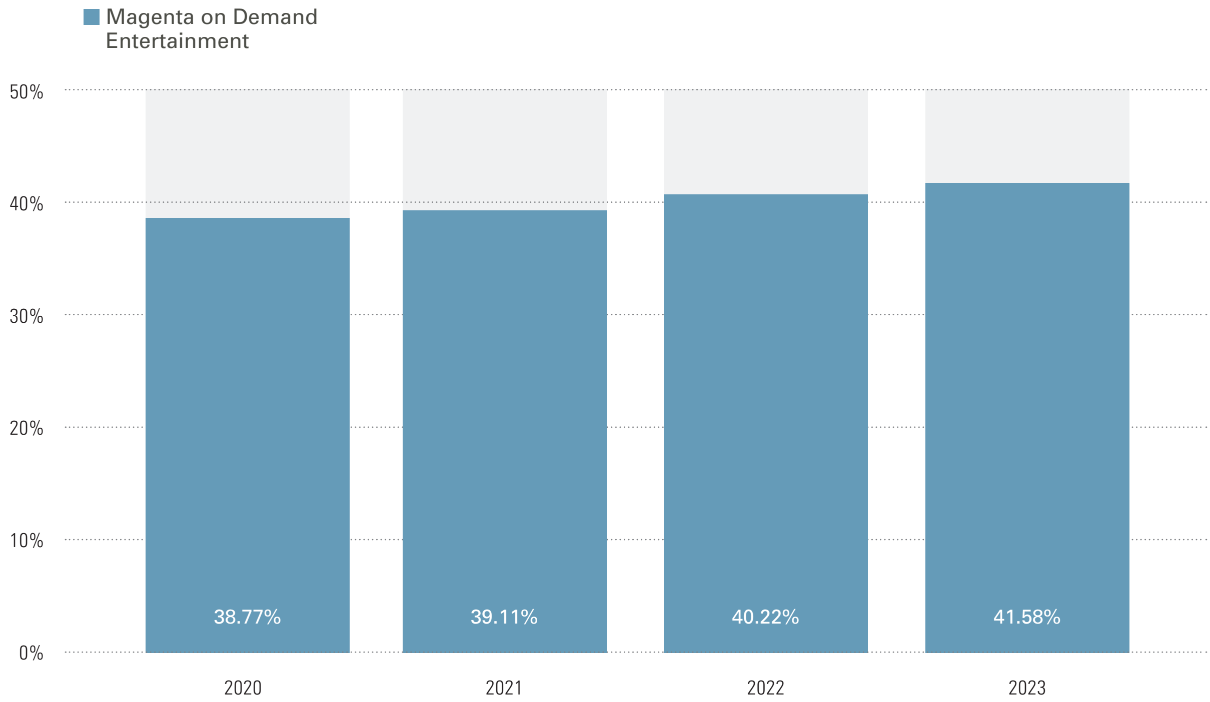
Since Magenta On Demand does not produce content itself, T-Mobile Austria GmbH notes that there is a key dependency on content suppliers. However, all contracts with content suppliers and film studios already contain provisions that subtitled content should be offered wherever possible. T-Mobile Austria GmbH further notes that it has prioritised discussions about audio descriptions with its content suppliers, although this does presuppose the existence of an audio description at the point of content delivery.

Since this is not always the case, T-Mobile Austria GmbH is negotiating a partnership with the GRETA app, which provides audio descriptions and subtitles for many productions. In 2022, the company is planning key negotiations with interested parties as well as the app company Greta & Starks Apps GmbH.

The action plan has been published on the corporate website at https://www.magenta.at/faq/entry/~technische-anfrage~fernsehen~features/~MagentaTV_Barrierefreiheit~master.

Please see the figure below for a breakdown of the increases in figures.

Figure 08: Planned increase for the Magenta On Demand channel according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

T-Mobile Austria GmbH fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G by the given due date. T-Mobile Austria GmbH noted that, aside from Magenta On Demand, it also pursues a strategy of simplifying access to content for affected groups of individuals in its linear TV programming. This is achieved by providing content with closed captions (CC) and an audio description (AD) wherever possible.

The voice search functionality helps customers to select channels, open a variety of apps and navigate within the user interfaces, as well as offering controls for the player (scrub, pause, record and play).

Outside of its action plan, T-Mobile Austria GmbH also seeks to expand its portfolio of accessible content by integrating external services such as the GRETA app.

In the 2021 reporting period, 297,900 minutes (39.11%) of accessible broadcasts in overall channel programming were subtitled. Accordingly, the figure stated in the annual report meets the target in the action plan.

2.9.2.3.8 Red Bull Media House GmbH

Red Bull Media House GmbH states that it has decided to deploy teletext as a platform for its accessible linear TV content.

Viewers can use the existing teletext service to manage subtitles for the respective broadcasts. The TV remote control can be used to select an audio description as a second audio track.

The ServusTV and ServusTV Deutschland channels broadcast many types of programming, including news and current affairs, documentaries, live sport, other sports events and sports reporting. Feature films and classic movies are also offered as part of channel commissioning, and in-house productions are also made available.

Red Bull Media House GmbH offers its ServusTV media library at www.servustv.com/mediathek, comprising videos from current ServusTV programming in the categories of news and current affairs, the arts, nature, sport, entertainment, science and popular culture.

In the baseline year, the proportion of accessible programming in all five categories was 0 minutes.

In the period addressed by the action plan (2021–2023), accessible content proportion targets are to be reached by implementing technical measures with the teletext service.

In the first year, subtitling will be handled from a technical perspective by integrating the ServusTV media library as required. This is to be provided as a time-shifted service. Following this, the activation of subtitles in linear TV programming should be achievable in the course of 2022.

The overall target for increasing the proportion of audiovisual content made accessible to individuals with hearing and vision loss is 5.4 per cent of total ServusTV time, excluding nighttime and live programming.

In 2021, the increase in audiovisual content made accessible to individuals with hearing loss is to be achieved in the news and current affairs category.

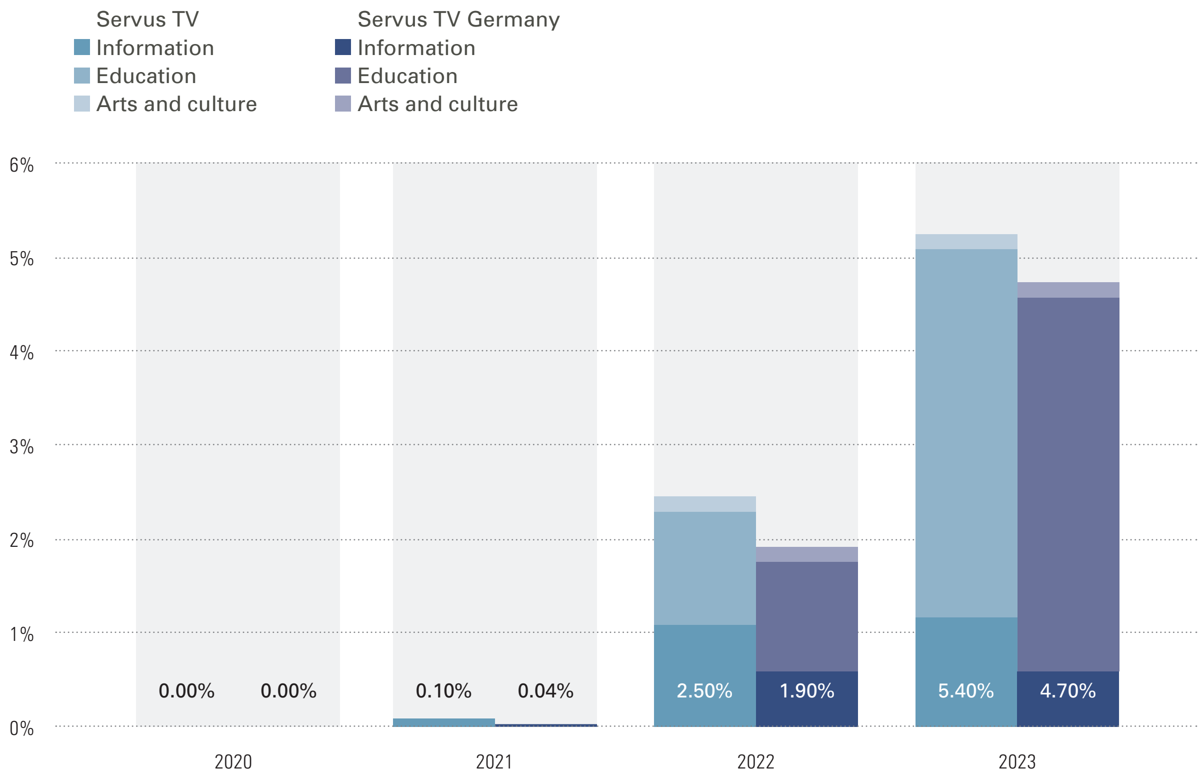
Starting in the second quarter of 2022, broadcasts in the category of education (Hoagascht, Terra Mater and documentaries) will also be offered with subtitles. A subtitled programme will also be broadcast in the category of arts and culture (KULTour).

In 2023, the broadcaster plans to further expand measures implemented to date and to provide subtitles to another programme in the education category.

The action plans have been published at https://richtlinien.servus.com/policies/Servus/202112291520/de/imprint.html.

Please see the figure below for a breakdown of the increases in figures.

Figure 09: Planned increase for the Servus TV and Servus TV Deutschland channels according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

Red Bull Media House GmbH fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G by the given due date.

The broadcaster noted that, in the first reporting year, subtitling was handled from a technical perspective by integrating the ServusTV media library. As part of continued technical expansion, although delayed as a result of the general supply chain difficulties experienced in the market, the activation of subtitles in linear TV programming should be achievable during 2022.

Since 6 December 2021, Servus news programmes have been provided in the media library as subtitled recordings to meet targets in the news and current affairs category.

In the 2021 reporting period, 342 minutes (0.1%) of accessible broadcasts in overall channel programming for ServusTV were subtitled. The figure stated in the annual report therefore exceeds the target given in the action plan.

In the 2021 reporting period, 193 minutes (0.04%) of accessible broadcasts in overall programming for the ServusTV Deutschland channel were subtitled. Here too, the figure stated in the annual report exceeds the target given in the action plan.

2.9.2.3.9 ViktoriaSarina

The YouTube channel ViktoriaSarina publishes videos that are generally intended for a young audience.Videos of around ten minutes in length are uploaded twice a week on average.

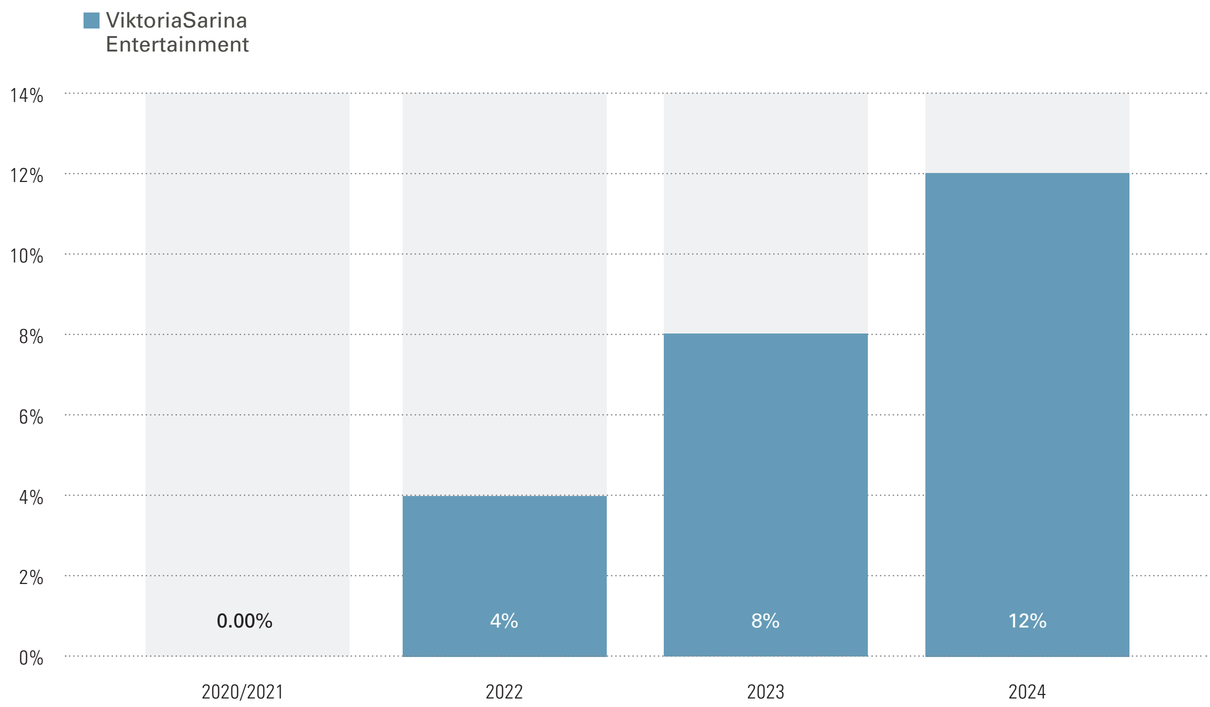
Until 2021, no specific measures had been introduced in order to improve accessibility to this on-demand service. On the other hand, the language used in videos uploaded to date is relatively straightforward and descriptive, since the channel is aimed at younger viewers.

The proportion of videos using simple language will be progressively increased during 2022–2024. A stepwise increase is planned, with one video per quarter, two videos per quarter and three videos per quarter being uploaded in the years 2022, 2023 and 2024, respectively.

Since the ViktoriaSarina channel only publishes entertainment videos, targets are fulfilled only for this category. The action plan has been published at https://www.youtube.com/c/ViktoriaSarina/about.

Please see the figure below for a breakdown of the increases in figures.

Figure 10: Planned increase for the ViktoriaSarina YouTube channel according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

The media service provider for this channel, Sa Fira Blue GmbH, fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G by the given due date.

In 2021, a comparatively simple and descriptive language was used in the channel's videos.

The figure stated in the annual report meets the target in the action plan.

2.9.2.3.10 MediaShop GmbH

MediaShop GmbH operates the teleshopping channel MediaShop Meine Einkaufswelt.

MediaShop Meine Einkaufswelt broadcasts sales infomercials 24 hours a day.

In the baseline year, the proportion of accessible programming in the category of entertainment was 0 minutes.

As a first step, a working group on accessibility was set up so as to institutionalise the issue at a company-wide level.

The company envisages expanding its accessible programming by making changes to both technical aspects and content, such as technical improvements to image quality.

The size of fonts used in infomercials will be increased and keywords describing the image content will also be increasingly used in new infomercial productions.

Where feasible in terms of content, MediaShop GmbH will involve disability associations in the evaluation and increased use of simple language in infomercials.

From the second quarter of 2022, the information provided will be kept short and simple, with guidance for viewers being improved by means of newly introduced station IDs and on-air promotion trailers. The use of simple language will be expanded as a general strategy. Screenwriting and scripts will be increasingly evaluated for accessibility, technical jargon will be reduced and abbreviations will be explained in more detail.

The use of audio descriptions will be expanded accordingly, with programme panels accompanied by speech renditions and telephone numbers spoken out loud.

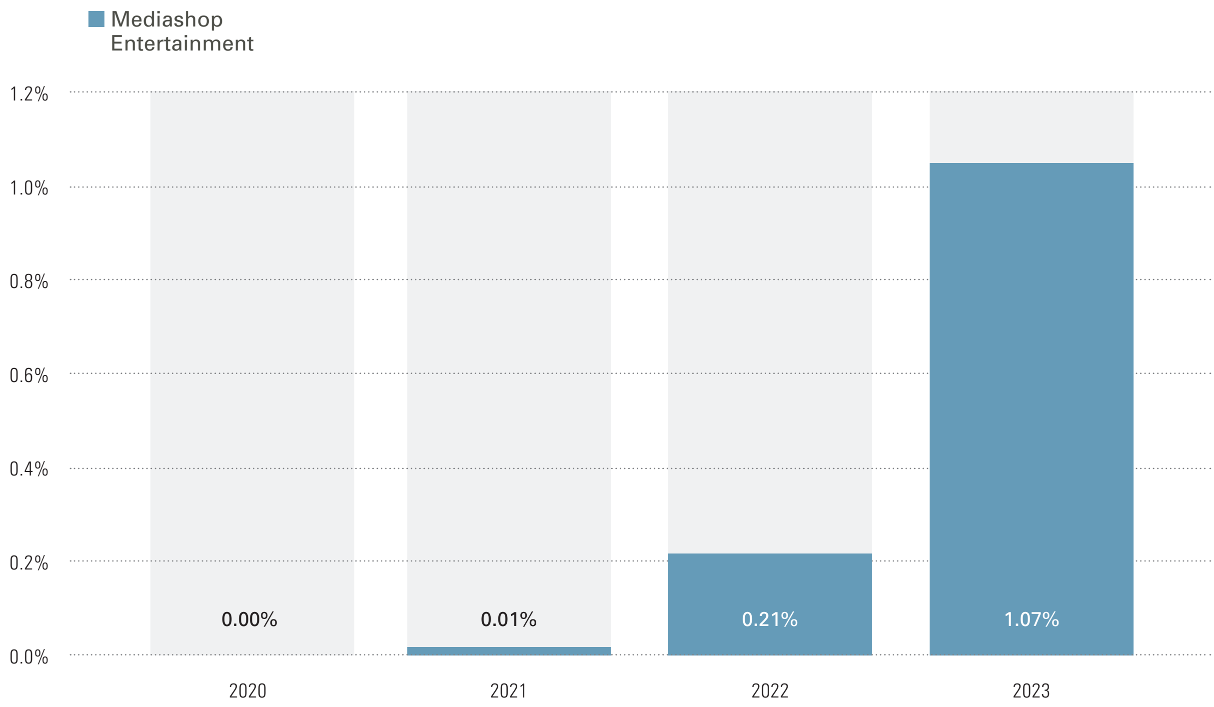
The introduction of programme items and information services with subtitles hardcoded into the image material is also planned.

From the second quarter of 2023, programme items with subtitles will be further expanded and certain informative trailers will be simultaneously interpreted using sign language.

The action plan has been published at https://www.mediashop.tv/?ste=barrierefreiheit.

Please see the figure below for a breakdown of the increases in figures.

Figure 11: Planned increase for the Mediashop Meine Einkaufswelt channel according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

Media Shop GmbH fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G by the given due date.

The broadcaster noted that it had improved its image quality from 1.3 Mbps to 2 Mbps in September 2021. As a result, the broadcaster significantly improved the legibility of key items of information (fonts, graphics and ordering options), with technical improvements now establishing a general basis for further measures.

The broadcaster also stated that it had launched an electronic programme guide (EPG) to offer viewers guidance and information about products shown in the channel (product name, short description) in December 2021, in partnership with technical service provider dmb GmbH deutsche mailbox.

As the MediaShop Meine Einkaufswelt channel does not offer a teletext service, this measure would therefore provide a basic navigation aid.

In the 2021 reporting period, 25 minutes (0.01%) of accessible broadcasts in overall channel programming for Media Shop Meine Einkaufswelt were subtitled. Accordingly, the figure stated in the annual report meets the target in the action plan.

2.9.2.3.11 Melodie Express GmbH

Melodie Express GmbH operates the Melodie Express television channel.

In terms of technical implementation, Melodie Express GmbH notes that music videos containing subtitles have been successively created by hardcoding the subtitles into the video track.

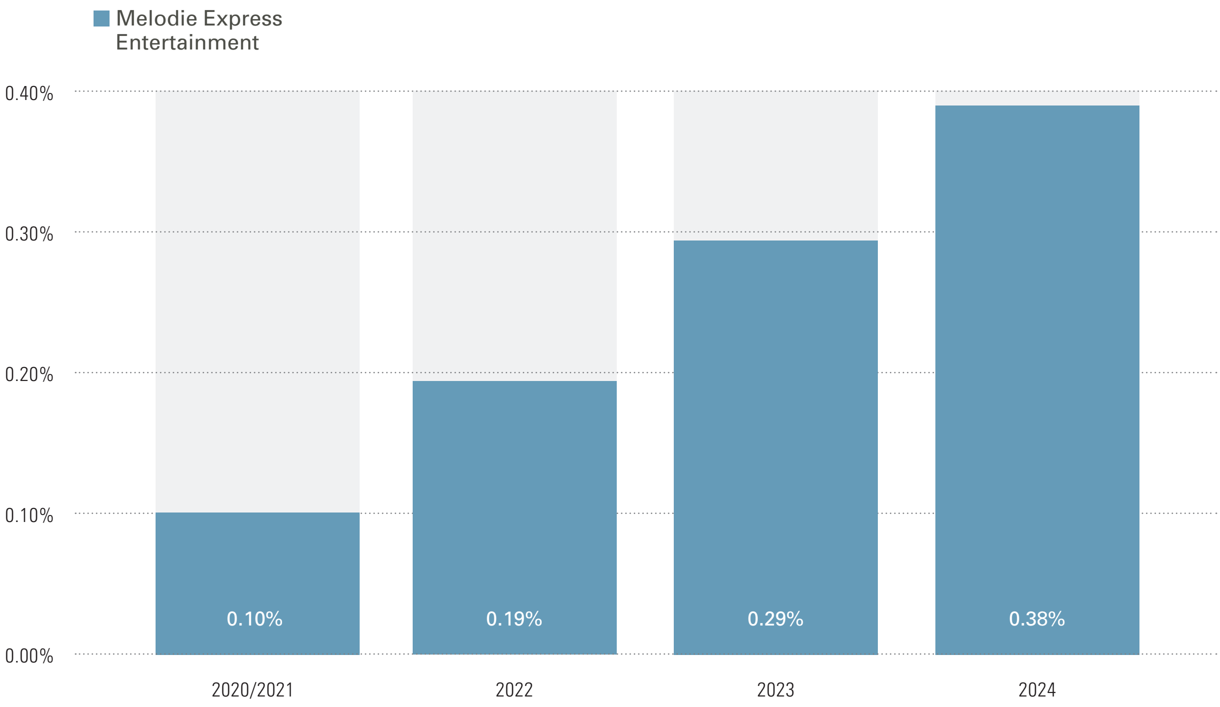
Within the action plan period of 2021–2023, accessible programmes are to be offered in the category of entertainment.

The broadcaster also states that the Austrian Federation of the Blind and Partially Sighted (BSVÖ) has confirmed in writing that no changes need to be made for Melodie TV programming.

The action plan has been published at http://www.melodie.tv/cms/index.php/programmplan/medien/barrierefreiheit.

Please see the figure below for a breakdown of the increases in figures.

Figure 12: Planned increase for the Melodie Express channel according to action plan (in per cent)



Reporting requirements pursuant to Art. 30b Par. 3 AMD-G

Melodie Express GmbH fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G by the given due date.

The report cites the technical implementation strategy set out in the action plan.

Aside from the action plan, the broadcaster also notes that all Melodie TV programming is ideally suited to a blind or partially sighted audience.

In the 2021 reporting period, 519 minutes (0.1%) of accessible broadcasts in overall channel programming for MelodieTV were subtitled. Accordingly, the figure for minutes stated in the annual report exceeds the action plan target. This did not affect the percentage figure, however.

2.9.2.3.12 Austrian Broadcasting Corporation (ORF)

As noted above in section 2, the ORF is subject to the provisions of Art. 5 Par. 2 ORF-G.

In its action plan, the ORF stated that current measures to provide accessible services at the ORF encompass subtitling, audio descriptions, Austrian sign language and simple language.

All of these measures will be progressively expanded. This expansion to accessibility will be supported by technical advances, which will include automated voice recognition software and avatars capable of sign language interpreting.

Within the scope of opportunities available to it, the ORF is planning to provide support for the development and expansion of these technical solutions. This will take the form of market analyses aimed at broadening the knowledge base in this field.

In addition, journalists working for the ORF will be appropriately trained in order to raise awareness about the importance of equal participation for people with and without disabilities.

Another point of focus involves engaging in dialogue with other media bodies and industry experts.

Selected measures in planning:

- Use of speech-to-text solutions (both in linear TV and online)
- Funding for the development of an Austrian language model for the automated generation of subtitles
- Synthetic voice audio descriptions
- Signing avatars
- Further expanding the proportion of accessible content in evening prime-time
- Increased focus on election reporting and children's programmes
- Focus on programming incorporating Austrian sign language interpreting

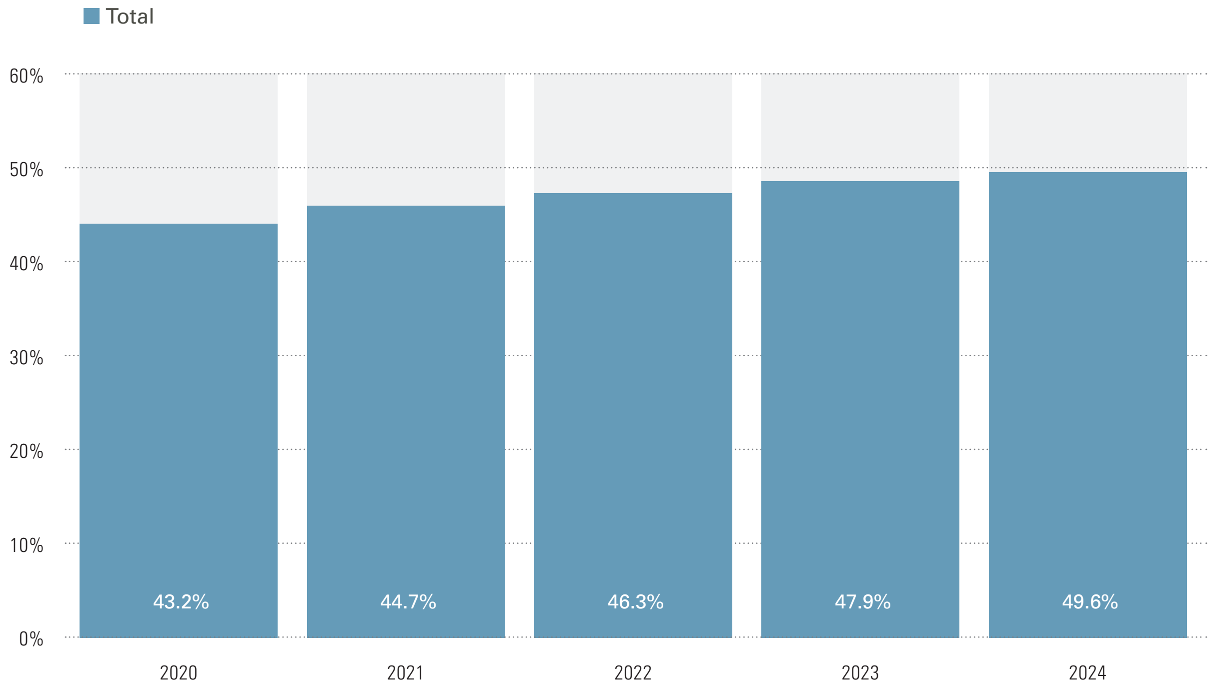
According to the action plan, the ORF fulfils its legal duties, and meets targets for the categories of news and current affairs, entertainment, education, and arts and culture.

Initial values from the year 2020 for subtitling, audio descriptions and signing:

Subtitling as a percentage of overall programming:

- ORF 1: 66.1 per cent or 5,810 hours of broadcasting
- ORF 2: 72.6 per cent or 6,376 hours of broadcasting
- ORF III: 32.9 per cent or 2,886 hours of broadcasting
- ORF Sport+: 1.27 per cent or 112 hours of broadcasting

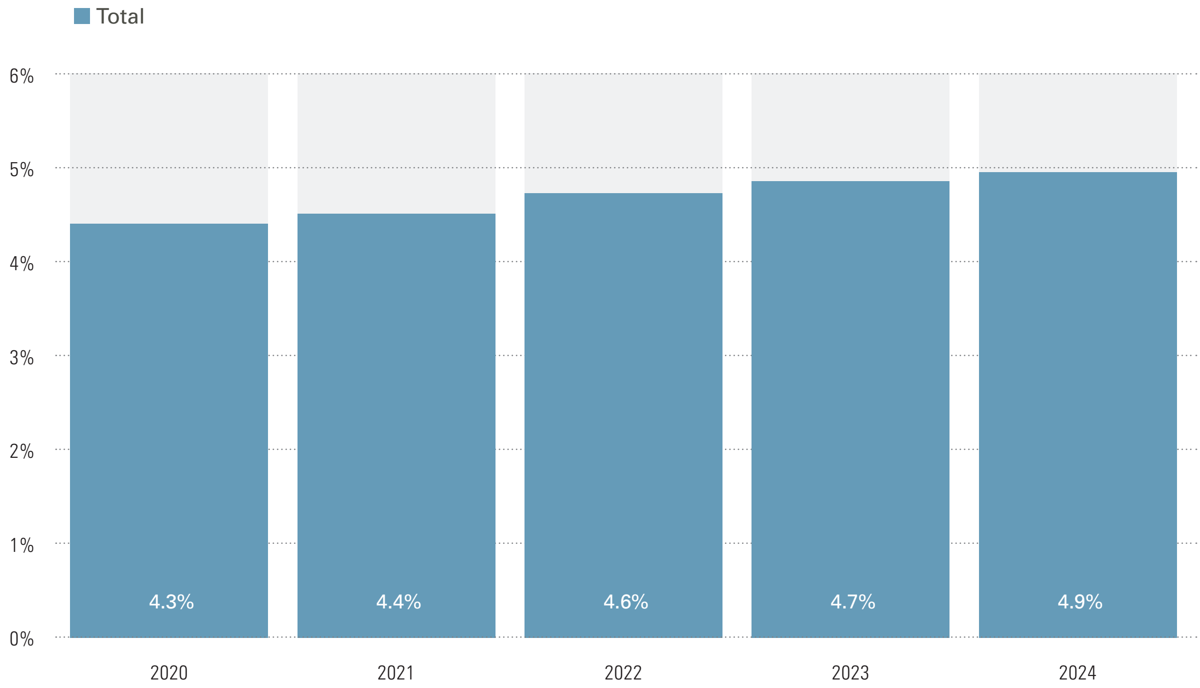
Figure 13: Planned increase in subtitling across all ORF channels, according to action plan (in per cent)



Audio description and audio commentary:

- ORF 1: 7.8 per cent or 688 hours of broadcasting
- ORF 2: 7.9 per cent or 695 hours of broadcasting
- ORF Sport+: 1.3 per cent or 115 hours of broadcasting

Figure 14: Planned increase in audio descriptions across all ORF channels, according to action plan (in per cent)



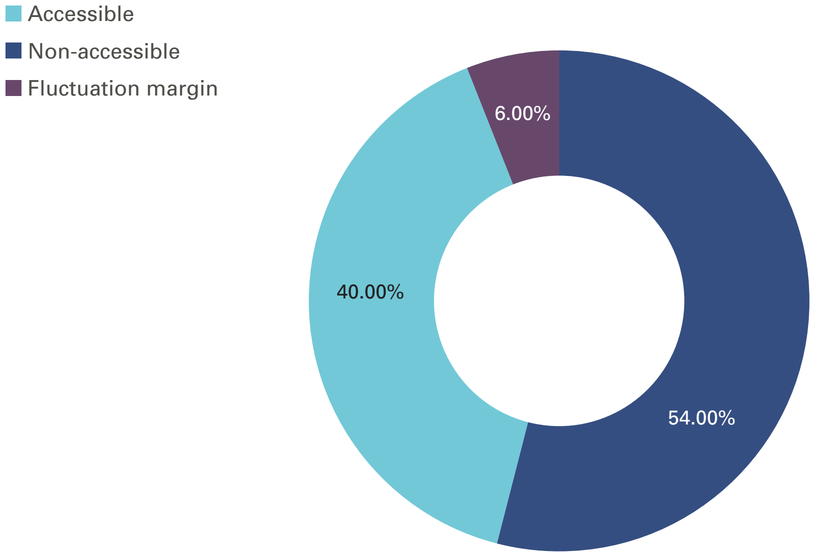
Austrian sign language:

- ORF 2, ORF III and ORF 2 Europe: 596 hours

The ORF TVthek media library is not an independent online service. An increase in accessible programming in television and associated measures will typically lead to an increase in accessible content available from the ORF TVthek.

Relevant additional online services such as online video archives should also be made more accessible in the ORF TVthek.

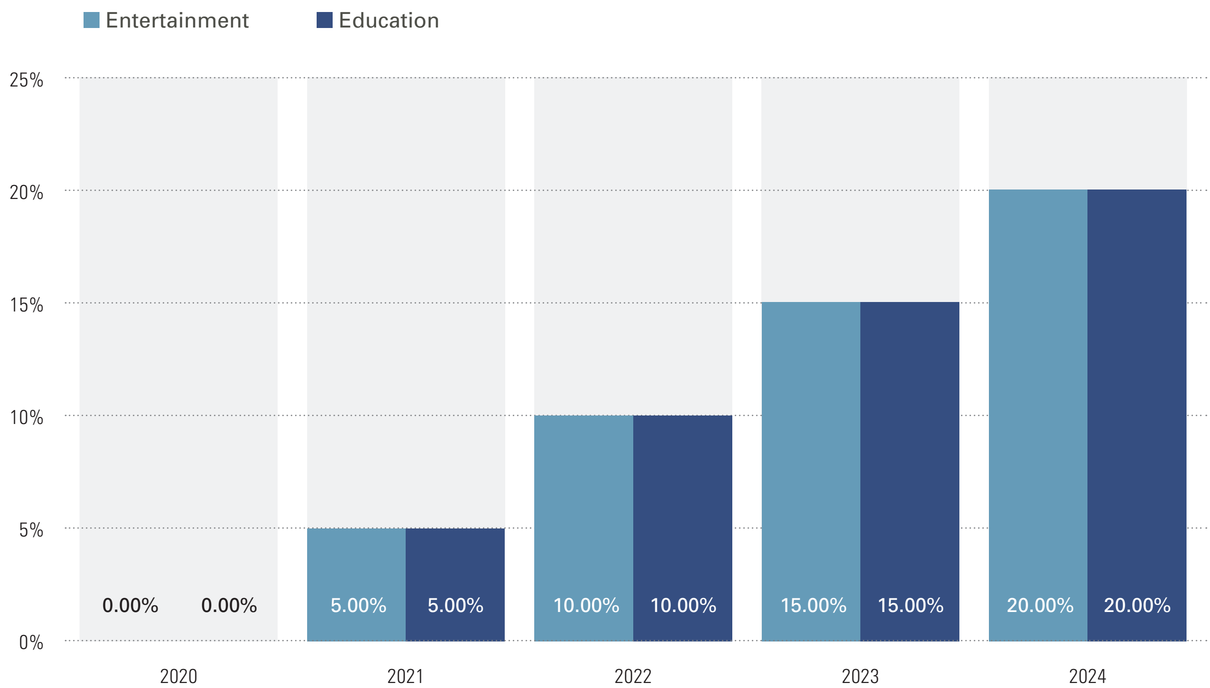
Figure 15: Accessible and non-accessible content in the ORF TVthek in the 2020 reference year (in per cent)



In the case of the independent Flimmit online platform, an average of 6,500 titles (with a total length of some 4,900 hours) were available at the time the action plan was created.

An annual increase of 5 per cent is planned here.

Figure 16: Planned increase for the FLIMMIT platform according to action plan (in per cent)



The action plan for the ORF's channels has been published at https://zukunft.orf.at/show_content2.php?s2id=548. By law, the ORF is also required to notify the regulatory authority about publication.This is achieved by submitting the action plan.

Reporting requirements pursuant to Art. 5 Par. 2 ORF-G

The ORF fulfilled its reporting duties for all channels with reporting requirements by the given due date.

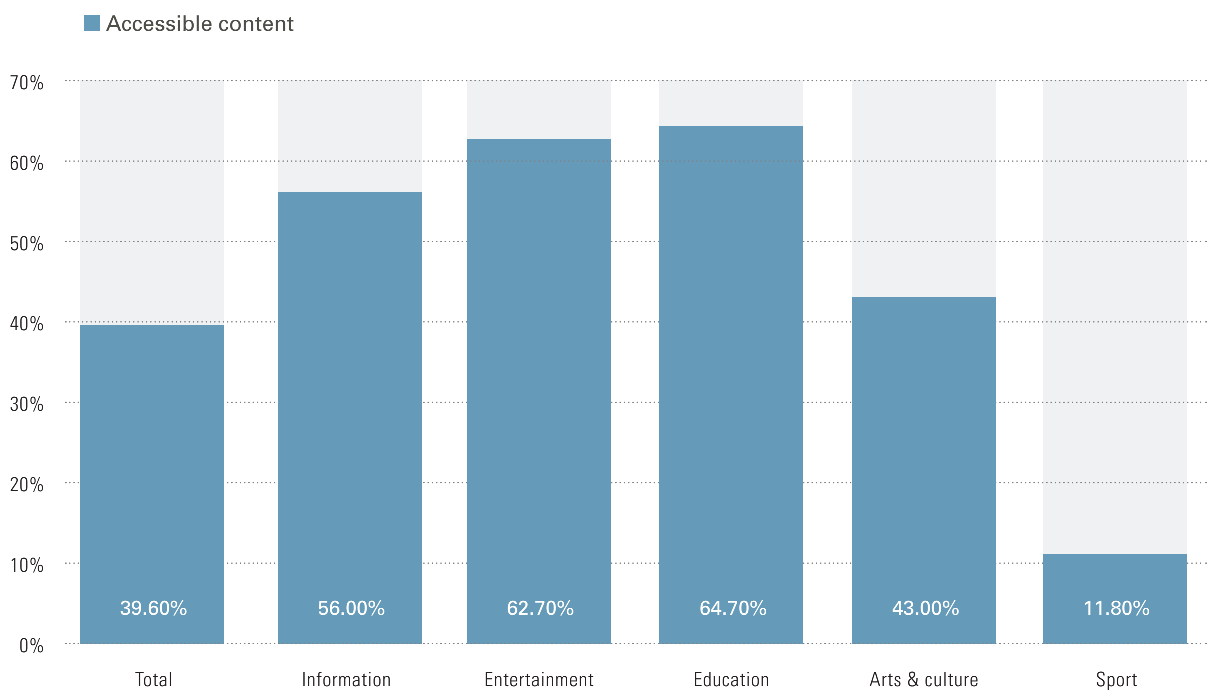
Flimmit:

In the 2021 reporting period, 15,240 minutes (5.9%) of accessible content in the overall Flimmit platform catalogue were subtitled. Of this figure, 11,640 minutes (5.1%) were in the entertainment category and 3,600 minutes (0.8%) were in the education category.

ORF TVthek:

Overall, 348,120 minutes (39.6%) of content from the media library as a whole were made accessible and subtitled, while 37,320 minutes (4.2%) of programmes simultaneously featured on-screen sign language interpretation of programme content. A total of 70,320 minutes (8%) were provided with an audio description while 478 minutes (0.1%) utilised simple language.

Figure 17: Proportion of accessible content by category in the ORF TVthek in 2021 (in per cent)



Overall, 56 per cent of content in the news and current affairs category in the ORF TVthek was made accessible in 2021, along with 62.7 per cent in entertainment, 64.7 per cent in education, 43 per cent in arts and culture, and 11.8 per cent in sport. As a result, 39.6 per cent of all ORF TVthek content was accessible.

Channels (ORF 1, ORF 2, ORF III and ORF SPORT+)

According to the annual report, some 40 per cent of all ORF channel programming (ORF 1, ORF 2, ORF III and ORF SPORT+) in 2021 included at least one form of accessibility – whether this involved subtitling, an audio description and/or use of Austrian sign language.

The reports states that the ORF provided a total of 839,340 (39.92%) subtitled minutes in 2021, corresponding to 40 per cent (2020: 43.2%) of all programmes broadcast by the ORF.

The ORF noted that the financial consequences of the pandemic, together with cost-cutting measures necessary in previous years, had left their mark in 2021. Furthermore, the amendment to accessibility legislation that entered into force on 1 January 2021 had been adopted by the National Council at a point in time (December 2020) at which budget planning for 2021 was already final.

Despite a decline in the overall proportion of subtitled content, the proportion of wide-reach evening programming (6 pm to 10 pm with subtitles amounted to around 95.1 per cent on ORF 1 and 89.8 per cent on ORF 2, and so maintained the prior-year level (2020: ORF 1: 95.7%, ORF 2: 89.2%). In the case of news and current affairs, and children's programmes, the ORF states that the respective proportion of broadcasts with subtitling was increased (news: 48% in 2020 vs. 51% in 2021; children: 49% in 2020 vs. 54% in 2021).

There are plans to make up for this decline by the end of the following calendar year while simultaneously achieving the target increase for that year. To this end, the ORF plans to augment its externally sourced subtitling budget by 29 per cent year-on-year (with additional budgetary resources being primarily spent on entertainment content such as films and series), and make a one-time investment in order to compensate for the difference between 2020 and 2021 while also expanding its deployment of advanced technologies (such as speech-to-text).

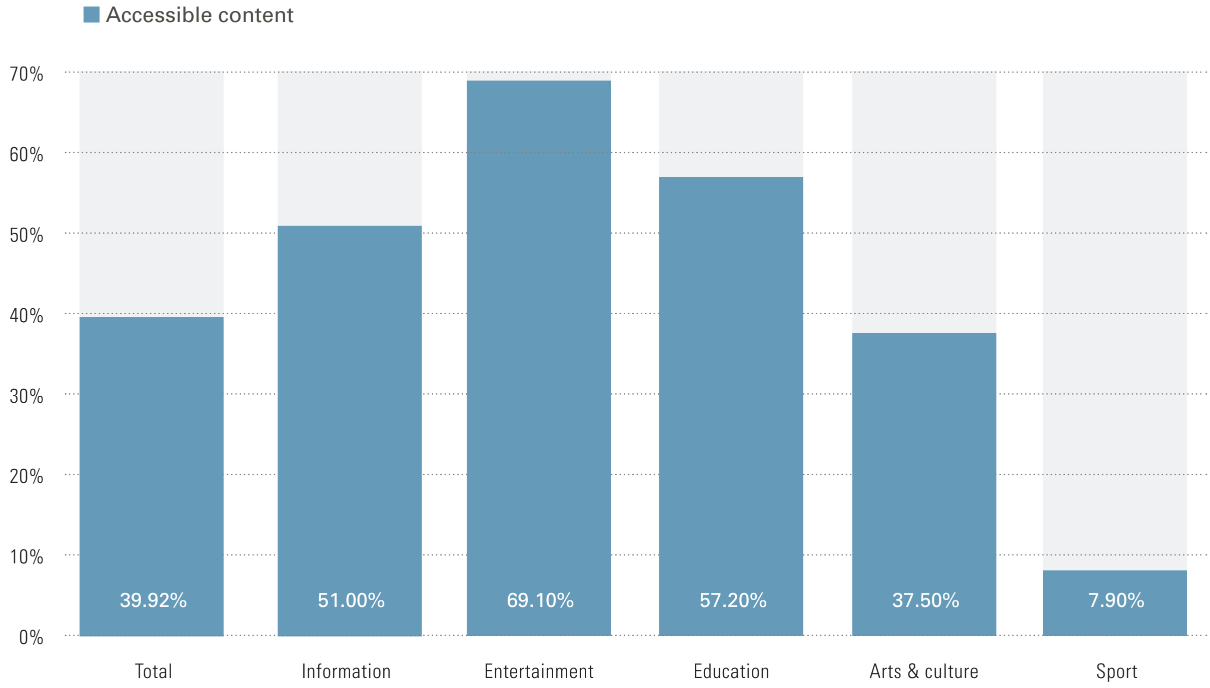
As regards the subtitling target, the ORF provided justifications for its non-fulfilment of the measures and increases set out in the action plan. The company listed the steps that it will take to make up for lost ground and attain the original increase planned by the end of 2022, and to achieve the target increase for 2023.

The ORF uses an audible signal and a visual indicator – by overlaying a corresponding logo – to mark audio descriptions, which are broadcast using a dual-channel mode for channel audio.In 2021, the ORF broadcast a total of 127,020 minutes (6.04%) across all four channels with a dedicated commentary for viewers with partial or total vision loss. on daily average, the ORF therefore provided 5 hours and 48 minutes of programming with audio descriptions in 2021. The figures stated in the annual report therefore exceed the targets given in the action plan.

The annual report states that a total of 36,600 minutes (1.74%) of broadcasts were provided with Austrian sign language, most being news programmes featuring press conferences given by the federal government on its Covid-19 measures. In 2020, this amounted to 35,760 minutes; accordingly, the figure given in the annual report exceeds the prior-year figure.

Content featuring simple language was also further expanded during 2021. Supplementing news programmes already provided in simple language (workdays at 7:25 pm on ORF III, every Sunday on Radio Vienna at 1:30 pm and 2:30 pm, daily in a special popup window on news.ORF.at, and, since summer 2017, in ORF TELETEXT, p. 470 ff. and p. 480), a recap of the week's news is also broadcast in simple language on Radio Styria every Friday. This is put together jointly by the Inclusive Editorial Training Team at Lebenshilfe Steiermark and ORF's regional Styrian studio.

Figure 18: Proportion of accessible content by category on the channels ORF 1, ORF 2, ORF III and ORF Sport+ in 2021, as annual percentages



Overall, 51 per cent of content in the news and current affairs category on the ORF 1, ORF 2, ORF III and ORF Sport+ channels was made accessible in 2021, along with 69.1 per cent in entertainment, 57.2 per cent in education, 37.5 per cent in arts and culture, and 7.9 per cent in sport. As a result, 39.92 per cent of all content on the ORF 1, ORF 2, ORF III and ORF Sport+ channels was accessible.

2.9.2.4 Statement about further improvements to accessibility

Alongside the action plans submitted by the ORF, action plans for 15 channels from eleven media service providers were also received. A total of 15 annual reports followed, with the action plan and report being submitted together in two cases.

From the 15 reports submitted, it can be seen that only two media service providers were unable to attain the target set out in their action plan. At the same time, targets were actually exceeded in nine of these reports.

On account of failure to prepare an action plan, procedures were initiated against media service providers subject to legal requirements.

The proportion of accessible content was not increased equally in each of the five categories of news and current affairs, entertainment, education, arts and culture, and sport. This is partly a result of the fact that some media service providers do not offer content in every category. Indeed, the action plans from five media service providers state that they only provide content in the category of entertainment, for example.

Looking at the 15 action plans as a whole, an increase in accessible content took place twelve times in the entertainment category, four times in the news and current affairs category, twice each in the categories of education and arts and culture, and once in the sport category.

From this, it can be seen that improvements to accessibility take place significantly more often in entertainment than in the other categories. Only one media service provider, who operates two channels, intends to increase the proportion of accessible content in the categories of education, and arts and culture.

An increase in the proportion of accessible content in the sport category has occurred only in the case of one broadcaster, whose entire channel programming falls into the sport category. It should also be recalled that live broadcasts may constitute justifiable exemptions pursuant to Art. 30b Par. 1 AMD-G and therefore do not need to be made accessible. This is justified by the increased effort that would be required in order to make this kind of content accessible. As sporting events are often broadcast live, it can be assumed that media service providers do not envisage achieving an increase in the sport category for this reason – if indeed they offer any content in this category at all.

Also of interest is the fact that an increase in the proportion of accessible news and current affairs content is achieved on only four channels offered by two media service providers. This severely restricts the options available to individuals requiring accessible content when they wish to stay informed about current events – although Art. 30a Par. 1 AMD-G does require public service announcements in crises and disasters to be accessible. As regards other news and current affairs programming, only the ORF is required by law to make certain kinds of programmes accessible. An overall picture emerges whereby most providers are achieving an increase in accessible content solely in the entertainment category.

Excepted from this summary is the ORF, who, as a result of the legal obligations correspondingly discussed in section 2, must comply with specific provisions concerning the minimum increase to be achieved in all categories – with the exception of the category of sport. The ORF is obliged in particular to ensure accessibility for main evening programming (7 pm to 10 pm) and election broadcasts in general.

2.9.2.4.1 Subtitles

Subtitling provides a written version of spoken-word elements such as dialogue and (on-/off-camera) commentary, as well as music and sound effects. Subtitles therefore provide details of content that would otherwise be heard. Depending on the technical approach taken, subtitles can either be hardcoded directly into the video and therefore permanently visible or can be activated as required. While digital subtitling offers a wide range of options, this technique is not yet widespread in Austria.

It is noteworthy that measures for subtitling were a key point of focus for all media service providers. Subtitles are available in various formats in the services provided, including teletext subtitles, subtitles hardcoded into video material or live (real-time) subtitles.

In 2013, a common set of subtitling guidelines was published for the German market, which addresses teletext and DVB subtitling at the preproduction stage. These guidelines are recommended by the Austrian Association of the Deaf (ÖGLB) and the Austrian Council of Associations for Hearing Loss (ÖSB).[06] In January 2015, public television broadcasters in Austria, Germany and Switzerland agreed on a set of uniform standards for subtitling.[07] These encompass a series of basic principles for the presentation of subtitles in the German-speaking market, relating to aspects such as format, font size, colours and overlays.

06 Untertitelrichtlinien.de, "Common subtitling guidelines for German-language use" (in German) http://www.untertitelrichtlinien.de/index.html (accessed on 21 April 2022)

07 P. Chojnacki et al.: "Subtitling standards at ARD, ORF, SRF, ZDF" (in German) http://www.untertitelrichtlinien.de/pdf/Untertitel-Standards_ARD_ORF_SRF_ZDF_Version_1.3.pdf (accessed on 21 April 2022)

2.9.2.4.2 Sign language[08]

Sign language is an officially recognised language based on a visual-manual modality that is used by people with hearing loss to communicate with one another. The language employs a combination of gestures, facial expressions and bodily posture. Many distinct sign languages exist as well as many dialects. For children who grow up signing, sign language is their native language.[09]

2.9.2.4.2.1 Sign language interpreters

Sign language interpreters, if used at all, are typically brought in to interpret for news programmes and press conferences.

The following points should be considered for their use:

- Camera positions should give a full view of the sign language interpreter, so that both hands are easily visible and cannot be cut off during the broadcast as a result of problematic angles.
- Ideally, a single camera will be used to cover the sign language interpreter and speaker so that they will stand next to one another. A bright background is also useful to make the interpreter's movements more easily visible.
- As an alternative, the interpreter can be shown in a box overlay, which should take up at least 25 per cent of the screen area.
- Interpretation should also be simultaneous. If delayed, information is often lost.[10]

An increased use of sign language interpreters would be very welcome since this would achieve a greater degree of inclusion.

2.9.2.4.2.2 Signing avatars

The Austrian Association of the Deaf has published a guideline for signing avatars on its website at https://www.oeglb.at/leitfaden-fuer-gebaerdensprach-avatare/.

Briefly summarised, it can be said that, while the association does not reject the use of such avatars, it does highlight several key issues. In particular, such avatars are not a substitute for human sign language interpreters.

More information about the research project and the guideline is available from https://avatar-bestpractice.univie.ac.at/.

08 Austrian Association of the Deaf: "Welcome!" (in German) https://www.oeglb.at/ (accessed on 21 April 2022)
09 ÖGSDV: "Deafness and sign language" (in German) https://www.oegsdv.at/web/gehoerlosigkeit-gebaerdensprache/ (accessed on 2 May 2022)
10 Presentation given on 30 June 2021 by Helene Jamer, accessible from https://www.youtube.com/watch?v=K7di95kQTZA&t=3s (accessed on 21 April 2022)

2.9.2.4.3 Audio description

Rather like an audiobook, audio description means audibly communicating imagery that makes visual material comprehensible for people with vision loss.

Provided on an extra audio channel, an audio description helps people with vision loss to follow visual content by describing visual aspects of the action that takes place and its setting, as well as the appearance of individuals, and their facial and bodily gestures.[11]

2.9.2.4.3.1 Dual-channel mode

Dual-channel mode is an audio transmission technique whereby two separate audio channels are broadcast simultaneously. One of the two audio channels can be used to provide an acoustic description of the broadcast image and so make audiovisual media content readily consumable by people with vision loss.

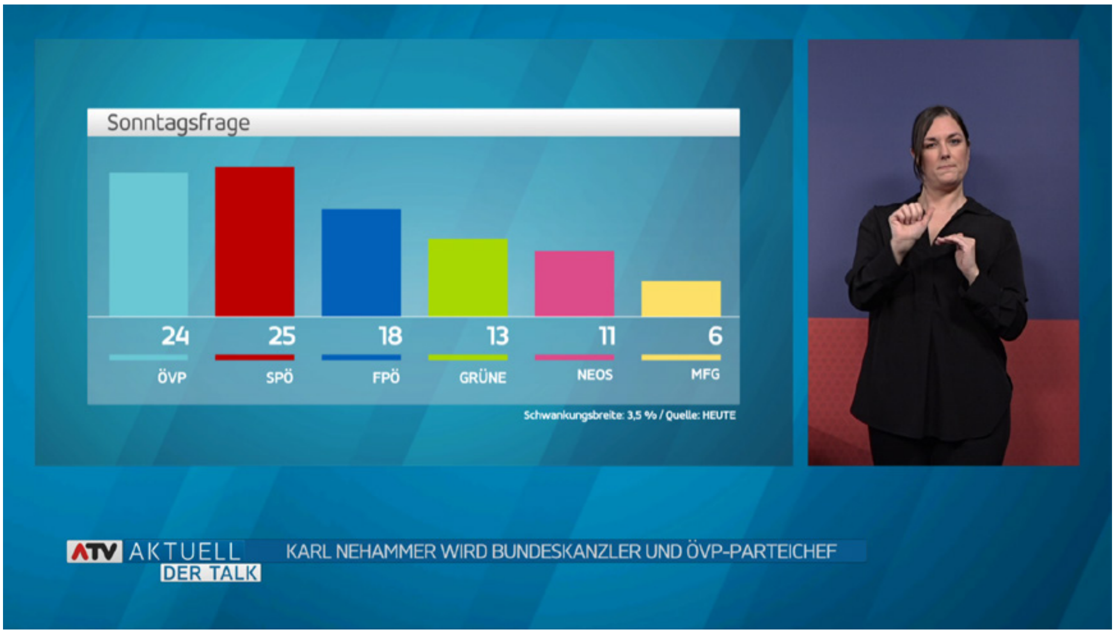
A number of apps have also been published that give users access to an audio description. The GRETA app provides access to audio descriptions and subtitling, as was mentioned in one of the action plans.

2.9.2.4.3.2 Synthetic voice audio description

With this type of audio description, the visual content is not described by a human voice but by a synthetic (artificial) voice instead.

2.9.2.5 Examples from industry practice

An example showing the inclusion of a sign language interpreter is presented below.



[11] Blindenverband.at: "Audio description. Still plenty that needs to be done" (in German) https://www.blindenverband.at/de/aktuelles/865/Adiodeskription (accessed on 21 April 2022)

Programmes with subtitles and sign language interpretation on-screen at the same time are very rare.

2.9.3 2021 survey of reach and market shares[12]

2.9.3.1 Introduction

Art. 65 of the Audiovisual Media Services Act (AMD-G) requires a survey of the reach (market shares), coverage levels and user and viewer figures, as necessary for enforcing the provisions of the AMD-G in the context of legal supervision.

Based on these provisions, market research was carried out in 2022 for the 2021 calendar year, just as had been the case the previous year for the 2020 calendar year. As part of the survey, all providers were queried about reach (market shares), coverage levels and user and viewer numbers.

Survey type:

A total of 451 providers were sent requests, including 155 television broadcasters, 159 providers of on-demand services, 70 radio broadcasters and 170 cable network operators. The survey considered all services that were listed in the KommAustria directory as of the survey date of 11 January 2022 and that were active during the 2021 calendar year.

The survey entailed the questions listed below.

Television channels:

- What was the average daily reach of the television channel as a percentage of the 12+ target group (Monday to Sunday) in the previous calendar year?
- What was the average market share of the television channel as a percentage of the 12+ target group (Monday to Sunday) in the previous calendar year?

On-demand services/non-linear audiovisual media services:

- How many users (subscribers or individual customers) did the on-demand service have on average in the previous calendar year?
- How frequently was the on-demand service requested in the previous calendar year?

The data presented in this document are based on the information supplied by the service providers themselves and may accordingly refer to varying reference values (such as coverage areas), depending on the service. The responses provided by the service providers as a whole are therefore comparable only to a limited extent.

Data accuracy:

KommAustria cannot verify the accuracy of the raw data. In the areas of reach and market shares in particular, it is important to note that the survey was not carried out Austria-wide in practice for media services with small regional or local coverage areas. This is because the case numbers (or respondents) in each small coverage area are too low to obtain any useful data. To achieve valid results that also include small coverage areas, the case numbers of Austria-wide surveys would have to be substantially increased, or else individual usage reports would have to be commissioned for all regional or local coverage areas. Neither variant is economically viable for media services providers.

12 (as of 25 March 2022)

2.9.3.2 2021 market report

The data queried pursuant to Art. 65 AMD-G can be divided into three areas:

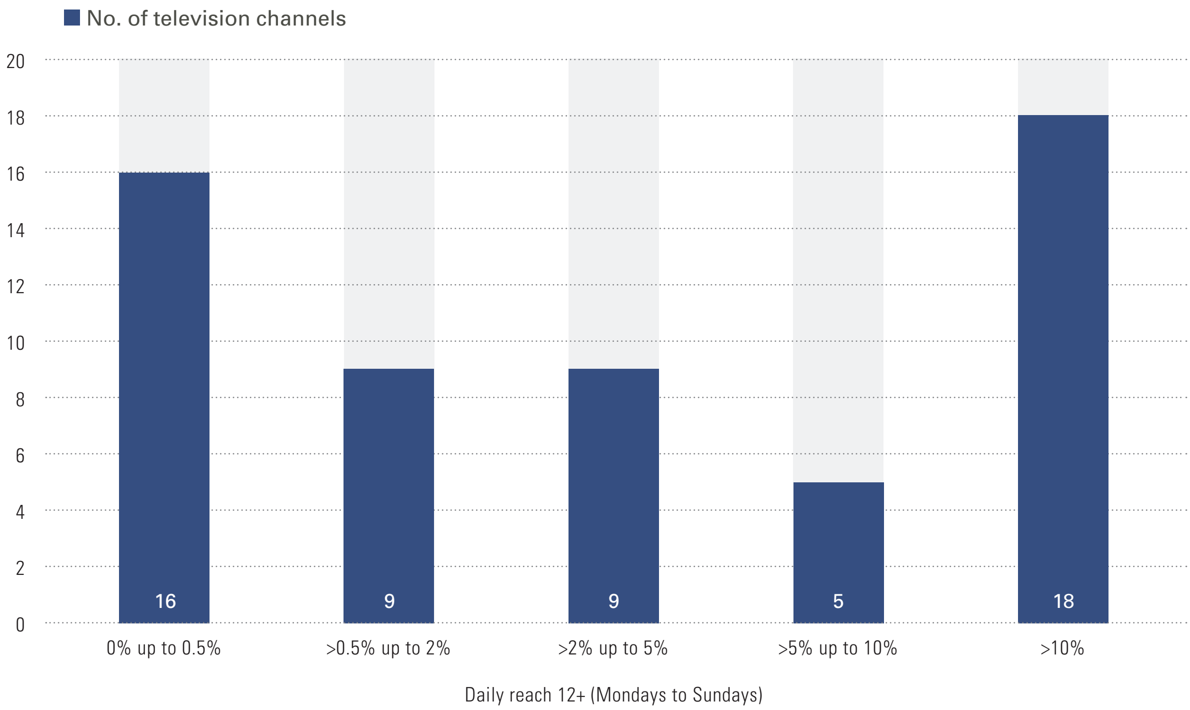
- Television channels
- On-demand services/non-linear audiovisual media services
- Cable networks

To represent the broadcasting market in its entirety, selected data relating to radio broadcasting are also provided. This is based on information provided voluntarily by radio broadcasters.

2.9.3.2.1 Television channels

For television channels, the daily reach and the market share were queried in the 12+ target group for Mondays to Sundays. The diagrams provided display the reported information as a bar chart divided into ranges. The data include television channels with nationwide as well as local and regional coverage, while the specified reach and market shares refer to the particular television broadcaster's coverage area. As such, the data are comparable only to a limited extent.

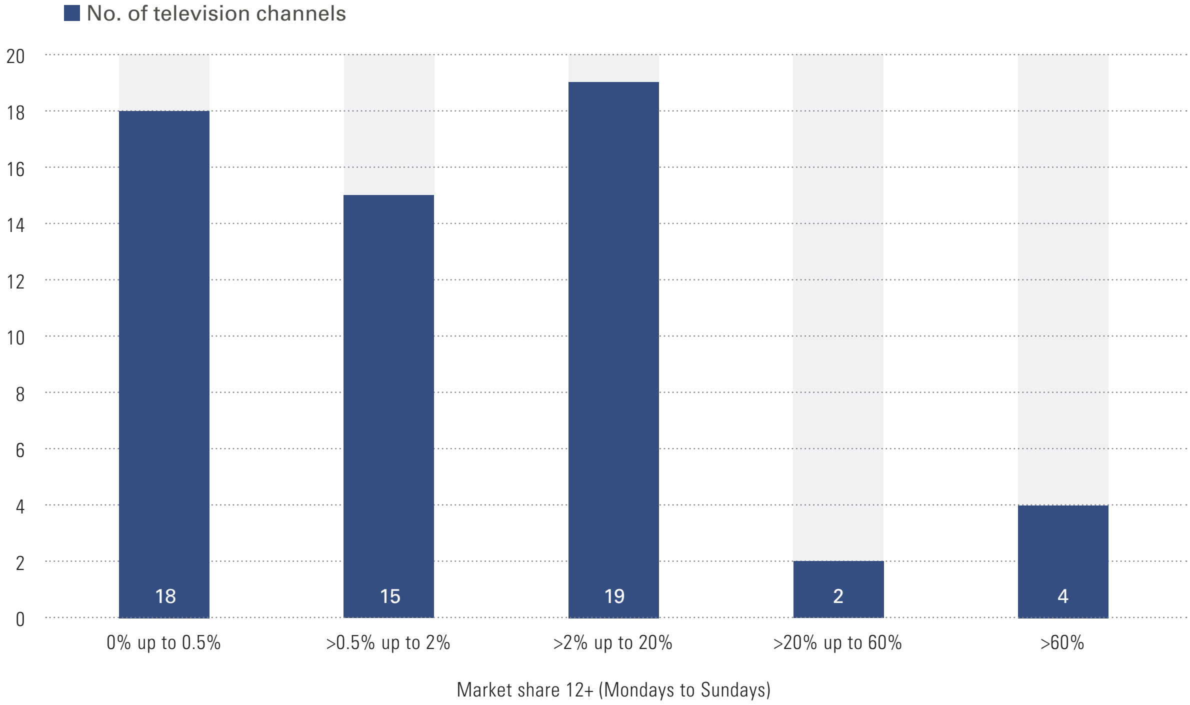
Figure 19: Number of television channels within specified daily reach ranges among viewers 12+ in 2021
(no data exist or are available for 194 providers)



Compared with the chart above, the number of television channels in relation to daily reach among the 12+ target group (Monday to Sunday) in 2020 is as follows:

- 0% to 0.5%: 26
- Over 0.5% and up to 2%: 12
- Over 2% and up to 5%: 6
- Over 5% and up to 10%: 1
- Over 10%: 20
- No information: 190

Figure 20: Number of television channels within specified market share ranges among viewers 12+ in 2021
(no data exist or are available for 193 providers)



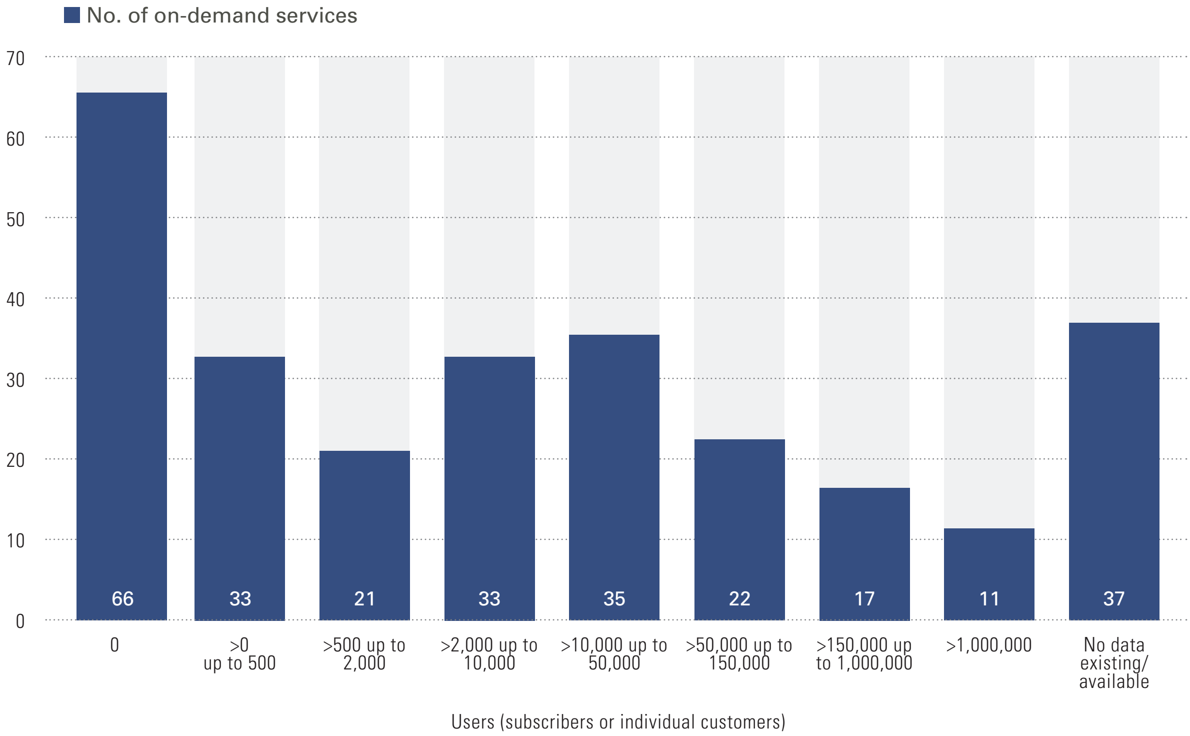
Compared with the chart above, the number of television channels in relation to market share among the 12+ target group (Monday to Sunday) in 2020 is as follows:

- 0% to 0.5%: 33
- Over 0.5% and up to 2%: 15
- Over 2% and up to 20%: 9
- Over 20% and up to 60%: 4
- Over 60%: 9
- No information: 185

2.9.3.2.2 On-demand services/non-linear audiovisual media services

In the area of on-demand services/non-linear audiovisual media services, the questions focused on the number of users (subscribers or individual customers) and service requests. As above for television channels, the figures that are reported here are also divided into ranges and displayed as a bar chArt.

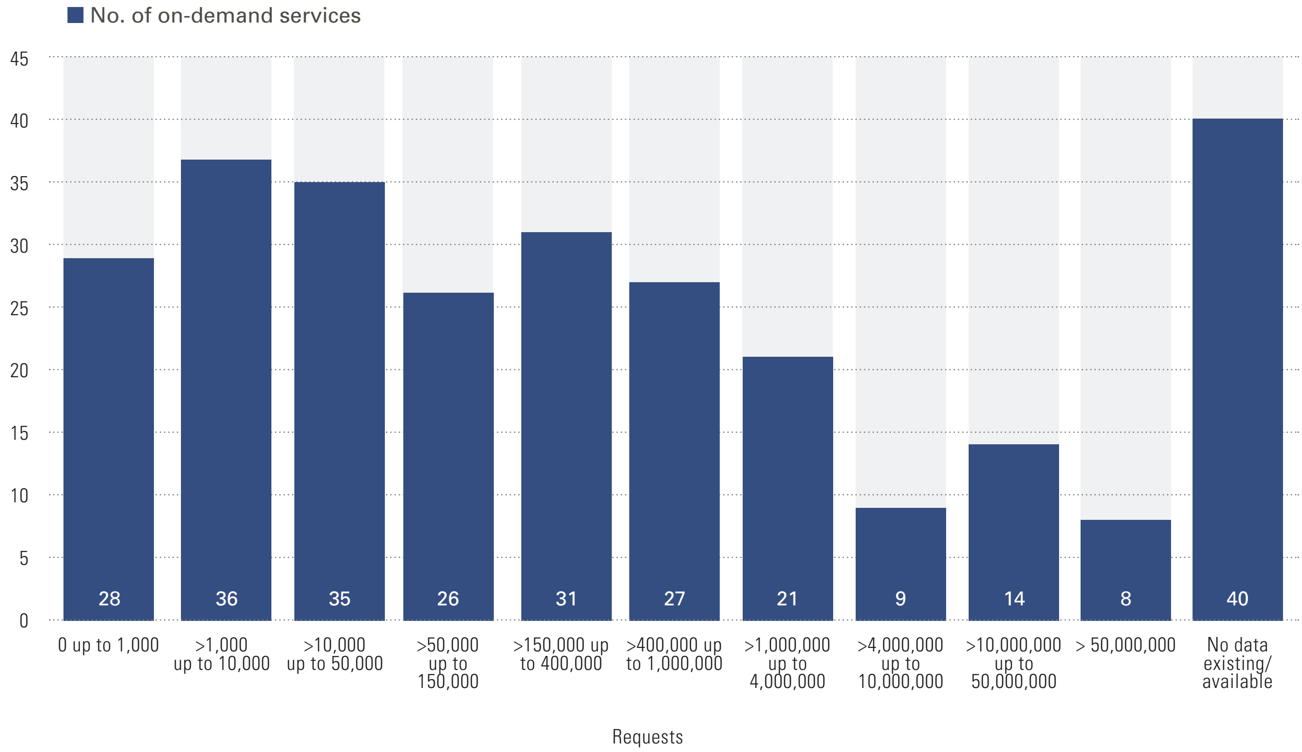
Figure 21: Number of users (subscribers or individual customers) of on-demand services in 2021 within specified ranges



Compared with the chart above, the number of subscribers in 2020 is as follows:

- 0: 99
- Over 0 and up to 500: 28
- Over 500 and up to 2,000: 34
- Over 2,000 and up to 10,000: 38
- Over 10,000 and up to 50,000: 24
- Over 50,000 and up to 150,000: 21
- Over 150,000 and up to 1 million: 15
- Over 1 million: 4
- No information: 18

Figure 22: Number of service requests in 2021 within specified ranges



Compared with the chart above, the number of requests in 2020 is as follows:

- 0 to 1,000: 27
- Over 1,000 and up to 10,000: 28
- Over 10,000 and up to 50,000: 40
- Over 50,000 and up to 150,000: 34
- Over 150,000 and up to 400,000: 35
- Over 400,000 and up to 1 million: 33
- Over 1 million and up to 4 million: 27
- Over 4 million and up to 10 million: 9
- Over 10 million and up to 50 million: 15
- Over 50 million: 7
- No information: 26

2.9.3.2.3 Radio stations

Daily reach and market shares were queried in the radio station category; for the bar chart presented, the daily reach and market shares were specifically queried among the 10+ target group for Mondays to Sundays. Again, the information is presented here as a diagram in which the reported data are broken down into ranges. The data include radio stations with nationwide as well as local and regional coverage, while the specified reach and market share refer to the particular radio broadcaster's coverage area.

Figure 23: Number of radio stations within specified daily reach ranges among listeners 10+ in 2021 (70 providers did not specify any information)

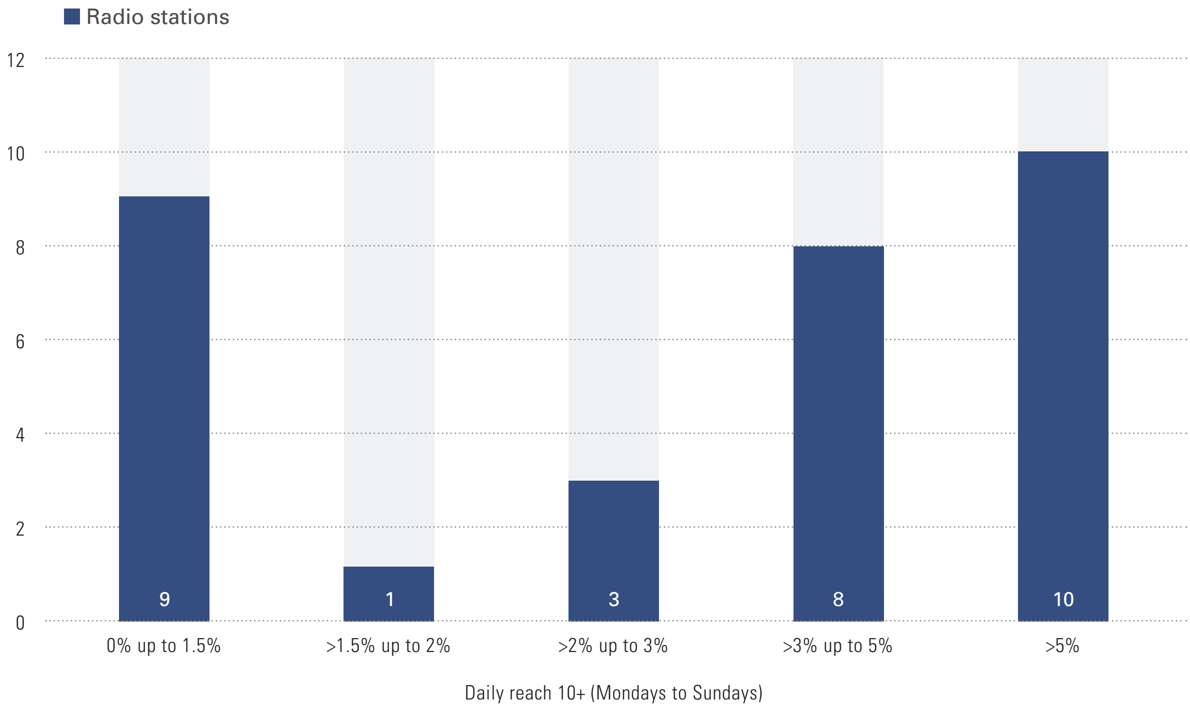
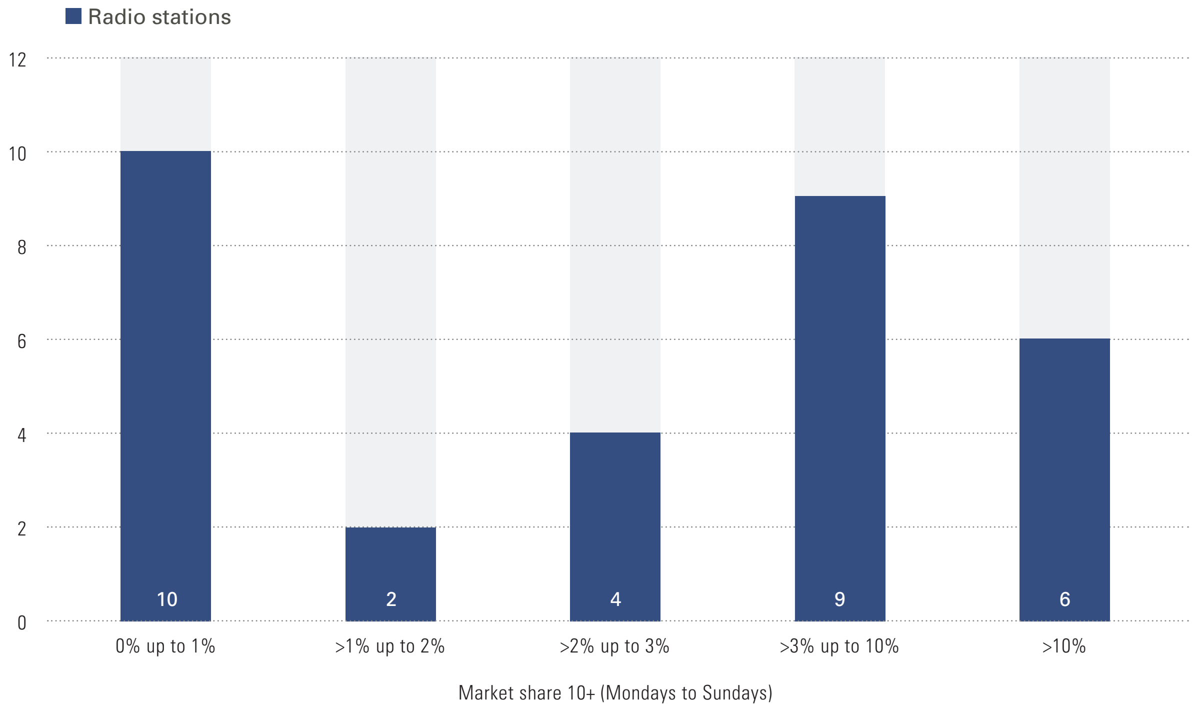


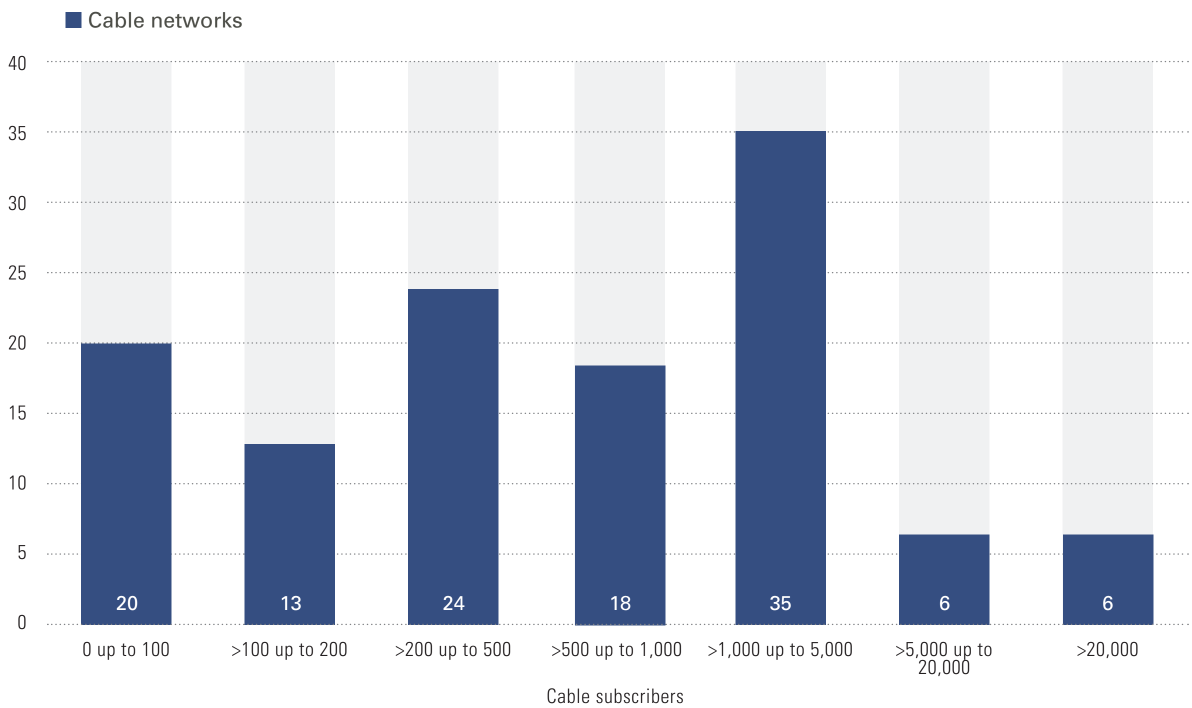
Figure 24: Number of radio stations within market share ranges among listeners 10+ in 2021
(70 providers did not specify any information)



2.9.3.2.4 Cable networks

The number of subscriptions was queried for cable networks. Again, the relevant figures were divided into ranges, with the bar chart included below created on this basis.

Figure 25: Number of cable networks within subscription ranges in 2021



2.9.3.3 Selected detailed results

In addition, survey results were singled out from the various areas and used as examples which are presented for the whole of 2021. Note that the information presented here is based on the figures provided directly by the service providers.

Figure 26: Top 10 nationwide television channels by daily reach as a percentage of viewers 12+ in 2021

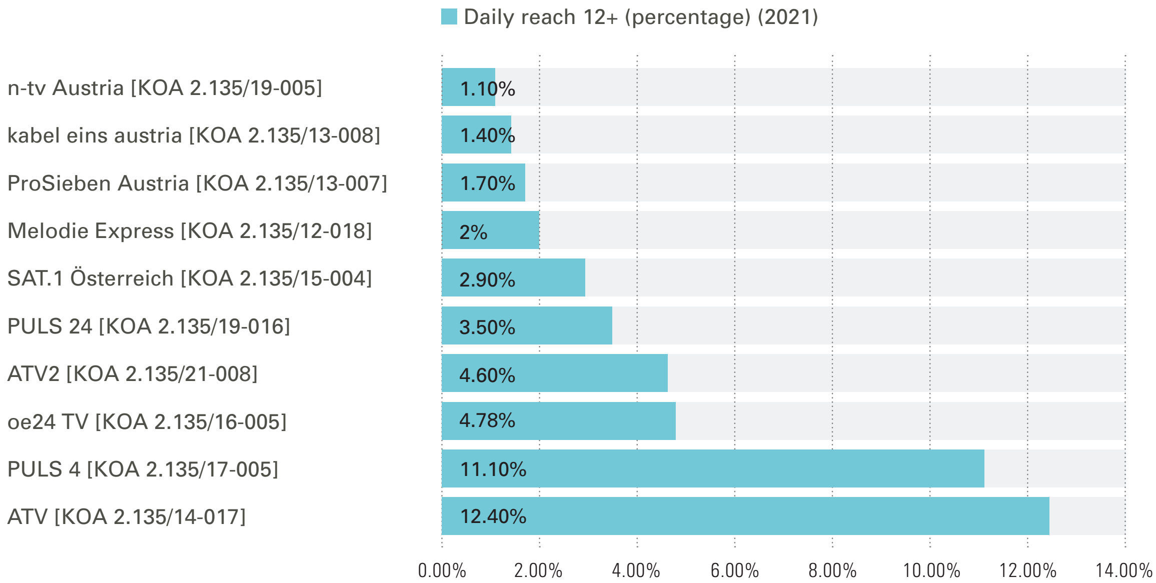


Figure 27: Top 10 on-demand services/non-linear audiovisual media services broken down by the number of users (subscribers or individual customers) in 2021

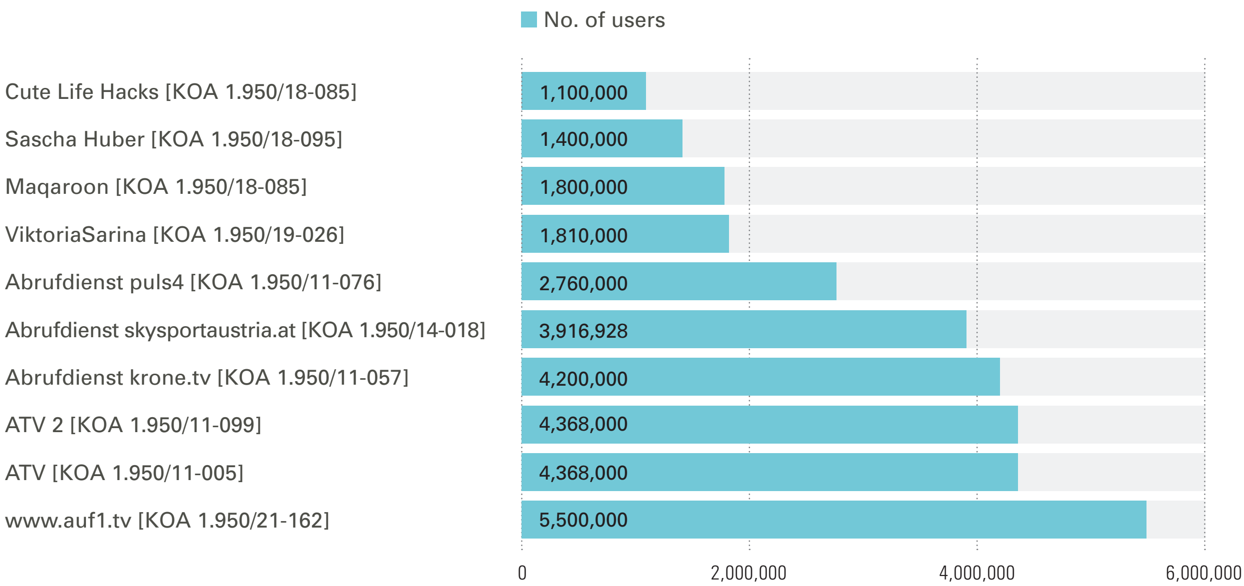


Figure 28: Top 10 on-demand services/non-linear audiovisual media services broken down by service requests in 2021

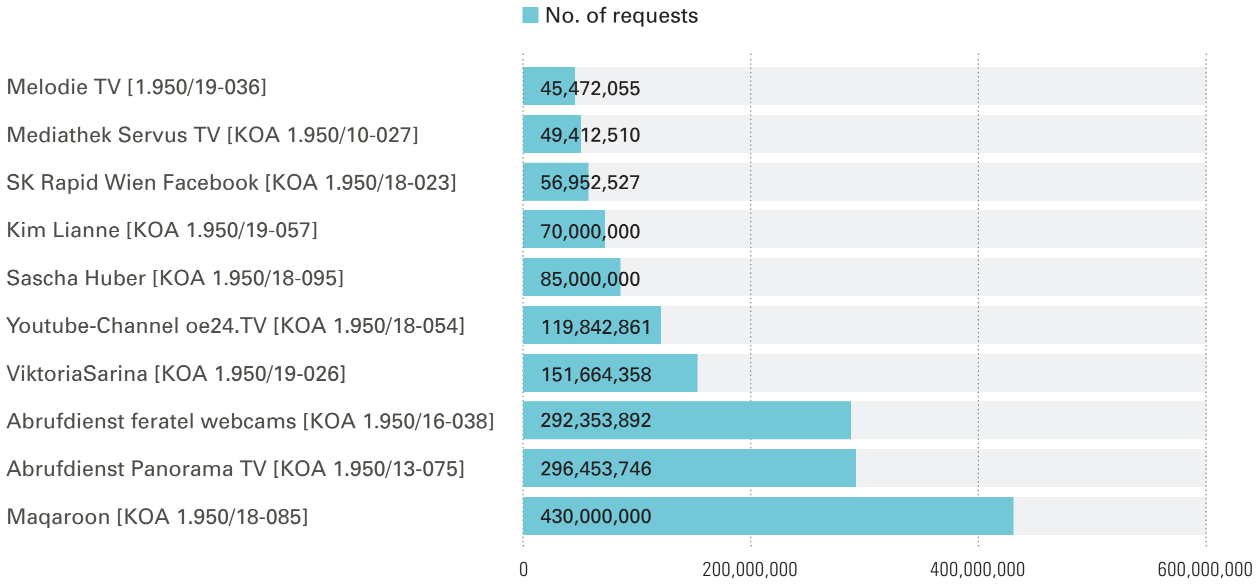


Figure 29: Ratio of number of users (subscribers or individual customers) of the top 10 on-demand services/non-linear audiovisual media services as a percentage of the number of users (subscribers or individual customers) of other on-demand services/non-linear audiovisual media services in 2021

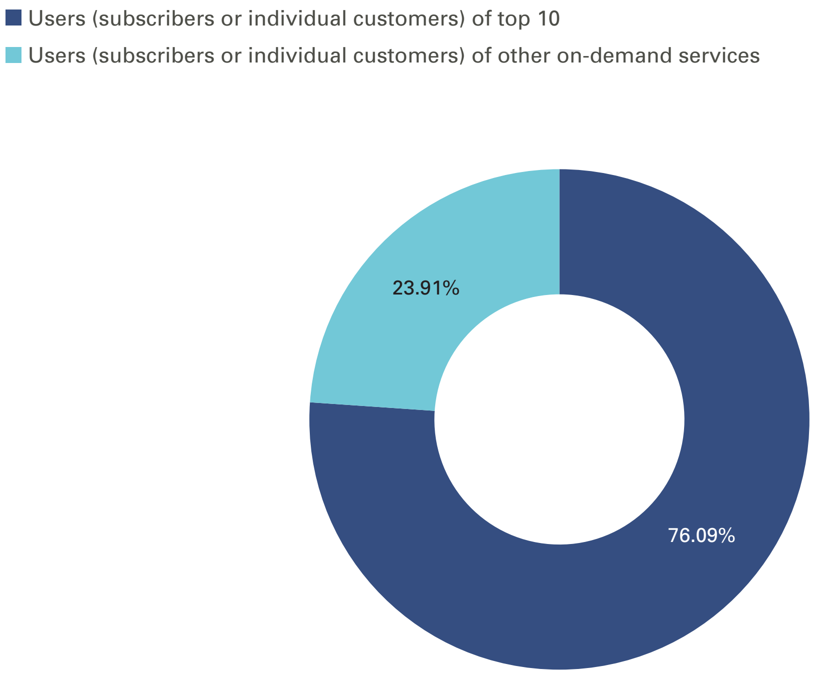
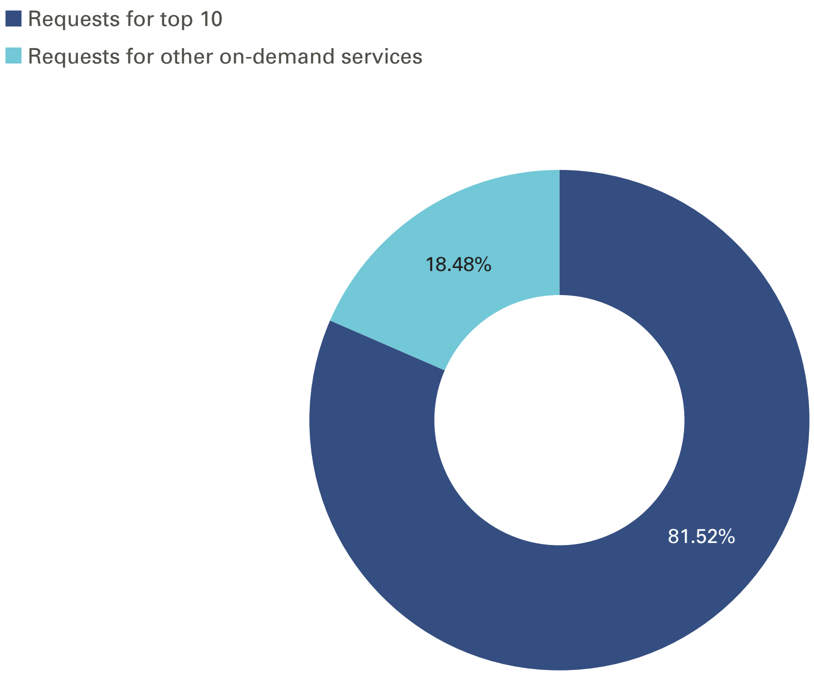


Figure 30: Ratio of service requests for the top 10 on-demand services/non-linear audiovisual media services as a percentage of requests for other on-demand services/non-linear audiovisual media services in 2021



2.9.3.4 Link to the overall survey results

All survey results for the areas of television and on-demand services/non-linear audiovisual media services are available on the RTR website at https://www.rtr.at/Reichweiten-undMarktanteilserhebung2021 (in German).

The following information is listed:

Television:	provider, service, period (from/to), daily reach 12+ (in %), market share 12+ (in %)
On-demand services:	provider, service, period (from/to), number of users (subscribers or individual customers), number of requests

It must again be noted that the figures presented are based on information directly provided by the service providers, while the data relating to reach and market shares in particular refer to the particular service provider’s coverage area.

2.9.4 Progress report on digitisation of broadcasting

2.9.4.1 Digital linear television

As of the end of 2021, 7.546 million Austrians aged twelve and over were residing in 3.872 million television households,[13] according to figures from the TELETEST Working Group (AGTT). However, both figures have been 'frozen' by AGTT since the end of 2019. The rationale for this was to achieve a more reliable (average) value reflecting changes in the share of Austrian households with at least one television receiving device.[14]

AGTT, a merger between Austrian television broadcasters and their advertising slot marketers, commissioned market research institute GfK Austria with evaluating television viewing habits in Austria. Part of GfK Austria's regular market research duties also include working together with market research institute IFES to track the changing percentage rate of Austrian households with at least one television receiving device (known as television households). Presently, around 97 per cent of all Austrian households are also television households. However, the trend is clearly moving towards 96 per cent. The quarterly survey findings are volatile and make planning difficult for media agencies. Therefore, the fixed number of television households and the people residing in them are now compared on a quarterly basis with the steadily increasing number of total households, based on the micro census carried out by Statistics Austria. Compared in this way, the proportion of television households and the people residing in them is experiencing a steady and linear decline, reflecting what AGTT believes to be a more realistic development.

The fixed values for television households and the people residing in them are being monitored by AGTT, with the intention of making the necessary adjustments as soon as the actual figures become apparent and deviate from a margin of fluctuation.

The individual values for cable, satellite and terrestrial households that are presented later on in this report are not fixed, but represent current survey results.

In Austria, television transmission and television reception via satellite, cable networks and antenna (terrestrial) are solely based on digital transmission technologies.

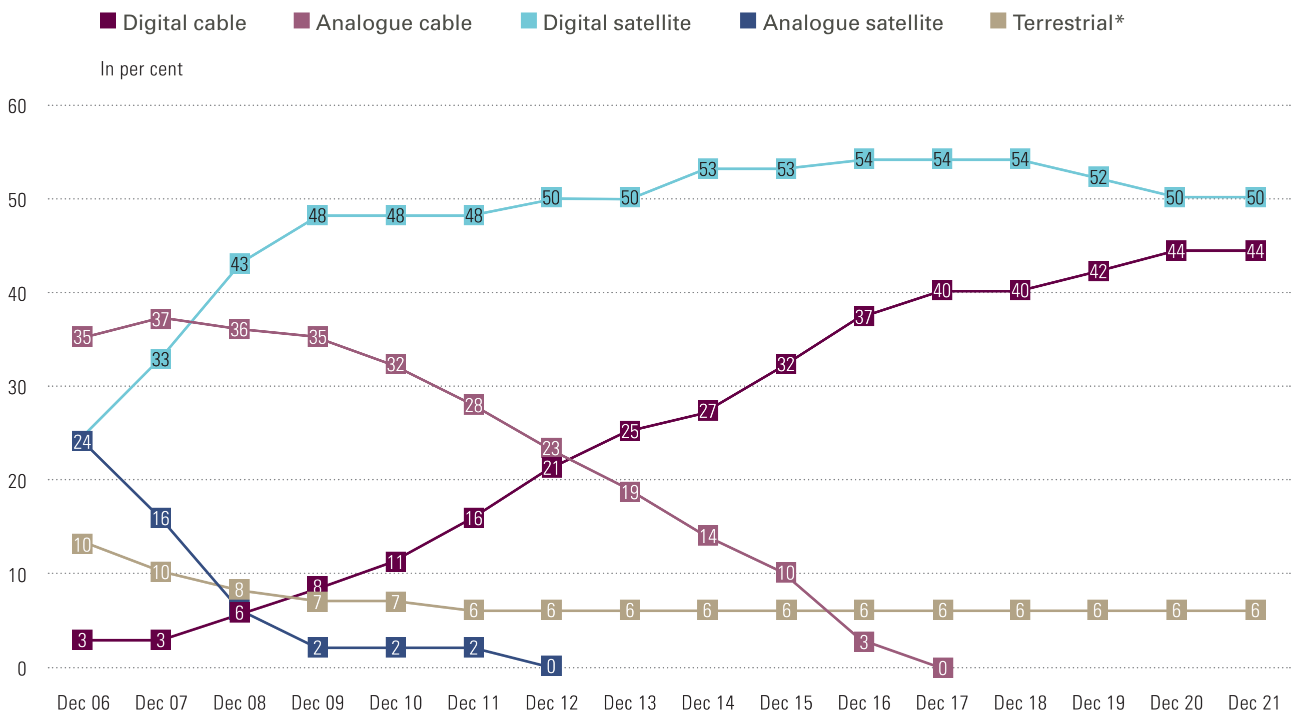
No significant shifts in the relative use of conventional TV reception modes in 2021

The shifts that had been observed in 2019 and 2020, in the relative numbers using satellite, cable or terrestrial as TV reception platforms – all of which have been exclusively digital since late 2017 – stagnated in 2021. The clear trend towards additional cable households at the expense of the satellite reception mode did not continue in 2021. The percentage rate of television households with satellite reception remained the same as the previous year at 50 per cent. The proportion of television households with a cable TV provider also remained unchanged at 44 per cent. Terrestrial reception (DVB-T2 /DVB-T, via antenna), which has remained the primary form of TV reception in around 6 per cent of television households for years, defended its share again in 2021.

[13] Unless otherwise specified, all data originate from the Teletest Working Group/GfK Austria (2020).

[14] Based on the micro census by Statistics Austria

Figure 31: Distribution of reception modes among Austrian television households 2006–2021



* Terrestrial includes around 10,000 cable households with basic coverage (reception of roughly eight TV channels). Source: AGTT/GfK Austria.

Slight losses in cable households, with satellite gaining slightly

There were some significant increases in cable households in 2019 and 2020 compared with previous years (2020: over 100,000, of which approximately 20,000 were new households and approximately 80,000 were formerly satellite households). In 2021, by contrast, GfK Austria did report slight changes for satellite and cable households, although these changes do not impact the percentage figures. The number of television households with a cable connection as their reception mode fell by just under 4,000 households to 1.719 million households. By contrast, the satellite platform increased by some 3,000 households to 1.928 million. Terrestrial reception – via a room or roof antenna – was used in December 2021 by 225,000 households, the same amount as in the same month of the previous year.

2.9.4.1.1 Satellite

At the end of 2021, 1.928 million satellite households (2020: 1.925 million) or 50 per cent of television households using satellite reception were home to 4.014 million people aged twelve and over. This corresponds to a slight increase of 6,000 people compared with the previous year (2020: 4.008 million people, 2019: 4.166 million). This did not affect the percentage of TV viewers residing in satellite television households. The figure remained at 53 per cent.

2.9.4.1.2 Cable (including IPTV)

As of the end of 2021, Austria had 1.723 million cable television households (2020: 1.723 million; 2019: 1.623 million). Their share thus remained at 44 per cent of all television households (2020: 44%; 2019: 42%). The percentage of television viewers aged twelve and above who live in cable households remained unchanged from the year before at 42 per cent. This equates to 3.157 million individuals (2020: 3.159; 2019: 2.990 million).

IPTV households are classified under cable reception and correspondingly included in the number of cable TV households overall. Even though many conventional cable TV providers have already been supplying a portion of customers with IP signals rather than with DVB-C for some time, this report nonetheless classifies such households among conventional cable users. On the other hand, subscribers to the A1 TV Plus or A1 Xplore TV service, supplied by A1 Telekom Austria, are included under IPTV households here. At almost 310,000,[15] the number of such households fell by some 8,000 households compared with the previous year. This meant a slight, first-time loss in the use of cable television connections serviced by A1. While growth had been slowing down in previous years, significant increases had been seen nonetheless (2019: +10,000; 2018: +17,000; 2017: +12,000).

The percentage of IPTV households in relation to total cable households had fallen slightly to 18 per cent by mid-2021 (2020: 18.5%; 2019: 19.6%).

2.9.4.1.3 Terrestrial television

At year-end 2020, 225,000 Austrian television households were using digital terrestrial television as their primary or sole form of television reception. The situation therefore remains unchanged from 2020. By contrast, the number of viewers aged twelve and above residing in terrestrial-only television households fell by 4,000 to 375,000 (2020: 379,000; 2019: 374,000; 2018: 380,000), according to TELETEST monitoring as carried out on a quarterly basis by market research institute IFES. However, a certain margin of fluctuation is inevitable in such quarterly surveys, so that we can probably assume this value to be stable.

As in previous years, the figure for households and persons with primary terrestrial reception continues to include households with 'basic cable service,'[16] amounting to around 10,000 households or approximately 15,000 people.

Continued rise in DVB-T/DVB-T2 use with second devices

Six per cent of all TV households have digital terrestrial television as their only form of reception. At the same time, DVB-T/DVB-T2 is also used in satellite/cable television households as an additional reception platform for second TV devices, for instance in bedrooms, or to view local television channels that are broadcast in many cases on the basis of the DVB-T standard and not yet via DVB-T2.

As a way of watching TV on second devices or as an alternative reception mode, terrestrial reception had initially become less of a factor in recent years. However, this negative trend was interrupted once again in 2020 before continuing in 2021.

In addition to the roughly 375,000 viewers aged twelve and over who live in terrestrial-only television households, the overall figure includes another 145,000 persons in satellite households with secondary terrestrial usage (2020: 118,000; 2019: 126,000; 2018: 155,000; 2017: 169,000). Added to this are another 69,000 individuals living in cable households with supplementary terrestrial reception (2020: 60,000; 2019: 54,000; 2018: 35,000; 2017: 27,000).

[15] IFES TELETEST monitoring, first half of 2021
[16] Non-cable subscriber households in residential complexes with cable service, with the number of channels roughly equal to free TV via DVB-T2.

As of December 2021, viewers living in households using terrestrial TV with access via DVB-T/DVB-T2 totalled roughly 589,000 (2020: 556,000; 2019: 554,000; 2018: 569,000), equating to 7.8 per cent of the TV-viewing population aged twelve and over (2020: 7.4%; 2019: 7.4%; 2018: 7.6%); this group includes both households solely using terrestrial reception as well as cable/satellite households with secondary terrestrial use.

In 2021, there were 93,000 television households primarily using satellite or cable reception with additional terrestrial reception. In addition to the terrestrial-only television households, 318,000 television households in Austria used DVB-T and/or DVB-T2.

Technical range of terrestrial multiplexes (DVB-T/DVB-T2) in 2021

The technical range of coverage among the population for the national Multiplex A remains unchanged at 98 per cent. The technical range for the other nationwide multiplexes B, D, E and F is also constant, at 92 per cent of the population.

Details on the licensee for the operation of the A, B, D, E and F multiplexes and also the programmes that are broadcast via the multiplexes are available (in German) at https://www.rtr.at/medien/service/verzeichnisse/mux/MUX.de.html.

The percentage of the population also living in the multiplex C reception area (DVB-T/DVB-T2), with programming by various operators and varying from region to region, likewise remains unchanged at 64 per cent.

Details on the licensee for the operation of the regional multiplexes (MUX C) and the programs that are broadcast there are available (in German) at https://www.rtr.at/medien/service/verzeichnisse/mux/MUXC.de.html.

2.9.4.1.4 5G broadcasting trials: SIM card-free mobile telecommunications technology

Toward further progress in digital broadcasting, and to test broadcasting applications based on the 5G transmission standard, KommAustria had approved in November 2019 an initial related pilot study, to be carried out in the Vienna area by Österreichische Rundfunksender GmbH & Co KG (ORS). After one extension, the trial ended in April 2021. A second phase was started in 2021 and is set to continue until 2023. The broadcasting trial is being funded by the Digitisation Fund set up by the RTR Media Division.

To receive linear radio and television programmes being transmitted via 5G broadcast, users require only the antenna integrated in their 5G-ready device, but not a SIM card or internet access. The signals are transmitted within broadcasting frequency ranges and not mobile bands. Users' mobile data volumes are not affected through receiving such broadcasts and there is no added traffic within mobile cells. This shows how economical spectrum use when broadcasting information services to mobile devices. 5G broadcast functionality is specified as part of the 5G mobile communications standard; it is supported by every terminal device that is manufactured in full compliance with the 5G specification standards.

Broadcasting trials were performed from two large transmitters in Vienna, Kahlenberg and Liesing. For the tests, KommAustria made available a channel within the 700 MHz band (a broadcasting frequency previously within KommAustria's scope of responsibility), initially for a limited term until 30 June 2020. It has been allocated throughout Europe for mobile use as of 1 July 2020. KommAustria accordingly issued a decision on 25 June 2020, approving extension of the trial broadcasts in the 662–672 MHz range to include the period of 1 July 2020 to 30 June 2021.

Phase 1 of the 5G broadcasting trials in Vienna was actually completed on 30 April 2021 and a project report was submitted.

In October 2021, project funding by the Digitisation Fund was renewed, designated as '5G broadcast trial operation in Vienna phase 2.' The project runs from 1 July 2021 to 30 September 2023. Phase 2 of the project focuses on continuing to examine the suitability of further enhanced Multimedia Broadcast Multicast Service (feMBMS) and on further standardising LTE-based 5G Terrestrial Broadcast for future use as a potential standard for broadcasting terrestrial signals. feMBMS is a technology based on a specification by the 3rd Generation Partnership Project (3GPP).

By approving 5G broadcast trials, KommAustria recognises that mobile devices have long since become basic tools for access to information on a day-to-day basis, and will continue to play an increasingly significant role. While non-linear online media services provided on demand are gaining ground particularly in the entertainment industry, linear information services continue to dominate news reporting. Taken together, these two observations suggest that, on the one hand, unlimited reception of 5G broadcasts via mobile devices could be easily implemented at a technical level, without any restricting factors. It is also clear that implementation would entail a dimension relating to democracy in the information society, a factor considered by policymakers in Art. 21 of the Audiovisual Media Services Act (AMD-G). This provision calls for the rollout and advancement of digital broadcasting to be enabled and supported for all transmission platforms, while scenarios are to be detailed for the introduction, rollout and advancement of digital broadcasting and multimedia services.

2.9.4.2 2021 Digitisation Plan

On 15 June, KommAustria issued an ordinance regarding a digitisation plan for the introduction, deployment and expansion of digital broadcasting (television and radio) and other media services, known as the 2021 Digitisation Plan. This was preceded by the consultation of the Digital Platform Austria working group, as required by law, which took place between the end of April and the end of May. This resulted in numerous constructive suggestions, which KommAustria assessed for the final version of the Digitisation Plan.

After the previous Digitisation Plan from 2017 had focused on the introduction of digital terrestrial radio, the 2021 Digitisation Plan has a broader remit and focuses both on radio and television.

The second section of the 2021 Digitisation Plan involves preparing the tender for the licenses of local and regional multiplex platforms for digital terrestrial television (MUX C licenses). These are due to expire in 2022. Later, nationwide licenses for the D, E and F multiplexes will expire in 2023. In line with the objectives defined in the sixth section of the AMD-G of supporting, enabling and introducing as well as deploying and expanding digital broadcasting to all transmission platforms and observing the technical expansion of transmission technologies, an opening for new standards beyond DVB-T2 and HD is envisaged. This applies not only to tenders under the 2021 Digitisation Plan relating to digital terrestrial television, but also enables the use of new standards, even with existing licences. The 2021 Digitisation Plan is thus paving the way for new technologies in signal transmission (by means of 5G broadcast, for example) and also in the field of video transmission (such as in UHD quality).

Furthermore, the Digitisation Plan is continuing along the path that was forged by previous Digitisation Plans and is aligning itself with the market's requirements for the introduction, deployment and expansion of digital terrestrial radio based on the DAB+ standard. KommAustria therefore included in the plan the option of conducting an additional survey to sound out demand for additional DAB+ station slots, so that tenders for additional multiplex platforms can subsequently be issued in the event of corresponding demand. The demand survey was carried out in the period between 30 September and 28 October 2021. The assessment and, thus, the results of the survey will be published in the first quarter of 2022.

With regard to the above-mentioned invitation to tender for several MUX C coverage areas, at the end of November 2021 KommAustria published a corresponding, consulted ordinance on the selection criteria and the tender.

2.9.4.3 Digital radio based on the DAB+ standard: A growing programme portfolio

As of year-end 2021, Austrian listeners had potential access to 30 radio stations broadcast based on the DAB+ digital standard. This means six stations more than at the end of the year before.

Of the 30 DAB+ radio stations, 16 are accommodated on a multiplex (MUX I) that first began transmitting nationwide on 28 May 2019, with the goal of reaching 83 per cent of the population by late August 2020. The goal was realised on 25 August 2020.

The other 14 DAB+ radio stations are broadcast in greater Vienna, under a regional licence and via the multiplex referred to as 'MUX II.'

Identically to FM radio, DAB+ is broadcast and received via antenna. To listen to the broadcasts, a radio receiver compatible with the DAB+ digital transmission standard is required. Such receivers, which usually support FM reception in addition to DAB+, are available everywhere in Austria and in all price categories.

Neither the Austrian Broadcasting Corporation (ORF) nor most of the private FM radio networks have to date availed themselves of the option, either at regional or nationwide level, of broadcasting programmes digitally based on the DAB+ standard. Only Radio Austria, the second private radio station that is also broadcast nationwide over FM, has also been available Austria-wide on MUX I since autumn 2021.

2.9.4.3.1 Nationwide DAB+ service (MUX I)

The MUX I multiplex, the first nationwide DAB+ broadcasting network, has been rolled out in four phases since 2019. After completion in August 2020 by the operator, Vienna-based ORS comm GmbH & Co KG (ORS comm), the network now achieves a coverage level of 83 per cent of the Austrian population.

In 2021, four additional programmes were included in the MUX I line-up, which now comprises 16 stations. An electronic programme guide and traffic information are also transmitted via TPEG, a transmission format that was developed for extended traffic and travel information via digital transmission modes.

The current MUX I programme overview can be viewed at https://www.rtr.at/medien/service/verzeichnisse/mux/MUXI.de.html.

2.9.4.3.2 Changes in DAB+ service to the Vienna region (MUX II)

The initial digital radio line-up based on the DAB+ transmission standard began service to the Vienna region on 4 April 2018, and 14 stations were broadcasting as of year-end 2021. The operator's licence awarded by KommAustria to RTG Radio Technikum GmbH for MUX II, the Vienna regional multiplex, applies to the broadcasting region referred to as 'Großraum Wien und Teile des Wiener Umlandes' (greater Vienna and parts of neighbouring areas), with technical coverage of roughly 2.25 million people.

In 2021, two additional offers were included in the MUX II line-up, which now comprises 14 stations. An electronic programme guide is now also being transmitted, while the 'Emergency-Warning-Functionality' system is also ready for service. The system, developed for digital transmission modes, is used to immediately broadcast information across all of the multiplex programmes in the event of a crisis or disaster.

The current MUX I I programme overview can be viewed at https://www.rtr.at/medien/service/verzeichnisse/mux/MUXII.de.html.

2.9.4.3.3 Digital radio via DVB-T2

Besides the DAB+ transmission standard, radio stations can also still be received in digital terrestrial mode via the DVB-T2 multiplexes A and F primarily used for terrestrial television. Such stations are thus also included in the digital terrestrial product packages marketed in Austria under the name of 'simpliTV.'

ORF radio stations Radio Österreich 1 (Ö1), Hitradio Ö3 and radio FM4 are broadcast without encryption via MUX A, which achieves the highest technical coverage range among the population (98%).

Among private radio stations, Radio Maria is broadcast at no charge but with encryption by way of MUX F, which is also nationwide (92% technical coverage range). Initial registration at no cost is required in order to receive the station.

2.9.5 Specifications relating to self-regulation of commercial communication and their implementation

As defined in Art. 33 Par. 3c of the KommAustria Act (KOG), Federal Law Gazette I No. 32/2001 as amended by Federal Law Gazette I No. 51/2022, a report addressing the effectiveness of the provisions of the conduct guidelines, as well as the type, number and outcome of complaints, must be submitted to KommAustria by 31 March of the following year by a recognised self-regulatory body for commercial communication. The regulatory authority must publish an activity report presenting its assessment of and recommendations on effectiveness.

2.9.5.1 Effectiveness report of the self-regulatory body for commercial communication

2.9.5.1.1 General and legal framework of self-regulation

The Fund for the Promotion of Self-Regulation in Commercial Communication was established at KommAustria in 2009. The fund has been endowed with EUR 75,000 annually since 2021 (previously EUR 50,000). As defined in Art. 33 Par. 2 KOG, KommAustria is to grant to a recognised self-regulatory body for commercial communication in media, upon application, an annual allowance in order to safeguard the independence of that body and ensure the performance of its duties under its bylaws and in order to effectively implement its decisions and resolutions.

In relation to commercial communication in audiovisual media services, a number of changes were introduced by Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities. In transposing the requirements, the EU Directive also encouraged Member States to make use of co-regulation and to support the promotion of self-regulation by means of an industry code of conduct. To ensure the achievement of an appropriate level of protection, a uniform set of criteria to be fulfilled by self-regulatory bodies was also defined.

As part of the amendment of the KOG by Federal Law Gazette I No. 151/2020 to implement Art. 4a(1) of Directive (EU) 2018/1808 and the associated deployment of self- and co-regulation in Austria, the criteria for the existence of a recognised self-regulatory body were specified and laid down as a catalogue in Art. 32a Par. 2 to Par. 4 KOG. In accordance with Recital 31 of the Directive, this is intended to ensure the effectiveness of self- and co-regulatory measures, in particular to protect consumers and public health (see explanatory notes to government bill 462, enclosure to stenographic record of National Council, 27th legislative period, regarding No. 19 [Art. 32a, Art. 32b KOG]).

Art. 32a KOG provides for the following criteria as a prerequisite for a recognised self-regulatory body:

"Self-regulatory bodies

Article 32a. *(1) The activities of recognised self-regulatory bodies may be encouraged in order to support the achievement of the goal of ensuring compliance with minimum European standards on the part of content providers.*

(2) A recognised self-regulatory body is defined as a body with legal personality, which:

1. *guarantees a broad representation of the affected providers, and comprehensive transparency in respect of decision-making criteria, procedures and the enforcement of decisions;*
2. *defines conduct guidelines and rules of procedure that are generally recognised by the primary stakeholders and which clearly define the goals of self-regulation;*

3. *ensures the periodic and transparent monitoring and assessment of the fulfilment of these goals, in any case by an external and independent entity;*
4. *ensures that complaints are effectively handled and that its decisions are enforced, including the imposition of effective and proportionate sanctions in the event of breaches of the conduct guidelines;*
5. *prepares a report concerning its activities, its established goals, and the measures and decisions taken in accordance with No. 3 and 4, and publishes this report in a suitable format.*

(3) Sanctions within the meaning of Par. 2 No. 4 include in particular:

1. *the publication of a decision by the self-regulatory body;*
2. *the publication of a recommendation by the self-regulatory body for future conduct;*
3. *the revocation of a quality mark or positive designation granted in accordance with the body's guidelines;*
4. *potential identification of a breach or warnings in accordance with the body's legal framework.*

(4) Every four years, the self-regulatory body shall provide the regulatory authority with a report on the body's structure and working practice that illustrates its contribution to the goal of achieving compliance with minimum standards on the part of content providers."

Also in implementation of European law requirements, as of 1 January 2021 the scope of duties for a self-regulatory body for commercial communication as defined in Art. 33 Par. 3a KOG has been extended to the effect that for the granting of the full funding amount, the conduct guidelines must contain provisions on inappropriate audiovisual communication relating to alcoholic beverages and in the case of children, inappropriate audiovisual communication on food and beverages containing nutrients or substances with a nutritional or physiological effect, such as in particular fat, trans-fatty acids, salt/sodium and sugar, excessive intakes of which are not recommended as part of the overall diet. The aim of these conduct guidelines is, on the one hand, to effectively reduce the impact of audiovisual commercial communication relating to alcoholic beverages on minors and, on the other, to reduce the impact of the 'unhealthy' foodstuffs listed (known as HFSS: 'high in fat, salt or sugar') on children (see Art. 33 Par. 3b KOG).

In accordance with the last sentence of Art. 33 Par. 2, KommAustria has drawn up and published guidelines for the award of funds from the Fund for the Promotion of Self-Regulation in Commercial Communication.

2.9.5.1.2 Austrian Society for the Self-Regulation of the Advertising Industry – Austrian Advertising Council

According to Art. 32a KOG, a recognised self-regulatory body is defined as a body with legal personality which ensures a broad representation of the providers concerned and fulfils the criteria of Art. 32a KOG. The Austrian Society for the Self-Regulation of the Advertising Industry – Austrian Advertising Council (ÖWR) represents such a recognised institution of self-regulation of commercial communication and has been receiving subsidies from KommAustria's fund earmarked for these goals since 2009.

At the general assembly of 21 June 2021, the Federation of Austrian Industries was admitted as a new ordinary member of the association serving as the legal entity for the body. The members of the ÖWR (Gesellschaft zur Selbstkontrolle der Werbewirtschaft) are therefore as follows:

- Fachverband Werbung und Marktkommunikation (Austrian Advertising Association)
- Dialog Marketing Verband Österreich (Dialogue Marketing Association Austria, DMVÖ)
- Verband Österreichischer Zeitungen (Austrian Newspaper Association, VÖZ)
- Verband der Regionalmedien (Association of Regional Media, VRM)
- Austrian Broadcasting Corporation (ORF)
- Verband Österreichischer Privatsender (Association of Commercial Broadcasters in Austria, VÖP)
- Verband der Österreichischen Markenartikelindustrie (Austrian Association of the Branded Goods Industry, MAV)
- International Advertising Association, Austrian Chapter (IAA)
- Verein Interessensgemeinschaft der Media-Agenturen (Association of Interest Group of Media Agencies, IGMA)
- Österreichischer Zeitschriften- und Fachmedienverband (Austrian Magazine Association – ÖZV)
- Internet Advertising Bureau Austria (IAB)
- FV Film- und Musikwirtschaft (Professional Association of the Film and Music Industry)
- Fachverband der Telekommunikations- und Rundfunkunternehmungen (Professional Association of Telecommunications and Broadcasting Companies)
- FV der Nahrungs- und Genussmittelindustrie – Lebensmittel (Professional Association of the Food and Beverage industry – Food sector)
- CineCom & Media Werbeagentur GmbH
- Federation of Austrian Industries (IV)

Based on the membership of the relevant associations and federations, the providers concerned are clearly represented for the most pArt. All relevant interest groups are represented in the field of commercial communication in the media (in particular clients, agencies, media as well as higher-level institutions). In addition, advertising companies and media companies have also joined the ÖWR as supporting members.

Comprehensive transparency is ensured for consumers and all stakeholders with regard to the basis for decision-making, procedures and enforcement of decisions. The Code of Ethics of the advertising industry as a basis for decision-making (see Art. 11 Par. 1 of the articles of association), the articles of association, the rules of procedure, complaint forms, complaints process or complaints procedures, advisory boards and decisions, including statistics, are published on the website of the Advertising Council (www.werberat.at) in a clear and easily accessible format (mostly in German). The names of the members of the ÖWR as well as the members of the Ethics Senate, an independent appeal panel for the review of the ÖWR's judgements, are also published on the website.

2.9.5.1.3 Conduct guidelines (Code of Ethics) and procedural rules (rules of procedure)

The ÖWR's conduct guidelines in the form of the Code of Ethics (as of February 2021) and the rules of procedure (as of February 2022) were revised with participation of the sector in 2021 and have been generally accepted as a basis for decision-making and procedures by the main stakeholders, in particular the members of the responsible association who are active in media, as well as by agencies, clients and higher-level institutions.

2.9.5.1.3.1 Code of Ethics

The Code of Ethics of the ÖWR includes "Basic Rules of Conduct" as well as "Special Rules of Conduct" for various areas.

"Basic rules of conduct

As such, advertising bears social responsibility and must take into account the rights, interests and feelings of individuals and groups of people.

1.1.1. Advertising should be characterised by the principle of social responsibility, especially towards children and young people before the age of 18.
1.1.2. Advertising must be legally permissible and must strictly observe the legal standards.
1.1.3. Advertising must comply with the principles of fairness as generally recognised in economic activity.
1.1.4. Advertising must not be contrary to generally accepted public morals.
1.1.5. Advertising must not violate human dignity, especially through degrading or discriminatory portrayals.
1.1.6. Advertising must not violate the principle of honesty and truthfulness.
1.1.7. Advertising must not mislead by suggestive or imitative representations.
1.1.8. Advertising must not violate the right to privacy.
1.1.9. Advertising must be clearly recognisable as such.
1.1.10. Advertising should not directly or indirectly place consumers under pressure to make purchases.
1.1.11. Advertising should not be placed on advertising media that obviously contradict Austrian legal provisions."

Special rules of conduct have been defined, relating to gender-discriminatory advertising (sexist advertising), children and young people, older people, alcohol, tobacco and motor vehicles.

In accordance with the amended European and national regulations, the Code of Ethics was revised in 2021 and expanded to include regulations concerning inappropriate commercial communication in the context of alcoholic beverages and food.

Art. 33 Par. 3a and Par. 3b KOG states:

"(3a) Starting with 2021, the granting of the full amount of the funds available shall be dependent on a self-regulatory body's conduct guidelines, including provisions with regard to

1. *inappropriate audiovisual commercial communication relating to alcoholic beverages*
2. *and for audiovisual commercial communication that is unsuitable for children and relates to foodstuffs and beverages containing nutrients or substances with a nutritional or physiological effect, in particular those such as fat, trans-fatty acids, salt/sodium and sugars, excessive intakes of which are not recommended as part of the overall diet.*

(3b) The conduct guidelines shall aim to effectively reduce

1. *the impact of audiovisual communication on alcoholic beverages on minors, and*
2. *the exposure of children to audiovisual communication on the foods and beverages listed in Par. 3a No. 2. For the foods and beverages listed in Par. 3a No. 2, the conduct guidelines shall prohibit their positive nutritional properties from being emphasised. Taking into account the recommendations of European institutions of self-regulation in the field of advertising and through an appropriate balance of interests, the conduct guidelines shall also take into account relevant recommendations of European consumer protection associations. The conduct guidelines shall also take into account recognised nutritional guidelines, in particular with regard to audiovisual commercial communication relating to the foods and beverages listed in Par. 3a No. 2. They shall be developed with the involvement of the Austrian Agency for Health and Food Safety."*

The new Code of Ethics now also includes guidelines concerning inappropriate audiovisual commercial communication during children's programmes that relates to foodstuffs (see in particular point 2.2.1.4. together with explanatory notes on the Code of Ethics). The guidelines now also apply to providers of video-on-demand services and video-sharing platforms and have been extended to other audiovisual channels, such as video clips and user-generated content. As a result, existing self-restriction of the advertising and food industry in relation to audiovisual commercial communication on certain foods in children's programmes, which was set out in 2010 as an Appendix to the Code of Ethics, has been adapted to the new legal requirements of the EU and integrated into the Code of Ethics:

„2.2.1.4. Inappropriate audiovisual commercial communication in the context of children's programmes:

The guidelines below apply to audiovisual media service providers whose offerings include children's programmes. They aim to effectively reduce the impact on children of audiovisual communication for the foods and beverages described in more detail below (see 'General principles' and 'Specific conditions' below). They include inappropriate audiovisual commercial communication accompanying or included in children's programmes.

Audiovisual commercial communication means images (with or without sound) which are designed to promote, directly or indirectly, the sales of food products and which are included in, or accompany, a broadcast or a user-generated video in return for payment or for similar consideration or as self-promotion.
These include, but are not limited to, television advertising and on-demand audiovisual media service advertising, sponsorship, teleshopping and product placement.

The guidelines below cover inappropriate audiovisual commercial communication for foods and beverages containing nutrients or substances with a nutritional or physiological effect, such as in particular fat, trans-fatty acids, salt/sodium and sugars, excessive intake of which is not recommended as part of the overall diet. The Advertising Council decides on the basis of the Code of Ethics of the Advertising Industry. Intended as a decision-making aid for the advertising council, an expert opinion, based on recognised nutritional guidelines, is prepared by a specially established food advisory board.

The form or content of audiovisual commercial communication on the aforementioned foodstuffs is inappropriate when broadcast immediately before, after or during (commercial breaks) programmes aimed exclusively or predominantly at children (persons under twelve years of age) and if it contradicts the following criteria:

2.2.1.4.1. General principles

a) Audiovisual commercial communication for such foods shall be designed in such a way that children's confidence in the quality of the products advertised is not abused.
b) Audiovisual commercial communication for such foods shall not discourage a healthy, active lifestyle. In particular, it shall not suggest that any inactive lifestyle is preferable to physical activity.
c) Audiovisual commercial communication for such foods shall not oppose or disparage a balanced and healthy diet. In particular, it shall not denigrate or discourage the consumption of fresh fruit or vegetables.
d) Audiovisual commercial communication for such foods shall not incite to excessive or exclusive consumption of the products advertised. The positive portrayal of compulsive or pathological eating habits is not permitted.
e) Audiovisual commercial communication for such foods shall not portray in a derogatory way the abstention from the consumption of the advertised products.
f) When advertising foods and beverages the excessive intake of which is not recommended as part of the overall diet, any favourable properties of such foods must not be emphasised

2.2.1.4.2. Special Provisions

a) Audiovisual commercial communication for such foods shall not establish any link between improved academic performance and the consumption of such foods.
b) Audiovisual commercial communication for such foods shall not create the impression that the possession or consumption of such foods would promote social success or ensure higher status and greater popularity among the children's age peers.
c) Audiovisual commercial communication for such foods must not suggest that they have therapeutic or healing effects or prevent disease.
d) Audiovisual commercial communication for such foods shall not promote lack of restraint in the consumption of such foods or negatively depict moderation or abstention.
e) Audiovisual commercial communication for such foods shall not contain negative statements about persons who, for whatever reason, wish to reduce their consumption of such foods.
f) Audiovisual commercial communication for such foods shall not suggest that they could substitute for a meal. In particular, it shall not suggest that these foods can be a complete substitute for vegetables and/or fruit.
g) Audiovisual commercial communication for reduced-calorie versions of these foods („light versions") shall not encourage excessive consumption of the reduced-calorie food.
h) Audiovisual commercial communication for such foods and the information they provide on taste, portion size and the potential contribution of such foods to a balanced diet shall be truthful, complete and transparent.
i) Audiovisual commercial communication for such foods and the information they contain about the amount of carbohydrate, fat or protein present in those foods shall not misleadingly suggest positive effects for an overall balanced diet (e.g. high carbohydrate foods shall not be promoted by referring to their low or no fat content and vice versa).
j) Where such foods are directly associated with children's programmes (e.g. licensed products), audiovisual commercial communication for them shall not be broadcast immediately before, during or after such programmes.
k) Audiovisual commercial communication for such foods shall not cause physical or psychological harm to children.
l) Audiovisual commercial communication for such foods shall not directly appeal to children to buy those foods by exploiting their inexperience and credulity.
m) Audiovisual commercial communication for those foods shall not directly encourage children to persuade their parents or others to purchase those foods.
n) Audiovisual commercial communication for such foods shall not, through explicit calls for purchasing, inappropriately exploit the special trust that children have in parents, teachers and other persons in whom they naturally confide (including 'child idols') and thereby discourage the learning of a balanced diet and healthy lifestyle. It must also not suggest that the consumption of such foods directly enables children to gain popularity or social status comparable to that of such persons." (Note: excerpt without footnotes)

Further restrictions and clarifications were provided for audiovisual commercial communication for alcoholic beverages in the youth environment (see in particular point 2.2.2.2. of the Code of Ethics):

"2.2.2.2. Inappropriate audiovisual commercial communication for alcoholic beverages in the youth environment

The following guidelines apply to audiovisual media service providers. They aim to effectively reduce the exposure of young people (persons under 18 years of age) to audiovisual communication for alcoholic beverages.

Based on the EU Audiovisual Media Services Directive specific requirements are set out for inappropriate audiovisual commercial communication related to alcoholic beverages (cf. the more detailed explanations on section 2.2.1.4.) which is shown in the environment of young people.

The form or content of audiovisual commercial communication for alcoholic beverages is considered inappropriate if it contradicts the criteria for beer and spirits set out below and in the two annexes to the Code of Ethics.

Audiovisual commercial communication for alcoholic beverages is inappropriate if it contradicts the following criteria:

a) Audiovisual commercial communication for alcoholic beverages must not encourage children and adolescents under the age of 18 to drink alcoholic beverages, or show adolescents drinking or encouraging drinking.
b) Audiovisual commercial communication for alcoholic beverages shall not be made in media where the majority of the editorial content is aimed at young people.
c) Audiovisual commercial communication for alcoholic beverages shall not contain statements that refer to young people as not yet old enough to consume alcoholic beverages, thereby provoking them to drink.
d) Audiovisual commercial communication for alcoholic beverages shall not depict persons claiming to have already consumed alcoholic beverages as a young person.
e) If persons are shown in audiovisual commercial communication for alcoholic beverages, they must at least be young adults and appear as such." (Note: excerpt without footnotes)

Further general restrictions were also set out in relation to 'health' and ‚alcohol' (see in particular points 1.4. and 2.4. of the Code of Ethics). Furthermore, the Appendix to the Code of Ethics contains under 'Alcohol' specific self-restrictions for the brewing and spirits industry.

The new Code of Ethics was developed together with the members of the responsible association and with the assistance of the Austrian Agency for Health and Food Safety (AGES), agreed by the management board, adopted in accordance with the articles of association in February 2021 and subsequently published. Since then, the members of the Advertising Council have made their decisions based on the revised Code of Ethics.

Furthermore, a food review board was established to assist the ÖWR with complaints regarding inappropriate audiovisual commercial communication in the context of children's programmes, within the meaning of section 2.2.1.4. of the Code of Ethics of the advertising industry in its current version, by providing recommendations on the assessment of food based on recognised nutritional guidelines.

2.9.5.1.3.2 Rules of procedure

The rules of procedure define the responsibilities of the Advertising Council, the right to appeal and the course of the procedure as well as the possible sanctions in the event of a failure to comply with the rules of conduct.

As defined in Article shift control space 13 of the rules of procedure, the Advertising Council usually decides according to the following three decision categories: 1. no reason to intervene; 2. raising awareness – request to proceed more sensitively in future when designing advertising measures or individual subjects; and 3. request for an immediate stop of the campaign or an immediate change of subject.

Furthermore, the rules of procedure provide for a graduated catalogue of sanctions:

"Article 15 Sanctions

In accordance with the requirements of the KommAustria Act amended at the end of 2020, based on the new version of the applicable EU Audiovisual Media Services Directive (EU AVMSD) which entered into force in December 2018, a graduated catalogue of sanctions with escalation levels is provided for the enforcement of stop decisions. The client and/or the agency shall be informed in advance of the possible sanctions in writing.

(1) If the request to amend or discontinue the advertising measure and to submit the required proof pursuant to Article 14 (2), (3) and (4) is not complied with in due time, the Austrian Advertising Council may:

- *a) Withdraw the Advertising Council Quality Seal ('Pro-Ethik seal') and block the client and the agency from applying again or for the first time for one year.*
- *b) Issue a public warning: the decision is communicated by means of a press release to trade and business media, media editors from the general media and, if applicable, regional media.*

(2) In the event of a repetition of a stopped subject, the client of the advertising measure and/or the agency shall be requested in writing to change or stop the advertising measure within a period of two working days. In the event of failure to comply with the request to amend or discontinue the advertising measure, the Austrian Advertising Council may:

- *a) Implement sanctions in accordance with Article 15 (1) and (2).*
- *b) In addition to this, regional interest groups from advertising, trade, industry and commerce as well as media as advertising media and the corresponding media associations may also be informed.*

(3) In the event of a second repetition of a stopped subject, the client of the advertising measure and/or the agency shall be requested in writing to change or stop the advertising measure immediately (without setting a further deadline). In the event of failure to comply with the request to amend or discontinue the advertising measure, the Austrian Advertising Council may:

- *a) Implement sanctions in accordance with Article 15 (1) and (2).*
- *b) Furthermore, the Austrian Advertising Council may draft a press release in coordination with the Schutzverband gegen unlauteren Wettbewerb [Association Against Unfair Competition] and send this to the specialist and business media, media editorial offices of the general media and, if applicable, the regional media.*

(4) In the event of a second stop decision against an undertaking (in relation to a different campaign), action shall be taken by the business office in accordance with Article 14 (1), (2), (3), (4) and (6). In the event of failure to comply in due time with the request to amend or discontinue the advertising measure and to submit the required proof pursuant to Article 14 (2), (3) and (4) , the Austrian Advertising Council may:

a) Implement sanctions in accordance with Article 15 (1), (2) and (3).

(5) Third stop decision against an undertaking: In the event that the Austrian Advertising Council pronounces within one year a third stop decision on advertising measures taken by an undertaking, the following procedure shall be followed:

- *a) The stop decision shall be handled by the business office in accordance with Article 14 (1), (2), (3), (4) and (6). In the event of failure to comply in due time with the request to amend or modify the advertising measure, the business office shall proceed in accordance with Article 15 (1), (2), (3) and (4).*
- *b) Furthermore, the Austrian Advertising Council may in coordination with the Association Against Unfair Competition draft a press release under the assumption of 'unfair business practices' and distribute it to the specialist and business media, media editorial offices of the general media and, if applicable, the regional media."*

Pursuant to Article 16 of the rules of procedure, the Ethics Senate decides on any written objections to a 'request to stop'.

2.9.5.1.4 Complaints scorecard and annual report

In the annual report of the Advertising Council (see Art. 32a Par. 2 No. 5 KOG), which is published on the website of the ÖWR, all activities, objectives as well as the complaint scorecards are discussed in detail and clearly presented.

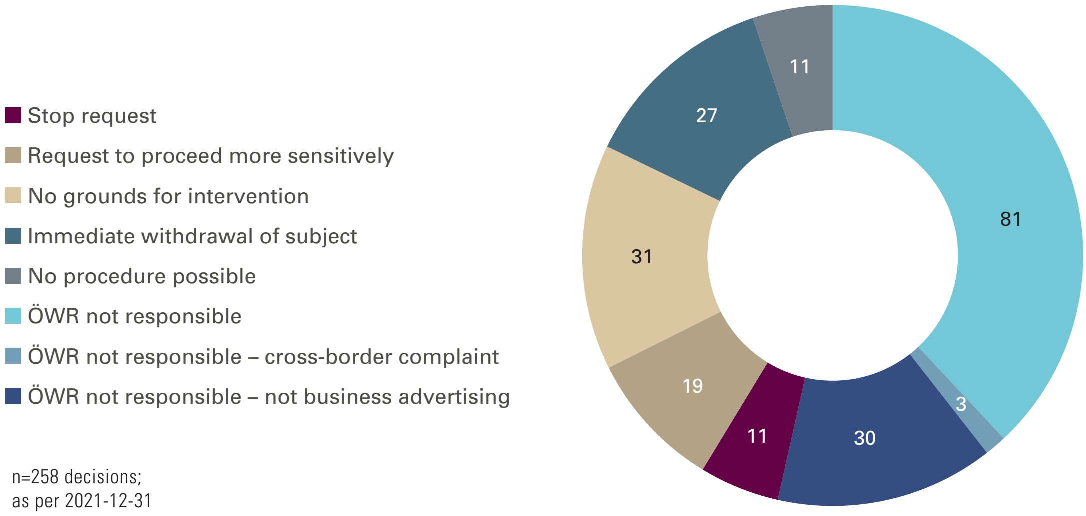
With regard to complaints procedures, the 2021 annual report shows that in 2021, 413 complaints were lodged with the ÖWR, resulting in 258 decisions (2020: 411 complaints, 241 decisions; 2019: 338/206, 2018: 316/194; 2017: 504/228; 2016: 308/181; 2015: 248/168).

In eleven cases, a request was made to stop the subject or campaign immediately in 2021 (2020: 11, 2019: 22, 2018: 12; 2017: 18; 2016: 11; 2015: 22). This request was complied with in nine cases. In two cases, further treatment measures were initiated in accordance with the catalogue of sanctions.

In 19 cases, the ÖWR pronounced a decision for 'raising awareness – request to proceed more sensitively in future when designing advertising measures or individual subjects'.

As in previous years, the companies receiving these decisions showed a willingness to cooperate with the ÖWR, as is reflected in the high number of subjects that were withdrawn immediately. In the end, 27 companies (2020: 36) withdrew or changed their advertising measures immediately after initially being contacted by the ÖWR business office.

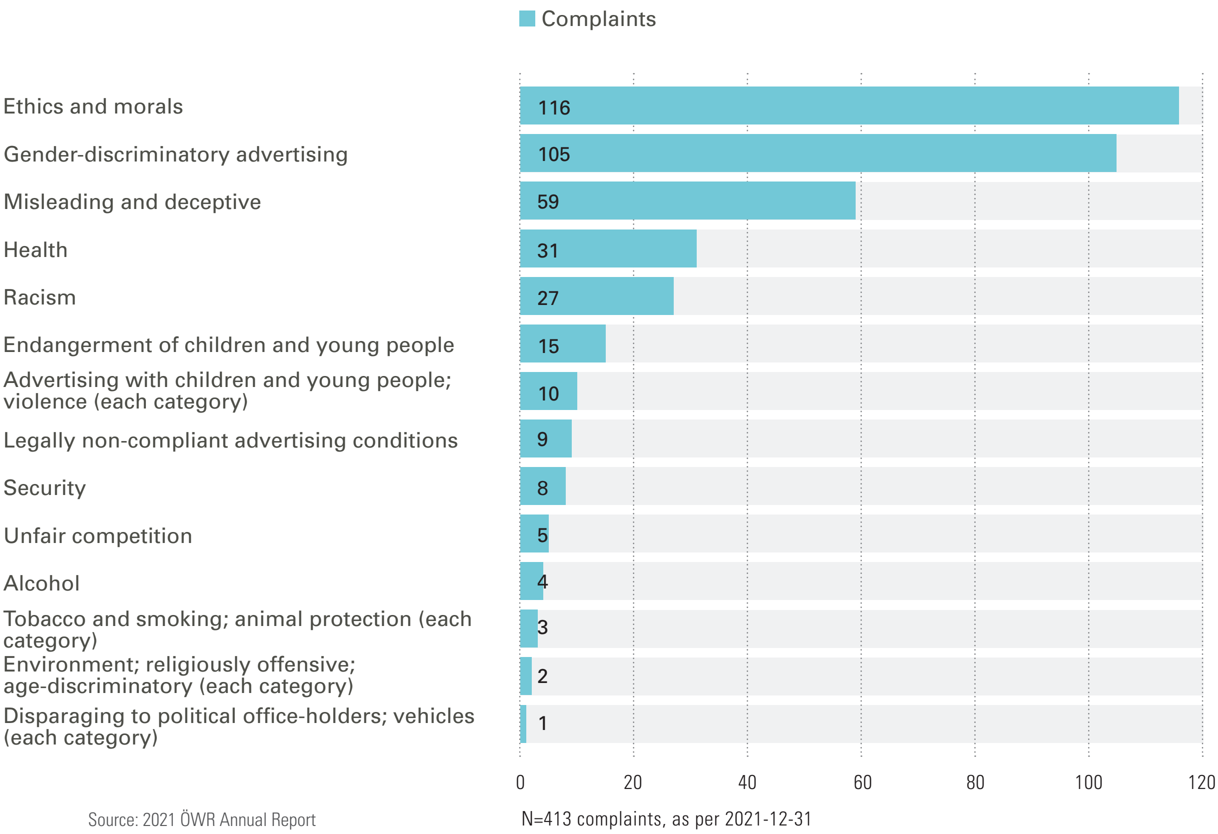
Figure 32: ÖWR Decisions in 2021



Source: 2021 ÖWR Annual Report

A year-on-year comparison shows that approximately the same number of complaints were received in 2021 (two more than in the previous year), but considerably more decisions (17) were taken. The number of decisions and therefore the workload for the ÖWR has steadily increased in recent years.

Figure 33: Grounds for complaints in 2021



Source: 2021 ÖWR Annual Report

Most complaints received in 2021 related to 'Ethics and morals', 'Gender-discriminatory advertising' and 'Misleading and deceptive advertising'. The percentage of decisions is the highest in the area of 'Misleading and deceptive advertising'.

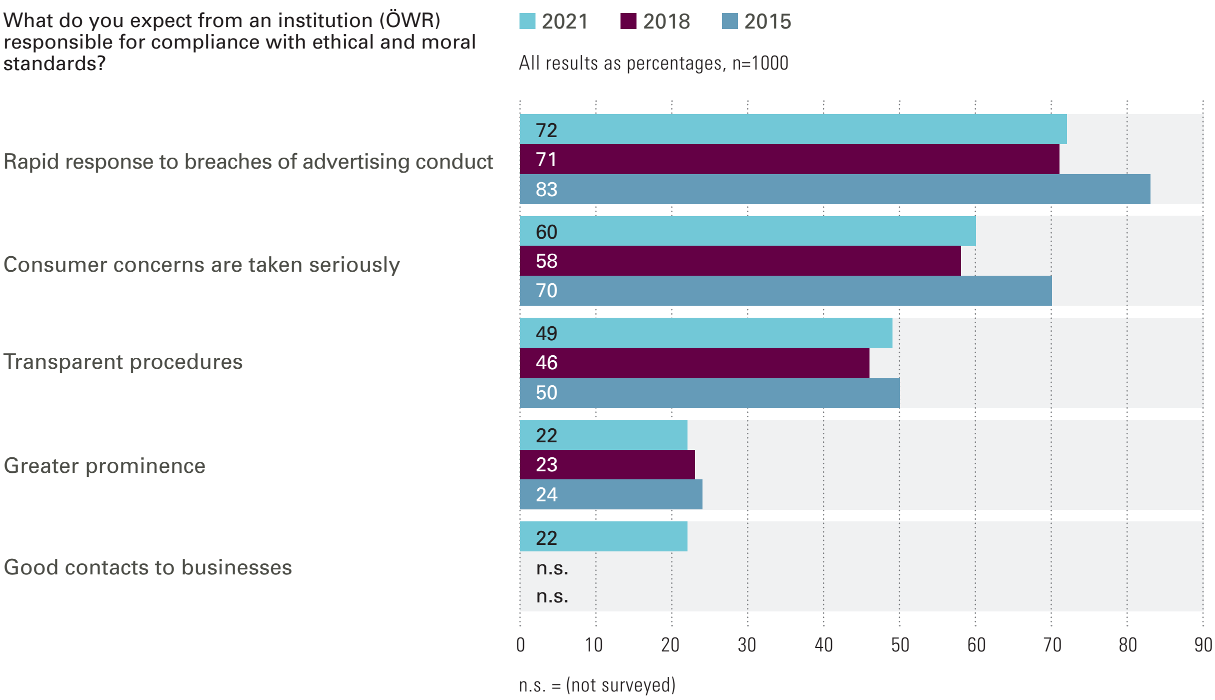
There have not yet been any complaints about the audiovisual sector in connection with the new subject areas of inappropriate commercial communication about alcoholic beverages or 'unhealthy' food in children's programmes.

2021 consumer study

Following 2015 and 2018, a consumer survey tasked by the ÖWR was conducted again in 2021. The study, representative of the Austrian population aged 18 and over, provides important information to the ÖWR in its role as self-regulatory body but also to the advertising industry as a whole. For the purposes of this report, primarily the results that are of interest for the work of the self-regulatory body are presented.

The study shows that awareness of the ÖWR and the trust of the general population in the ÖWR further increased in 2021. One of the questions was: "An advertisement is shown for an average of two to four weeks. If you do not agree with the way an advertisement is presented, where would you go to have your complaint dealt with quickly?". Here 43 per cent of the respondents named the ÖWR, ranking it first among the contact points for complaints about advertising. According to the study, expectations placed on the ÖWR have changed only slightly over recent years. Fast response times and taking consumer concerns seriously are still the key concerns when addressing the ÖWR.

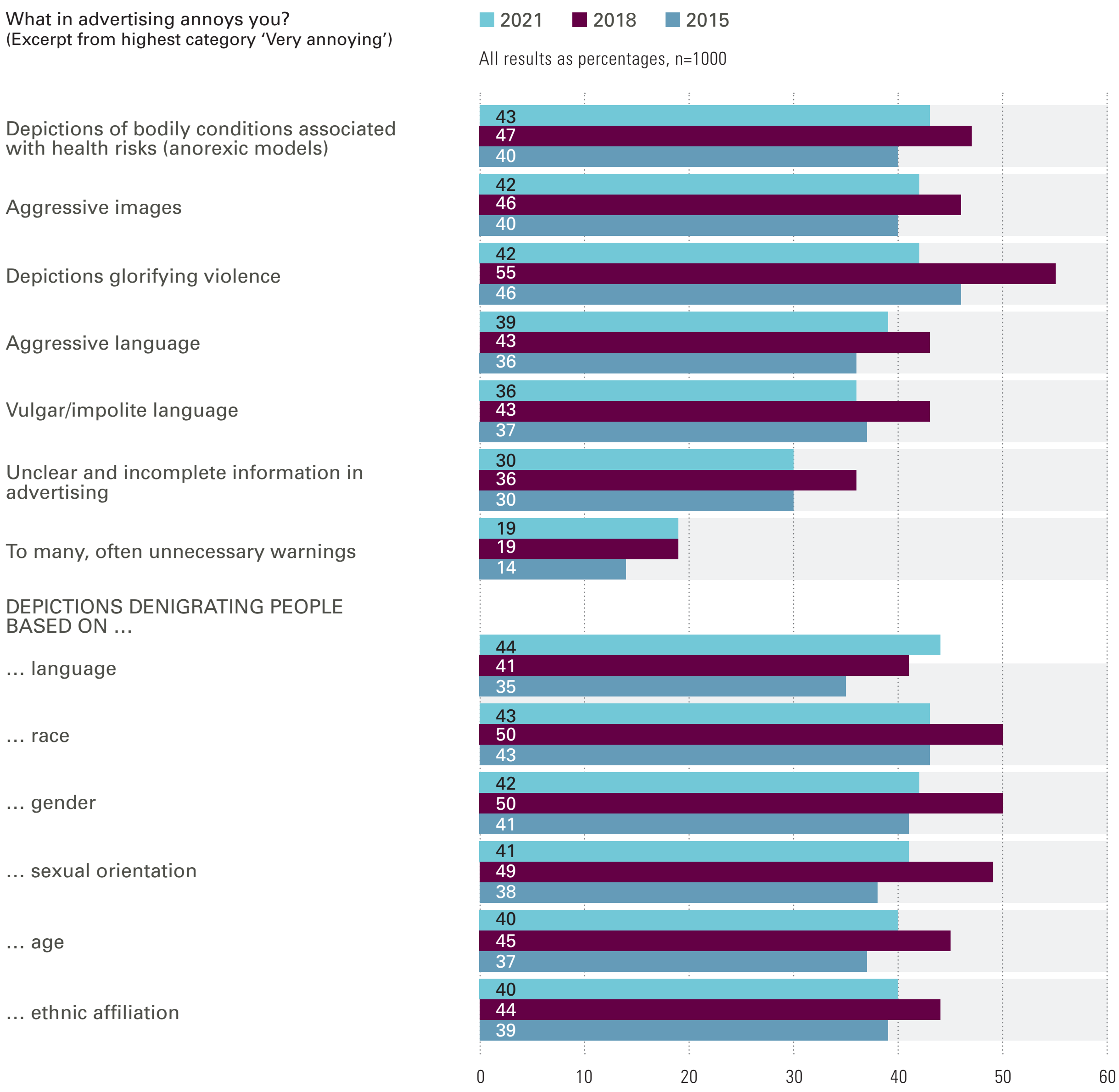
Figure 34: Expectations placed on the ÖWR



Source: 2021 ÖWR Annual Report

The criticisms levelled at advertising have remained similar to previous years. What stands out is that advertising glorifying violence was criticised far less frequently in 2021 compared with previous years. Criticism of the portrayal of bodily conditions associated with health risks continues to upset the largest number of people.

Figure 35: Acceptance drivers and annoying aspects of advertising



Source: 2021 ÖWR Annual Report

Another important result of the study: the level of awareness of the Advertising Council has risen from 38 per cent to 46 per cent (supported awareness) in the last six years, according to the 2021 Consumer Study.

The detailed results can be found on the ÖWR website.

Awareness raising

In 2021, the ÖWR took numerous measures to raise awareness among advertisers as well as among consumers. These include:

- An ÖWR campaign to raise public awareness about the ÖWR. The campaign was also a call to work together to keep Austria's advertising free of annoying aspects and to use the Advertising Council as a platform for self-regulation. The campaign ran in print, online, on TV and radio, in cinemas and as out-of-home advertising.
- Numerous press releases and monthly reports
- Certification with the 'Pro-Ethik seal': The ÖWR 'Pro-Ethik seal' stands for compliance with ethical principles in all advertising measures by companies purchasing and selling advertising. Based on the Code of Ethics of the Austrian advertising industry, companies undertake to comply with common quality criteria relating to ethics and morality that have been drawn up by the advertising industry and which go beyond applicable legal provisions. The Pro-Ethik seal aims to increase awareness of the ethical rules established jointly by the advertising industry and thereby to strengthen self-regulation and the freedom of advertising. At the same time, it strengthens companies' trust base, provides guidance for customers and thus creates a competitive advantage for participating companies.

2.9.5.2 Evaluation and recommendations

In the "Expert opinion assessing the fulfilment of objectives of the ÖWR – Austrian Advertising Council in accordance with Art. 32a KOG" of 17 March 2022, external expert Prof. Dieter Scharitzer states that the ÖWR fulfils the requirements set out in Art. 32a KOG for a recognised self-regulatory body. KommAustria shares this assessment.

The objectives of self-regulation (in particular protecting consumers from abuse in advertising, preserving ethical and moral principles, promoting ethics in business in general) are reflected both in the articles of association (see Art. 2 Objectives of the Association) and in the Code of Ethics. Based on the membership of the professional associations and federations, the providers concerned are clearly represented for the most pArt. All relevant interest groups in the field of commercial communication in media are represented. Both the self-regulatory body and the Code of Ethics and rules of procedure of the ÖWR are generally recognised.

All information can be found on the ÖWR website in an easily accessible and easy-to-understand form. Full transparency in respect of decision-making criteria, procedures and the enforcement of decisions is guaranteed.

The new Code of Ethics also contains provisions required under Art. 33 Par. 3a and Par. 3b KOG concerning inappropriate commercial communication for alcoholic beverages and 'unhealthy' food. The necessary expertise is provided by the newly established food review board. The provisions were implemented in a timely manner.

The rules of procedure available on the website provide a regulated framework for the effective handling of complaints (Articles 1 to 13 of the rules of procedure) and the enforcement of decisions based on these, including the imposition of the above-mentioned sanctions (Articles 14 to 17 of the rules of procedure). In accordance with the objective of the amendment to the KOG, the sanctions by the ÖWR were supplemented and specified within the framework of the rules of procedure, in particular within the framework of a graduated catalogue of sanctions for enforcement in the case of 'stop decisions' (Article'15 of the rules of procedure).

It can therefore be assumed that the ÖWR ensures that complaints are effectively handled and that its decisions are enforced, including by imposing effective and proportionate sanctions in the event of breaches of the conduct guidelines as defined in Art. 32a Par. 2 No. 4 and Par. 3 KOG. This assumption is supported not least by the continuous increase in the number of decisions by the ÖWR. Further support is the fact that in 2021, in nine out of eleven cases in which the ÖWR had demanded an "immediate stop of the subject or campaign", this request was complied with immediately or within the first grace period set, and in two cases further treatment measures were initiated in accordance with the catalogue of sanctions.

No complaints have been submitted to the ÖWR so far with regard to the new regulations of the Code of Ethics introduced in 2021, in particular concerning inappropriate audiovisual commercial communication for certain foods in children's programmes as well as inappropriate audiovisual commercial communication for alcoholic beverages in the youth environment (see point 1.3). Against this background, it seems difficult to assess the effectiveness of the related rules of conduct. It remains to be seen whether the number of complaints in these new areas increase. If so, the underlying causes should be investigated and counteracted with awareness-raising measures.

The level of awareness of the Advertising Council has risen from 38 per cent to 46 per cent (supported awareness) in the last six years, according to the 2021 Consumer Study. There is also an increase in awareness of complaint options.

With a view to the effectiveness of the conduct guidelines, attention should be devoted to preventive measures such as positive certification through the Pro-Ethik seal as well as awareness-raising measures at the consumer and advertising industry levels. Also worth mentioning is the high level of willingness to cooperate with the ÖWR, which is reflected in the high number of subjects that were withdrawn immediately by the respective companies concerned, after being initially contacted by the ÖWR business office.

In summary, KommAustria is of the opinion that – based on the reports and documents submitted – the present system of self-monitoring by the ÖWR is generally an effective system within the meaning of the legal requirements. The fulfilment of the legal prerequisites of Art. 32a Par. 2 and Par. 3 KOG, the high number of decisions taken by the ÖWR and the results of the consumer study (showing a rise in the level of awareness and trust) lead to the conclusion that the ÖWR fulfils its duties effectively. The new Code of Ethics and the rules of procedure also adopted in 2021 have basically proven their worth in the first year of application. There is currently no evidence to suggest any need for modifications to the Code of Ethics or the rules of procedure of the ÖWR.

In KommAustria's view, the activities included in the 2022 annual plan of the ÖWR are to be welcomed, including in particular the planned modernisation of the website and the technical development of the complaints tools in order to make it easier to submit complaints, particularly using mobile devices.

The level of awareness of the ÖWR has risen sharply over the last three years. Nevertheless, further promotion by means of an image campaign and improved online presence would be helpful, in order to increase the level of awareness of the ÖWR even further and to contribute to greater public awareness among advertisers as well as consumers. In particular, the ability to complain about inappropriate audiovisual commercial communication for certain foods and alcoholic beverages in children's programmes should be emphasised more in the image campaign and public relations in general.

Furthermore, positive mention is made of the focus on the issue of 'Environment and Sustainability' planned by the ÖWR in 2022 and a possible expansion of the Code of Ethics in Advertising.

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03

Activities of RTR: department Media Division

3	**Activities of RTR: department Media Division**	**126**
3.1	Complaints board annual report	126
3.2	Management of funds and grants	136

03 Activities of RTR: department Media Division

3.1 Complaints board annual report

3.1.1 Structure of the board for complaints and information

Following the amendment to the Audiovisual Media Services Act (AMD-G) and the entry into force of the Communications Platforms Act, the Media Division at RTR was assigned an additional role: to handle complaints and identify mutually agreeable solutions in relation to communication platforms, video sharing platforms and failures to comply with accessibility standards.

Another new duty involves an expansion to the RTR's service and information services with a particular focus on media literacy and accessibility.

In both areas, information programmes are to be provided for media service providers and platforms on the one hand, with an information programme also to be made available to the general public.

According to the explanatory notes[17] provided for the ministerial draft of the federal act that is intended to amend the Audiovisual Media Services Act, the KommAustria Act, the ORF Act and the Private Radio Act, RTR is to complete a status quo analysis with the aim of providing guidance on the wide range of media literacy services that are currently offered:

"[....] a portal [should be] set up for the collection and structured presentation of useful and reliable informational and educational resources. The aim is to provide private citizens, educational institutions and funding bodies alike with a central point of contact from which they may obtain an overview of the products and services that are provided in relation to the promotion of media literacy. This portal should not, however, be restricted to state-funded products but should also offer space for the presentation of other commendable initiatives."

The complaints board for media, consisting of a three-person team made up of two legal practitioners and one case worker, was set up in March 2021.

3.1.1.1 Complaints board

Following consultations with the Austrian Communications Authority (KommAustria), guidelines for conciliation and complaints procedures at the RTR Media Division were then drafted and published on 15 April 2021.

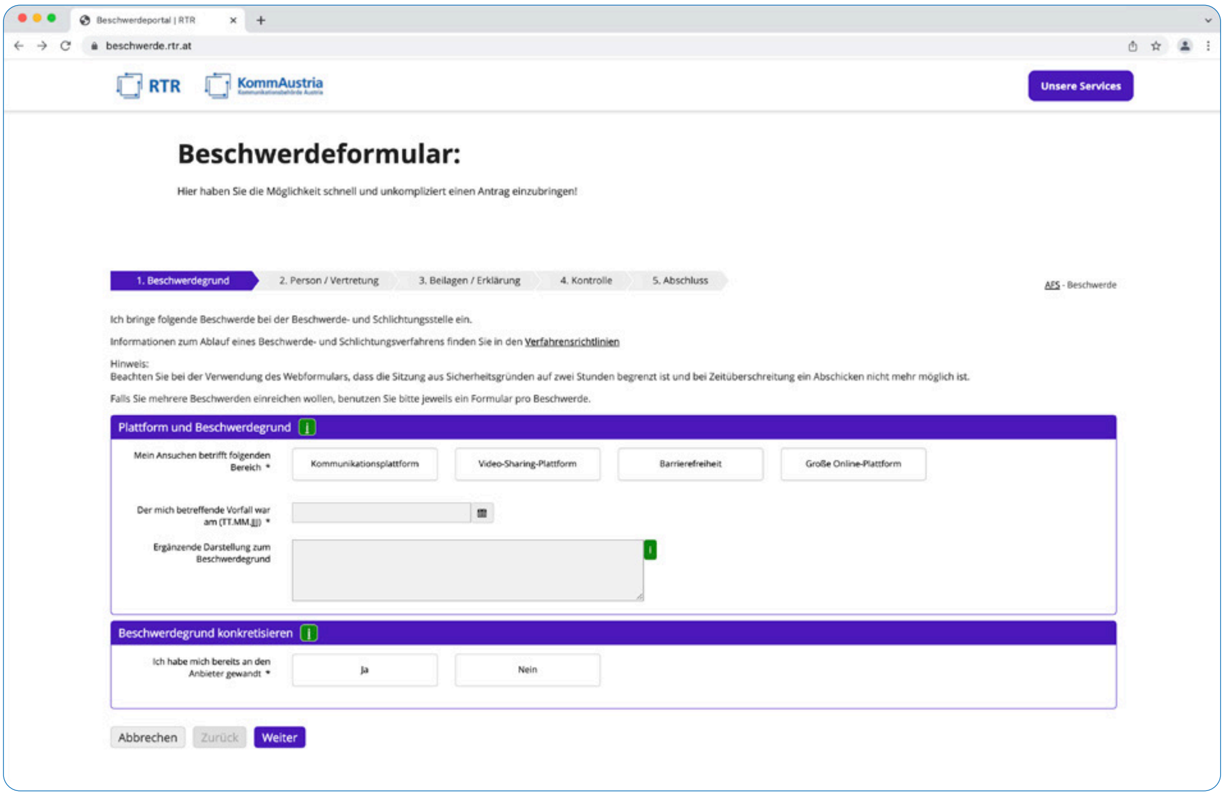
Before a complaints procedure can be initiated, the user and service provider in question must have first attempted to reach an agreement but failed. In the course of a complaints procedure, RTR attempts to negotiate a mutually agreeable solution or informs the participants of its position on the case in question. The conciliation body was submitted 27 complaints in the period under review.

The establishment of the complaints board also involved the design and launch of two online portals dedicated to handling complaint submissions. Information packs were also created to provide support for those wishing to submit a complaint.

The first portal is the complaints portal, which provides information about the role of the complaints board, a video explaining the complaint submission process, an FAQ and an online complaints form.

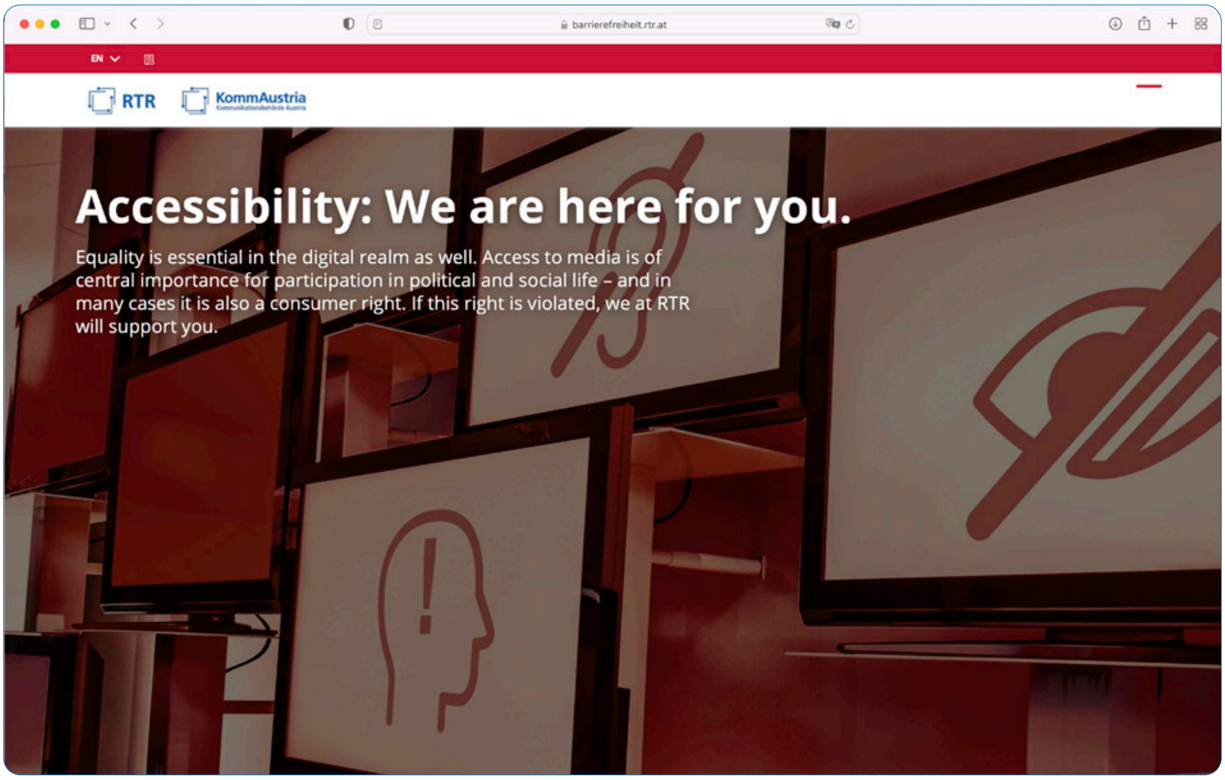
[17] 52/Min. draft, 27th legislative period, 17.

Figure 36: The online complaints form (in german)



The second portal is the accessibility portal, which offers a guide to submitting complaints about failures to meet accessibility standards in audiovisual media content, while acting as a service point that provides information about the topic of accessibility in audiovisual media services (for further details, see section 3.1.1.2).

Figure 37: Accessibility portal teaser with heading



3.1.1.2 Information and service point

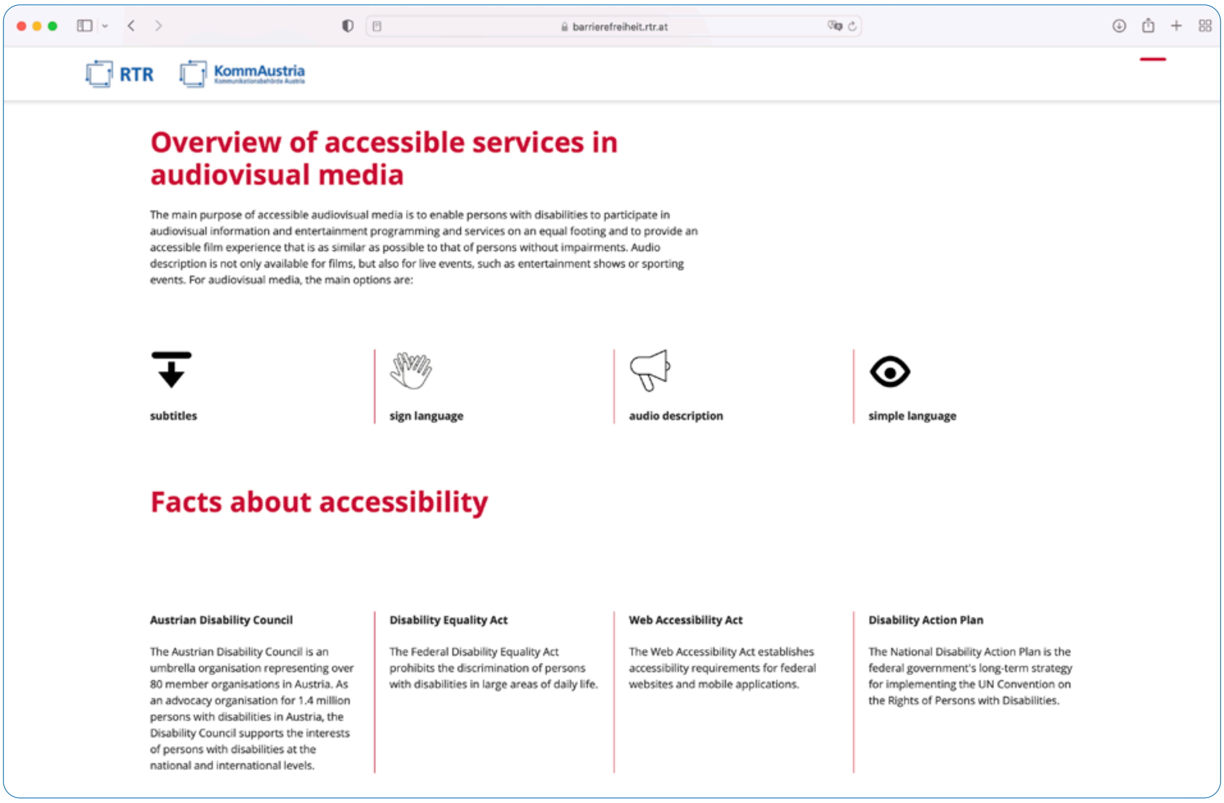
Apart from mediating between users and service providers, another key aspect of the complaints board's work is the collection and provision of information resources on the topics of media literacy and accessibility.

In the case of accessibility, RTR's remit includes providing media service providers with appropriate information that will help them to make their content accessible to people with vision and hearing impairments, and to people with intellectual disabilities (who need content to be provided in simplified language). Equally, RTR is also tasked with providing programmes of information for the general public.

Accordingly, a general overview of accessible audiovisual media products and services is provided, as well as informative articles addressing the subject of accessibility.

Another section offers a set of links that is periodically reviewed and expanded, intended as a resource to help those searching for information in this field.

Figure 38: **Screenshot from accessibility portal with an overview of accessible audiovisual media products and services, and video explaining the complaints procedure.**



On the subject of media literacy, the Media Literacy Atlas constitutes a comprehensive information resource and can be considered RTR's third new portal.

Pursuant to Art. 20a of the KommAustria Act (KOG), RTR is tasked with providing a wide-ranging information service for media literacy. Projects and initiatives designed to communicate and promote media literacy are to be presented, with a particular focus on projects supported by public funds.

The Media Literacy Atlas offers users a way to have their own media literacy projects presented as well as a resource for finding out more about other projects throughout Austria.

Alongside the projects mentioned, details of current events are also posted, and information programmes intended for use by specific user groups (children/adolescents, parents, educators and adults/senior citizens) are provided and updated at regular intervals.

Figure 39: Overview of the Projects page of the Media Literacy Atlas (in german)

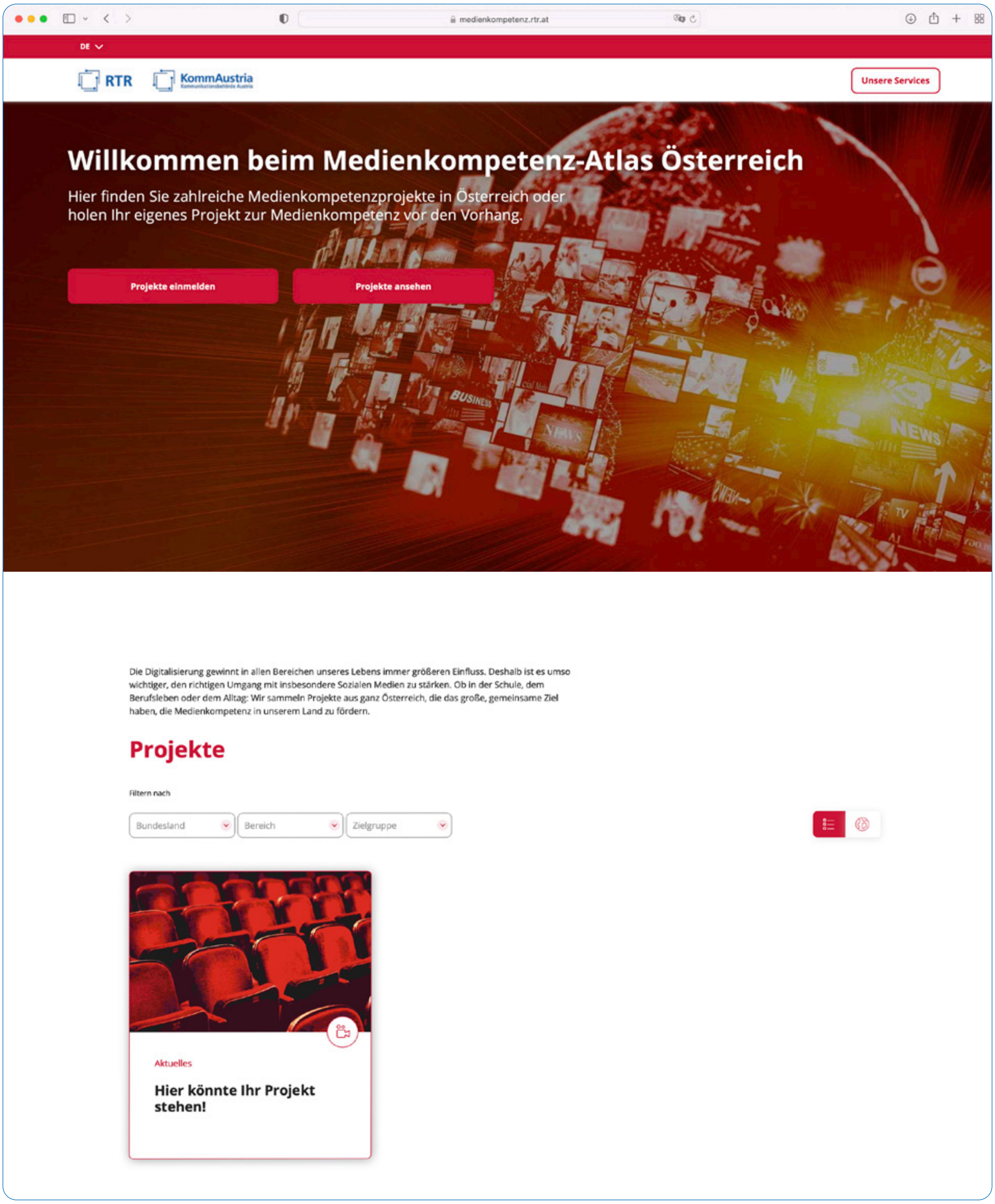
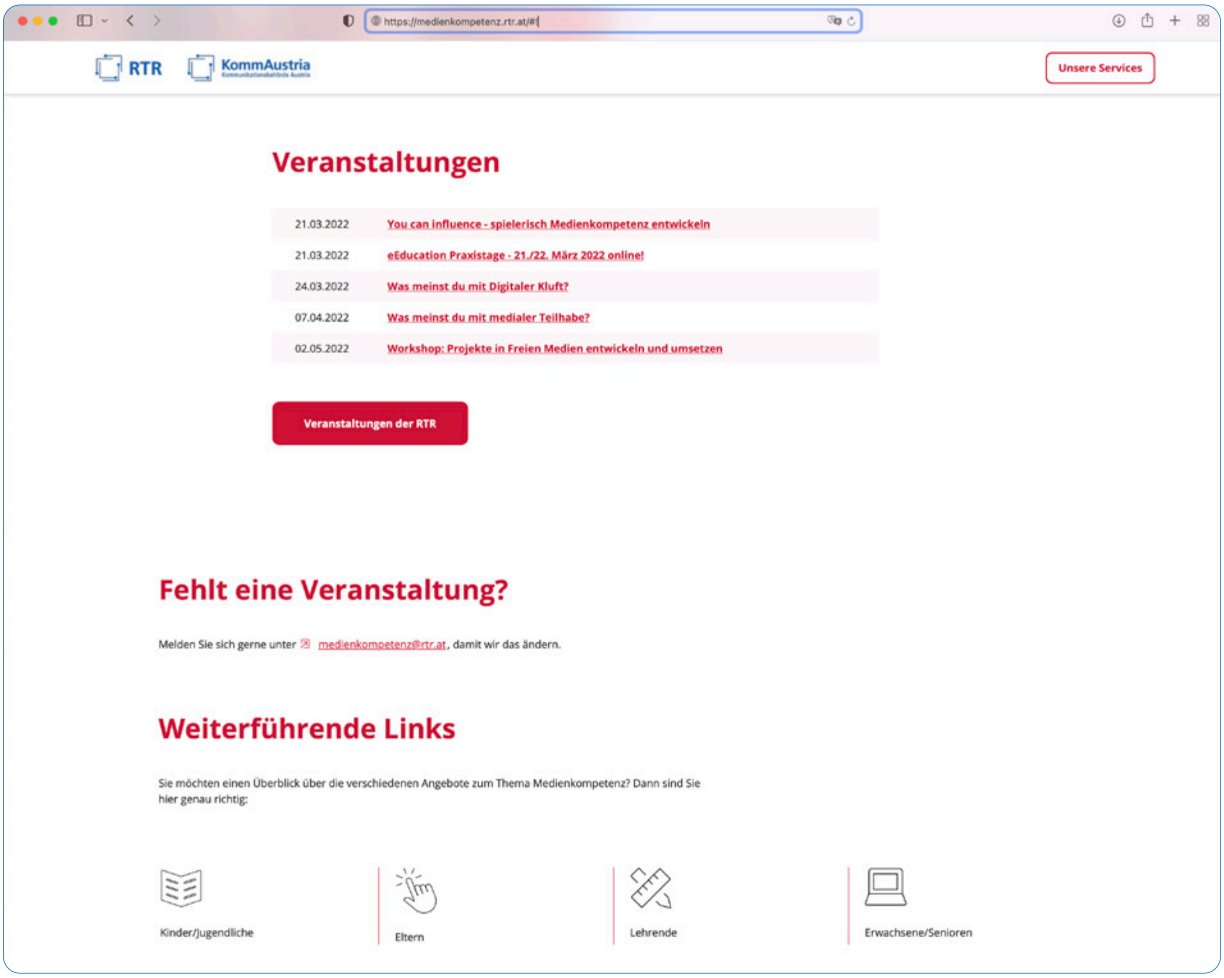


Figure 40: Overview of the Events page of the Media Literacy Atlas and links to further information (in german)



Explainer videos offering a detailed guide to portal usage (submission of a complaint or submitting a project profile) are provided on both the media literacy and accessibility portals.

To maximise the reach of information services for the general public, the complaints board uses separate portals as well as consumer pages on www.rtr.at.

Information packs on all of the topics addressed (communications platforms, video sharing platforms, accessibility and media literacy) were prepared in the reporting period but will be distributed in the following year due to the pandemic.

3.1.2 Summary for 2021 – the three types of complaints procedures

A total of 27 complaints procedures were initiated from March to December 2021, with all of these cases involving complaints made about communications platforms.

Table 14: Complaints procedures initiated from March to December 2021

Complaints procedures initiated (total)	**27**
Communications platforms	27
Video sharing platforms	0
Accessibility problems	0

3.1.2.1 Process flow for a conciliation procedure

A conciliation procedure is initiated at the request of an end user.

This written request must be submitted in German and, where, possible, by using the corresponding e-government application. Procedures are handled using a digital process.

Users can apply to the complaints board in the cases listed below, where the dispute relates to:

a. a reporting and/or review procedure that is in place for a communications platform, with disputes between a user and service provider;

b. a reporting and assessment system, the deployed parental control system, the tools used for marking commercial audiovisual communications or the complaints system utilised by a video sharing platform, with disputes between a user and a service provider; or

c. accessibility problems affecting the content of an audiovisual media service.

Any dispute must directly involve Austrian (domestic) users.

If the conciliation request is unclear or inconsistent, or lacking important documents or statements, the complaints board has the option of granting the applicant a grace period of at least five working days to submit a revised application or to provide any such documents or statements that may have been omitted.

Both the participation in the complaints procedure and an acceptance of the proposed solution are voluntary.

The complaints board is tasked with mediating between the parties and identifying satisfactory solutions.

According to the explanatory notes,[18] solution proposals that accelerate the procedure at the platform provider could be considered, as could instructions for usability requirements, or about the level of detail required for information, or about the content of decisions made by the service provider on the classification and handling of a specific content item.

To date, cases with successful outcomes have been decided in favour of the complainant.

[18] Explanatory notes to government bill 463, enclosure to stenographic record of National Council, 27th legislative period, 11.

3.1.2.2 Procedural rules

The complaints board's procedural rules can be accessed from the following link on the RTR website: https://www.rtr.at/medien/aktuelles/veroeffentlichungen/Veroeffentlichungen/Sonstiges/verfahrensrichtlinien_beschwerdestelle/Verfahrensrichtlinien.de.html

The procedural rules must be based on the basic principles of Art. 6 Par. 2 and Par. 6 No. 1, Art. 7 Par. 1, Art. 8 Par. 1 No. 1 and 2, and Par. 2 of the Alternative Dispute Resolution Act (AStG, Federal Law Gazette I No. 105/2015).

3.1.2.3 Complaints procedures relating to communications platforms

One special challenge was posed by the need to inform users about the cases for which the complaints board was actually responsible.

Pursuant to Art. 3 Par. 1 of the Communications Platforms Act (KoPl-G), users can contact the complaints board if they have complaints concerning shortcomings in the reporting procedure in accordance with Art. 3 Par. 2 No. 1 to 3 KoPl-G or the review procedure according to Art. 3 Par. 4 KoPl-G.

While most of the complaints received by the complaints board did indeed concern communications platforms as defined by the KoPl-G, the body itself was not in fact competent in most cases.

Two complaints concerned blocks imposed on user accounts, which were duly lifted following the intervention of the complaints board.

In some cases, the individuals filing the complaint were asked to submit additional documentation or information. As these requests was not complied with by the plaintiffs, the procedures were discontinued.

The complaints board also contacted the Documentation Centre of Austrian Resistance (DÖW) since some cases involved questions to be resolved with reference to the law prohibiting national-socialist activities.

A number of complaints were submitted using the interface for communications platforms although these cases in fact related to video sharing platforms as defined by the AMD-G. Since these platforms were not domiciled in Austria, however, the complaints board was once again not competent.

Other topics of concern included fake or hacked user accounts.

3.1.2.4 Complaints procedures relating to video sharing platforms

The provisions of Art. 54c ff. of the AMD-G apply to video sharing platforms run by providers domiciled in Austria as defined by Art. 3 No. 3 of the E-Commerce Act (ECG).

During the period March 2021 to October 2021, no Austrian video sharing platforms were listed in the directory as maintained by KommAustria. Since November 2021, two video sharing platforms have been listed in the directory maintained at https://www.rtr.at/medien/service/verzeichnisse/plattformen/Verzeichnis_Video-Sharing-Plattform.de.html

During the months of November and December 2021, no complaints were received concerning video sharing platforms.

3.1.2.5 Complaints procedures relating to accessibility issues

During the reporting period, no complaints were received by the complaints board about accessibility issues in content provided by audiovisual media services.

In this context, it should be noted that the amendment to the AMD-G contains provisions that require media service providers to achieve a continuous and step-by-step annual increase in programmes that meet accessibility standards compared with programming as at 31 December 2020. This increase is to be achieved throughout all of their programmes and catalogues in accordance with their economic capabilities while also accounting for the financing provided for such measures from public funds.

Exemptions to this requirement are made for media service providers whose prior-year earnings from audiovisual media services did not amount to more than EUR 500,000. Media service providers whose programming is of an exclusively local or regional nature are also granted an exemption to this requirement for the audiovisual media services that they offer.

Media service providers must provide further details of how they intend to implement these measures by preparing an action plan in consultation with a representative organisation acting on behalf of people with vision or hearing impairments and on behalf of people with intellectual disabilities. This action plan must set out concrete details for a three-year time frame and build on the earlier action plan adopted for the prior period. The plan must also ensure an annual increase in the proportion of programmes meeting accessibility standards (live broadcasts excepted) within the categories of information, entertainment, education, art and culture, and sport. Media service providers must publish the action plan so it is easily and immediately available, and accessible at all times. The action plan must also be submitted to the regulatory authority in a standardised format.

In its annual report (Art. 19 KOG), KommAustria must present the status quo and development in terms of the requirements described in Art. 30 Par. 1 AMD-G for each media service provider, together with a comparative presentation of intended target values and the actual values achieved by the provider.

Supported by the complaints board in its role as a service point (Art. 20b KOG), the regulatory authority may supplement its report with a statement about further improvements to be made to accessibility.

3.1.3 Events

During the reporting period, the events "Accessible media usage – setting shared goals" and "Online hate speech – a chronic or treatable disease?" were organised jointly with KommAustria.

As a result of the pandemic, both events were held as livestreams and without an in-person audience.

"Accessible media usage" – setting shared goals

This event on 30 June 2021 was opened by talks from Martin Ladstätter (Austrian Disability Council), Helene Jarmer and Lukas Huber (Austrian National Association of the Deaf, ÖGLB), and Markus Wolf (Austrian Federation of the Blind and Partially Sighted, BSVÖ), which examined the legal framework for accessibility in the media and the special needs of people with visual or hearing impairments. Lisa Zuckerstätter, Head of Access Services at ORF, then talked about the accessibility measures taken by this public broadcaster and its efforts to achieve innovative, technological solutions for automated workflows in this area. Commercial television broadcasters were represented by Corinna Drumm from the Association of Austrian Commercial Broadcasters (VÖP), who underlined the importance of accessible services. She nonetheless expressed regret that the lack of appropriate funding offered by policymakers for private broadcasters failed to recognise the precarious economic situation in this sector. Michael Ogris then summarised the new regulatory tasks assigned to the media authority by the entry into force of the amendments at the beginning of 2021. Niku Ali-Pahlavani, team lead for the service point and complaints board in RTR's Media Division, then introduced the complaints board as well as the accessibility portal launched on the same day as these new services. Andrea Rohrauer and Delil Yilmaz provided a sign language interpretation service during the livestream.

The event closed with a roundtable, where the speakers discussed the material presented in greater depth and took questions from the online audience.

Online hate speech – a "chronic" or treatable disease?

The second livestream, organised as a panel discussion titled "Online hate speech – a chronic or treatable disease?", offered an informative look at the various aspects of this topic.

Featured guest speakers included Corinna Milborn, head of information services at Puls 4, Armin Wolf, deputy editor-in-chief for TV information services at ORF and social media officer at ORF Information Services, the far-right extremism specialist Julia Ebner (by video link from London's Institute for Strategic Dialogue), the journalist and author Ingrid Brodnig, and Maximilian Schubert, Facebook representative for Austria and Switzerland.

Also in attendance were Caroline Kerschbaumer, managing director of the ZARA counselling centre for victims of digital abuse, legal expert Maria Windhager, Gerlinde Hinterleitner, head of digital strategy (and forum manager) at Der Standard, and Michael M. Maurantonio (by video link from Sicily), founder of the "Stop. Funding. Hate. Now!" initiative. A wide-ranging view of the topic was provided, with speakers talking about their professional – and highly personal – experience of online abuse, commenting on the new legal framework established by the Online Hate Speech Act and Communications Platforms Act, and addressing issues from a number of perspectives.

Both events featured continuous sign language interpretation to ensure that the livestreams were made as accessible as possible.

Further information about the two events[19], including full programme details and playlists of the recorded livestreams, is available from the RTR website.

[19] https://www.rtr.at/medien/aktuelles/veranstaltungen/Uebersicht.de.html#pastevents

3.2 Management of funds and grants

3.2.1 Digitisation Fund

The Digitisation Fund is allocated EUR 0.5 million each year. The purpose of the fund is to promote digital transmission technologies and digital applications based on European standards relating to broadcasting. Funding is derived from the portion of broadcasting fees which are collected jointly with ORF programme fees yet allocated primarily to the federal budget.

3.2.1.1 DAB+ and other funding

One of the key points of focus for the Digitisation Fund in 2021 was funding the rollout of regular DAB+ service, based on the funding guidelines issued in 2018.

The project involves the introduction of regular service, by enabling the radio stations operated by funding recipients to broadcast digitally based on the DAB+ standard. The funding provided covers the planning, procurement and setup costs for technical infrastructure (technical broadcasting costs) or the prescribed portion of the fees to be paid by broadcasters in order to cover the technical costs of broadcasting DAB+ radio programmes. The latter portion refers to the fees that the multiplex operators charge to broadcasters of digital terrestrial radio for the technical broadcasting of the respective radio programmes.

Funding of the rollout of regular DAB+ service that began in 2018 was continued in the reporting period. A total of seven radio stations were funded in 2021. In the course of 2021, Welle Salzburg GmbH applied for funding to support the broadcasting of its station via the national MUX I multiplex platform, while Radio Austria GmbH, Schlagerradio Flamingo GmbH, Entspannungsfunk GmbH, Antenne Salzburg GmbH, Arabella Hot GmbH and Arabella GOLD GmbH applied for funding to support the broadcasting of their stations via the regional multiplex platforms. The Digitisation Fund assisted these projects with grants covering 50 per cent of the project costs eligible for funding.

The funding of 5G broadcasting trials (Österreichische Rundfunksender GmbH & Co KG) that began in 2019 also continued in the reporting year.

In accordance with the reporting requirements for the Digitisation Fund, an evaluation report on the launching of regular service of regional and nationwide multiplex platforms is to be prepared at the end of the funded project term (in most cases by 31 May 2022), with this report to be submitted to RTR for publication.

3.2.1.2 Funding of a project for developing an ancillary digital service for warning and informing the public via information screens

RTG Radio Technikum GmbH applied for funding for a project to develop and trial and ancillary digital DAB+ public warning service for display on public information screens.

This project aims to develop an ancillary service capable of being integrated with information screens set up in public places, so as to display warnings and announcements to Austrian citizens in an emergency. Funding was approved to cover 50 per cent of the costs.

3.2.1.3 Notes on the 2021 annual accounts

Based on the statement for the trustee account as at 31 December 2020, and considering the credits and disbursements as well as the grants already approved but not yet disbursed, EUR 1,321,647.33 was available in the fund as at 31 December 2021 (see the table below for details).

Table 15: Digitisation Fund – excerpt from the 2021 annual accounts

Digitisation Fund	in Euro	in Euro
Income and expenditure statement		
Trustee account balance as at 31 December 2020		2,937,325.38
Credits		
Revenues received in 2021	500,000.00	
Deferred payment/repayment of administrative expenses from 2020	-4,424.80	495,575.20
Debits		
Interest/fees	-3,081.04	
Administrative expenses and RTR participation in projects in 2021	-119,000.00	
Grant disbursements in 2021	-647,439.42	-769,520.46
Balance resulting from initial amount, credits and debits in 2021		
= Trustee account balance as at 31 December 2021		**2,663,380.12**
Outstanding administrative expenses in 2021 and RTR participation in projects in 2021, for repayment in 2022		32,652.88
Balance of trustee obligations as at 31 December 2021		**2,696,033.00**
Approved grants pending disbursement		-1,374,385.67
Funds available in 2022		1,321,647.33

3.2.2 AUSTRIAN TELEVISION FUND

The Austrian Television Fund is Austria's largest institution for funding TV productions. It supports the production and commercial exploitation of television films, series and documentaries. It was set up at RTR in 2004 by the Austrian federal government to provide support to the Austrian film industry and promote Austria's attractiveness for the media industry. RTR manages the available budget which amounts to EUR 13.5 million each year. Grants are awarded from this fund based on guidelines and in accordance with Articles 26 to 28 and Articles 23 to 25 of the KommAustria Act (KOG), which together constitute the legal basis for the activities of the Austrian Television Fund.

The Austrian Television Fund's statutory remit includes financial support for independent Austrian producers, thereby stimulating the productivity of the domestic production sector and creating long-term employment in the film industry. Another objective is to improve the quality of television productions, thereby preserving Austria's rich cultural landscape and making an important contribution towards strengthening the audiovisual sector in Europe. Key criteria considered in the grant award process include value creation and spending in Austria.

The trend towards series and multi-part productions also continued in 2021. Epidemiological events in recent years have driven a rise in the consumption of on-demand services. Thus, in retrospect, restricting television broadcasters' rights to acquire such avenues of distribution in accordance with applicable guidelines has proven to be the correct approach.

In terms of financial outlay on productions, 2021 was a record year. Drawing on the experience of recent years, in which the resources provided by the Austrian Television Fund had been exhausted after the first submission deadline in January 2020, a portion of funding was reserved exclusively for documentaries and held back for a second submission deadline in September, enabling a second funding period to actually take place.

Owing to the limited amount of funds made available (unchanged since 2009), the rising number of submissions and larger production budgets, it is no longer possible to accommodate the needs of the market in full. The task now facing us is thus to join forces and work towards making Austria 'fit for the future' as a television production powerhouse.

3.2.2.1 Support for television films in 2021

3.2.2.1.1 Production grants

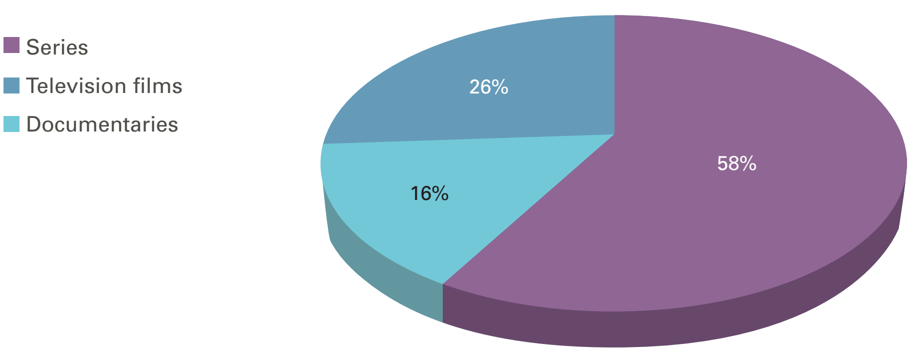
Of the 87 applications that were submitted in 2021, 59 productions were approved for funding amounting to EUR 12,751,831.

Funding was approved to cover roughly EUR 73.5 million of planned total production costs. Spending in Austria in connection with these television productions is expected to amount to EUR 49.2 million. The latter figure represents 3.7 times the amount of total funding awarded by the Austrian Television Fund.

Details of production grants

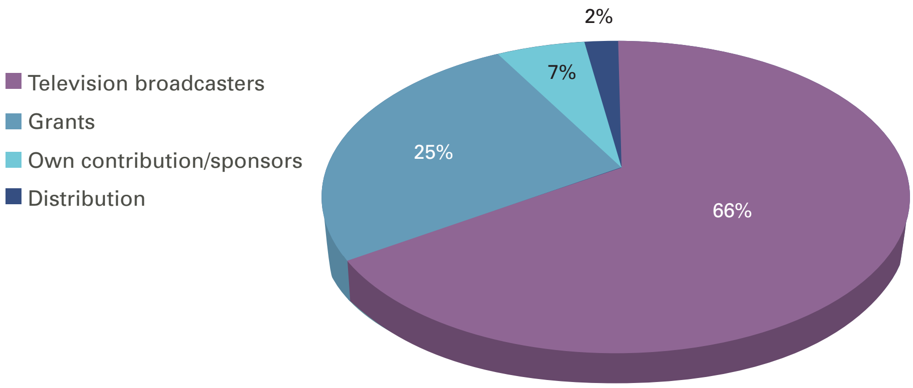
The 59 grants approved provided support to nine television films, five series and 45 documentaries. The figure below gives details on how the funding shares were distributed:

Figure 41: Austrian Television Fund – grants approved in 2021



The proportion of funding awarded to television films and series dropped from 65 to 26 per cent compared year on year. This contrasts with the increase in grant share for series, which rose from 23 per cent to 58 per cent. The proportion of funding awarded to documentaries grew from 12 to 16 per cent.

Figure 42: Austrian Television Fund – share contributed to projects funded in 2021

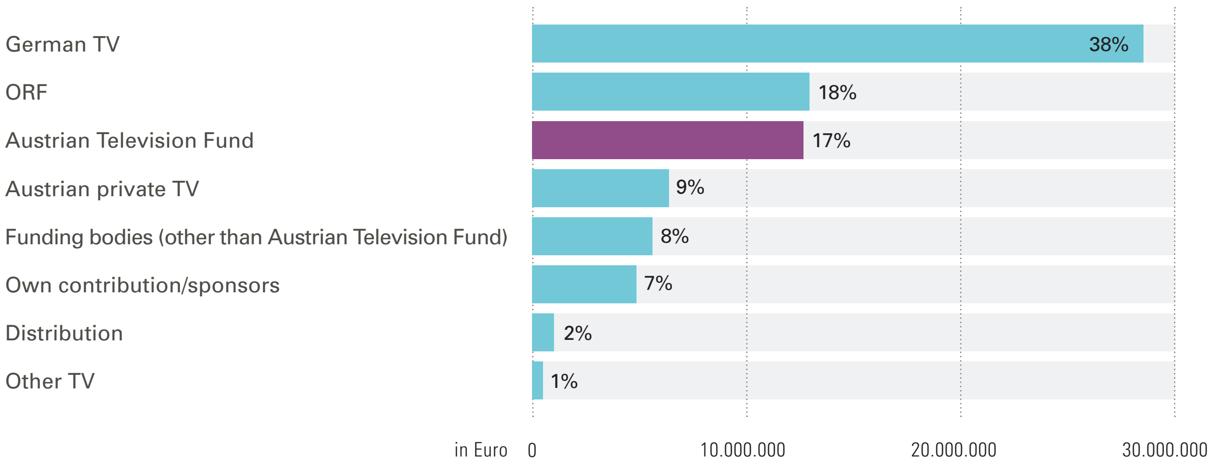


The supported productions sourced 66 per cent of their funding from television broadcasters, 25 per cent from grants, 7 per cent from own funds and sponsoring, and 2 per cent via distribution agreements.

Co-financing provided by funding bodies other than the Austrian Television Fund accounted for 8 per cent of the total in 2021. Of a total 59 funded television productions, Austrian funding bodies were exclusively involved in the financing of 57 productions; two projects were also supported by European funding bodies.

The chart below gives a breakdown of the funding in detail:

Figure 43: Share of financing for funded television film projects in 2021



Participation by television broadcasters

From the total number of 59 funded projects, 50 television productions were co-financed by the ORF. The number of productions receiving funding from Austrian private television broadcasters slipped back from six to five compared with the year before, while the share of production costs covered rose from 4 per cent to 9 per cent.

German television broadcasters participated in a total of 21 projects. Nine productions featured financial participation from European broadcasters based in Czech Republic, France and Italy (apart from Germany).

As in previous years, the majority of productions co-financed by European broadcasters were documentaries. Germany was the main European country whose broadcasters contributed to funding films or series.

In a single case in 2021, an international television broadcaster outside Europe participated in co-funding and Austrian documentary, a US broadcaster.

Women's share in the funded projects

In terms of appointments to senior management positions – production, direction and screenplay – patterns shifted compared with the previous year. The percentage of women among producers increased from 24 to 25 per cent. The proportion of female directors fell from 38 per cent to 31 per cent. The proportion of female screenwriters also declined, from 39 to 34 per cent.

Table 16: Austrian Television Fund – gender statistics for funded projects

	Women		Men	
2021	**Number**	**Percentage**	**Number**	**Percentage**
Producers	15	25%	44	75%
Directors	25	31%	56	69%
Screenwriters	33	34%	64	66%

3.2.2.1.2 Exploitation grants

To support the broader distribution of their film projects, producers received Austrian Television Fund grants to produce versions for the hearing and visually impaired, as well as versions in other languages and for submission to film festivals. As funding had been exhausted, only ten grants were approved totalling EUR 109,949 in 2021.

Full details of the supported projects and the grant award guidelines are published on the websites of the Austrian Television Fund (www.fernsehfonds.at) and the film library (in German).

3.2.2.1.3 Notes on the 2021 annual accounts

Based on the statement for the trustee account as at 31 December 2020, and considering the credits and disbursements as well as the grants already approved but not yet disbursed, EUR 139,689.70 was available in the fund as at 31 December 2021 (see the table below for details).

Table 17: Austrian Television Fund – excerpt from the 2021 annual accounts

Austrian Television Fund	in Euro	in Euro
Income and expenditure statement		
Trustee account balance as at 31 December 2020		**3,518,747.99**
Credits		
Revenues received in 2021	13,500,000.00	
Administrative expenses carried over from 2020	36,228.48	13,538,241.81
Grant repayments	2,013.33	
Debits		
Interest/fees	-737,000.00	
Administrative expenses in 2021	-63,693.53	
Grant disbursements	-12,311,426.33	-13,112,119.86
Balance resulting from initial amount, credits and debits in 2021		
= Trustee account balance as at 31 December 2021		**3,944,869.94**
Outstanding repayment in 2022 of administrative expenses from 2021		101,191.59
Balance of trustee obligations as at 31 December 2021		**4,046,061.53**
Approved grants pending disbursement		
Committed funds from 2017	-45,995.00	
Committed funds from 2019	-279,833.33	
Committed funds from 2020	-898,784.67	
Committed funds from 2021	-2,681,758.83	-3,906,371.83
Funds available in 2022		**139,689.70**

3.2.3 Broadcasting funds

The Fund for the Promotion of Private Broadcasting (Private Broadcasting Fund) and the Fund for the Promotion of Non-Commercial Broadcasting (Non-Commercial Broadcasting Fund) were set up in 2009 with the amendment of the KommAustria Act (KOG). A total of EUR 6 million was originally allocated to the two funds, with funding continually increased each year to finally EUR 18 million in 2013, the level at which it remained until 2018. In 2019, the Private Broadcasting Fund received an additional EUR 5 million, bringing the total available since 2019 to EUR 23 million.

All grants serve to promote the Austrian broadcasting system and help broadcasters deliver a diverse portfolio of high-quality programming. Broadcasters can apply for grants if their programmes require a licence or notification as defined in the Audiovisual Media Services Act (AMD-G) or the Private Radio Act (PrR-G).

Funding is awarded on the basis of applicable legislation and approved guidelines.

3.2.3.1 Non-Commercial Broadcasting Fund

In 2021, a total of about EUR 3 million was available in the Non-Commercial Broadcasting Fund.

3.2.3.1.1 Submission deadlines in 2021

In the first round of submissions (due by 2 November 2021), 69 requests were submitted by radio broadcasters, two by education and training initiatives, and 14 by television broadcasters. The fund awarded grants to 14 non-commercial radio stations, three community television stations and two educational institutions in radio broadcasting.

A total of EUR 2,760,388 was awarded. Of the funding, 31.99 per cent (EUR 883.000) went to television, 64.93 per cent (EUR 1,792,388) went to radio and 3.08 per cent (EUR 85,000.00) was allocated to educational institutions. In this round, grants of EUR 2,514,200 were awarded for content creation and EUR 161,188 for educational measures. No requests were received in the research category.

The second submission period ended on 3 June 2021. A total of EUR 243,228 was awarded. In total, 61.56 per cent (EUR 149,728) was allocated to radio and 38.44 per cent (EUR 93,500) to television broadcasting. The fund awarded grants to eleven radio stations and three television stations.

Detailed information on the grant decisions can be found on the RTR website at https://www.rtr.at/medien/aktuelles/entscheidungen/Uebersicht.de.html?l=de&q=&t=field%3Dnichtkommerziellerrundfunkfonds (in German).

3.2.3.1.2 Notes on the 2021 annual accounts

EUR 3 million was allocated to the Non-Commercial Broadcasting Fund in 2021.

Based on the statement for the trustee account as at 31 December 2020, and considering the credits and disbursements as well as the grants already approved but not yet disbursed, EUR 162,602.94 was available in the fund as at 31 December 2021 (see the table below for details).

Table 18: Non-Commercial Broadcasting Fund – excerpt from the 2021 annual accounts

Private Broadcasting Fund	in Euro	in Euro
Income and expenditure statement		
Trustee account balance as at 31 December 2020		1,227,625.30
Credits		
Revenues received in 2021	3,000,000.00	
Grant repayments	7,733.51	
Administrative expenses carried over from 2020	0.00	3,007,733.51
Debits		
Interest/fees	-682.39	
Administrative expenses in 2021	-109,000.00	
Grant disbursements in 2021	-3,122,878.60	
Balance resulting after initial amount, credits andgrant disbursements in 2021		-3,232,560.99
= Trustee account balance as at 31 December 2021		**1,002,797.82**
Repayment of share of custodian fees in 2021		-3,942.89
Outstanding repayment in 2022 of administrative expenses from 2021		-12,054.70
Balance of trustee obligations as at 31 December 2021		**986,800.23**
Approved grants pending disbursement		
Committed funds from 2020	-212,658.09	
Committed funds from 2021	-611,539.20	-824,197.29
Funds available in 2022		162,602.94

3.2.3.2 Private Broadcasting Fund

3.2.3.2.1 Submission deadlines in 2021

In the first round (with a deadline of 2 November 2021), 230 requests were submitted for television grants, 243 for radio grants and two for the funding of educational institutions.

A total of EUR 19,925,419.20 was awarded to 53 private television broadcasters, 38 private radio broadcasters and two educational institutions during this first round. Of these funds, EUR 14,801,681 (74.29 per cent) went to television broadcasters, EUR 4,798,738.20 (24.08 per cent) to private radio broadcasters and EUR 325.000 (1.63 per cent) to the educational institutions Privatsenderpraxis and Forum Journalismus TV/Radio.

A breakdown of grants according to the three grant categories reveals that 93.85 per cent of the total awarded in the first round of submissions went to supporting content, 2.82 per cent to education and training, 1.70 per cent to reach surveys and quality studies, 1.63 per cent to educational institutions.

The second submission period ended on 3 June 2021. A total of EUR 1,105,318.69 was awarded. Of this, 70.68 per cent (EUR 781,203.69) went to television and 29.32 per cent (EUR 324,115.10) was allocated to radio. The fund awarded grants to 23 television broadcasters and 23 radio broadcasters.

More detailed information on the grant decisions can be found on the RTR website at https://www.rtr.at/medien/aktuelles/entscheidungen/Uebersicht.de.html?l=de&q=&t=field%3Dprivatrundfunkfonds (in German).

3.2.3.2.2 Media literacy

1 Introduction

In May 2019, a Federal Act was passed that increased the budget allocated to the funding of private broadcasting (Private Broadcasting Fund) from EUR 15 million to EUR 20 million, with a particular focus on television sector funding. In providing these extra financial resources, legislators declare as their intent the support of television formats that "promote an awareness of democratic institutions, work to inform and educate about social and political affairs or, in accordance with the Audiovisual Media Services Directive, also build media skills as the foundation of a common understanding of democratic opinion-forming processes". [20]

Applications to the Private Broadcasting Fund can be made twice a year.

2 Reporting requirement

After what has been a three-year period of funding practice, with a particular focus on media literacy, the RTR is legally obliged to evaluate the measures implemented to date and as part of its annual report to inform the public about these measures.

3 Promotion of media literacy

In accordance with applicable legislation, funding guidelines for the Private Broadcasting Fund to cover the following two years were published in May 2019[21]. One key funding target for this period was to provide financing to projects seeking to promote media literacy in the field of television, with the extra EUR 5 million being earmarked for this purpose.

To support this aim, the TV sector was provided with specific information in the form of mailings, training and in-person discussions, and the new funding priority was integrated into the digital application process.

4 Funded projects, 2019 – 2021

During the first round of funding, with the application of the specific rules on media literacy, ten television broadcasters representing 18 projects were funded to a total of EUR 2,470,241.

[20] 26th legislative period, Federal Law Gazette I 47/2019, government bill in annex 47/2019, explanatory notes, p. 1.

[21] https://www.rtr.at/medien/was_wir_tun/foerderungen/privatrundfunkfonds/richtlinien_allgemeinebedingungen/richtlinien_privatrundfunkfonds.de.html, 31 January 2022 (in German).

Table 19: Subjects funded in 2019

2019	Subject funded
ATV	ATV Aktuell (special projects) ATV Meine Wahl (2019 National Council Election) Mein Recht (civil rights)
krone.tv	Krone Multimedia GmbH & Co KG Damals (archive features) Krone Multimedia GmbH & Co KG Das freie Wort (information magazine) Krone Multimedia GmbH & Co KG Digi (digital affairs magazine)
Oe24 TV	Die Medien-Show
PULS 24 Livestream/ Kabel-TV	PULS 24
Puls 4	Bundeswirtshausspiele (contest/quiz) Café PULS (information magazine) PULS 4 election coverage
R9 Österreich HD	Nationalratswahl 2019: 9 Bundesländer - 1 Wahl (2019 National Council Election) NEWS: Faking, Making, Breaking
ServusTV	Servus Reportage (depth news coverage) Talk im Hangar-7 (expert discussions)
RTS	Fake-News und Salzburg
schauTV	schau Leben (lifestyle and entertainment)
W24	Brennpunkt Medien – how everyone will cope better with tomorrow's media

During the first round of funding for 2020, eleven television broadcasters representing 19 projects were funded to a total of EUR 5,021,510.

Table 20: Projects funded in 2020

2020/1	Subject funded
ATV	Worst of Austria (including: 20 years after the Kaprun disaster)
PULS 24 Livestream/ Kabel-TV	Corinna Milborn trifft (interviews and discussions) Newsupdate P24 Live am Vormittag (live morning show) Politikinsider (public affairs discussion) Wirtschaftstalk (business-related interviews)
Puls 4	Café PULS (information magazine) Pro und Contra PULS 4 NEWS
VOL.AT TV	Bürgermeisterwahl Elefantenrunde (pre-municipal elections discussion round) Bürgermeisterwahl Live (municipal elections coverage)
ATV	ATV Aktuell - Im Fokus (public affairs)
krone.tv	Krone Multimedia GmbH & Co KG Damals (archive features) Krone Multimedia GmbH & Co KG Das freie Wort (information magazine)
Oe24 TV	Die Medien-Show
ServusTV	LiteraTOUR (arts and cultural affairs)
P3tv	Umwelt und Klima (environment and climate information)
schauTV	(Aus)bildung und Kompetenzen im Wandel #JobsderZukunft (job market information)
VOL.AT TV	Festspiel Eröffnung (opening ceremony)

The normal funding process for the second round of funding in 2020 was interrupted by the provision of the Covid-19 support package[22]. As a result, no specific funding of projects seeking to promote media literacy took place in this funding round[23].

During the first round of funding for 2021, seven television broadcasters with 21 projects were funded to a total of EUR 4,743,638.

Table 21: Subjects funded in 2021 (first funding round)

2021/1	Subject funded
A1now TV	Was geht? (news and discussions)
krone.tv	Das freie Wort information magazine)
PULS 24 Livestream/ Kabel-TV	Blickpunkt Österreich Milborn Newsroom Live Newsupdate Politikinsider (public affairs discussion) PULS 24 Live Schwerpunkt Europa (focus on Europe) TV surveys Election coverage Wirtschaftstalk (business-related interviews)

2021/1	Subject funded
Puls 4	Café PULS (information magazine) Pro und Contra PULS 4 News Sommergespräche (interviews with political leaders)
ServusTV	LiteraTOUR (arts and cultural affairs) Servus am Abend (information magazine) Servus News
Standard TV	STANDARDTV - Medien erklärt - 21 (media education)
schauTV	schau Media #Medienkompetenz (media skills)

During the second round of funding for 2021, one television broadcaster and project was funded to a total of EUR 15,000.

5 Funding guidelines from October 2021

Following the expiry of the guidelines mentioned in section 3, a market consultation was conducted and an opinion obtained from the advisory council as established by law. New funding guidelines duly entered into force on 14 October 2021.[24] One of the most significant changes affects the awarding of funds for projects seeking to improve media literacy. While funding decision guidance had previously included news formats as suitable for the promotion of media literacy, the new guidelines set out rather more stringent criteria for media literacy projects. In doing so, new legislation is taken into account, including Recital 59 of Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (in brief: AVMSD) in view of changing market realities. As a result, relevant projects must provide a much clearer indication of their benefit to the public in terms of the promotion of media literacy and provide a plausible justification for these claims.

22 27th legislative period, Federal Law Gazette I 24/2020, Initiative Motion 403/A, p. 6.

23 https://www.rtr.at/medien/was_wir_tun/foerderungen/privatrundfunkfonds/richtlinien_allgemeinebedingungen/sonderrichtlinien/einreichtermin02_2020.de.html, 31 January 2022 (in German).

24 https://www.rtr.at/medien/was_wir_tun/foerderungen/privatrundfunkfonds/richtlinien_allgemeinebedingungen/richtlinien_privatrundfunkfonds21-23.de.html, 31 January 2022 (in German).

Another new regulation concerns the preferential treatment of projects that promote media literacy over other projects. The funding proportion may also be increased by up to 10 percentage points for media literacy projects that meet funding requirements.

During the first round of funding for 2022 and therefore the first round to which the new funding guidelines apply, five television broadcasters with eleven projects were funded to a total of EUR 2,065,033.

Table 22: Subjects funded in 2022

2022/1	Subject funded
A1now TV	Was geht?
Mein Kinderradio	News for Kids
P3tv	Fakt oder Fake (Fact or Fake?)
PULS 24 Livestream/ Kabel-TV	Milborn Newsroom Live Newsupdate Politikinsider (public affairs discussion) PULS 24 Live Election coverage

2022/1	Subject funded
Puls 4	Pro und Contra PULS 4 NEWS (including PULS 4 special format)

6 Outlook

Since only two weeks passed between the publication of the new funding guidelines and the submission deadline for the first funding round of 2022, Austrian television broadcasters soon need to be provided with a comprehensive explanation of the changes affecting the funding of projects devoted to promoting media literacy, and encouraged to include such formats as part of their programme planning activities. This is all the more important because radio broadcasters and the non-commercial television broadcasting sector are also now eligible to request funding for suitable submitting projects.

7 Extra topic: Media literacy information portal

Effective 1 January 2021, the Media Division of the RTR was legally empowered and tasked with the operation of an information portal on which projects and initiatives designed to communicate and promote media literacy can be presented, with a particular focus on projects supported by public funds. The affected funding federal bodies must also take steps to ensure that funding beneficiaries subsequently submit details of their projects to RTR (cf. Art. 20a of the KommAustria Act[25]).

In the future, the information portal will publish profiles of all projects aimed at promoting media literacy that are funded by the Private Broadcasting Fund (https://medienkompetenz.rtr.at).

25 27th legislative period, Federal Law Gazette I 150/2020, government bill in annex 462.

3.2.3.2.3 Notes on the 2021 annual accounts

Based on the statement for the trustee account as at 31 December 2020, and considering the credits and disbursements as well as the grants already approved but not yet disbursed, about EUR 1,502,716.95 was available in the fund as at 31 December 2021 (see the table below for details).

Table 23: Private Broadcasting Fund – excerpt from the 2021 annual accounts

Non-Commercial Broadcasting Fund	in Euro	in Euro
Income and expenditure statement		
Trustee account balance as at 31 December 2020		19,405,137.15
Credits		
Revenues received in 2021	20,000,000.00	
Administrative expenses carried over from 2020	336,075.69	
Grant repayments	10,754.40	20,346,830.09
Debits		
Interest/fees	-99,358.68	
Administrative expenses in 2021	-579,000.00	
Grant disbursements in 2021	-20,303,681.86	
Balance resulting after initial amount, credits and grant disbursements in 2021		-20,982,040.54
= Trustee account balance as at 31 December 2021		**18,769,926.70**
Share of custodian fees in 2021		4,096.35
Outstanding administrative expenses from 2021 for deferred payment in 2022		20,297.64
Balance of trustee obligations as at 31 December 2021		**18,794,320.69**
Approved grants pending disbursement		
Committed funds from 2020	-6,031,321.25	
Committed funds from 2021	-11,260,282.49	-17,291,603.74
Funds available in 2022		1,502,716.95

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04

Regulatory activities of the TKK

4	**Regulatory activities of the TKK**	**152**
4.1	Measures to ensure competition	152
4.2	Network deployment and infrastructure use	153
4.3	Net neutrality	154
4.4	Ensuring legally compliant terms of contract	155
4.5	Mobile and broadband spectrum	156
4.6	Network cooperation	159
4.7	Universal service	160
4.8	Electronic signatures and trust services	160

04 Regulatory activities of the TKK

The Telekom-Control-Kommission (TKK), as an autonomous authority not subject to external control, has been responsible for regulating the telecommunications market in Austria since 1997. Its tasks and responsibilities are specified in detail by law. Among other things, it is responsible for regulation of competition, frequency assignment procedures and network cooperation, as well as monitoring network neutrality. It is additionally empowered to serve as the supervisory body specified in the Signatures Act (SigG). An overview of the main areas of regulatory activity in the reporting year follows below.

4.1 Measures to ensure competition

The regulatory authority has a number of measures at its disposal to ensure competition in the Austrian telecoms markets.

One of these measures stems from the regulatory authority's remit to conduct periodic market analyses, so as to identify relevant markets subject to regulation and to determine whether any one or more undertakings possess significant market power. They also help identify any (potential) difficulties in maintaining competition or whether effective competition exists in such markets. Where the particular market lacks effective competition, appropriate obligations are to be imposed on the company with significant market power.

In the course of the market analysis procedure initiated by the TKK in 2020, a sub-procedure regarding the wholesale market for local and central access (i.e. physical and virtual unbundling as well as bitstreaming) was separated from the main procedure in spring 2021. In addition, another separate sub-procedure concerning the retail market for access to public telephone service at fixed locations was also initiated. Simultaneously with the separation of these sub-proceedings, official experts submitted extensive reviews on the definition and analysis as well as on the recommended specific commitments for the two aforementioned markets. Oral negotiations took place in May, during which the reviews of the respective markets were discussed with the participation of the parties to the procedures. Due to the prevailing general conditions, the negotiations were held for the first time as video conferences.

In October 2021, additional sub-procedures relating to the wholesale markets for termination in individual fixed and mobile communications networks were separated; here too, official experts submitted an opinion, which was discussed in two oral hearings for providers of fixed and mobile communications networks, again via video conference, in November 2021. Based on the Delegated Regulation of the European Commission of 18 December 2020 establishing uniform maximum fixed and mobile termination rates throughout the Union, which is directly applicable in all Member States as of 1 July 2021, it was recommended in the expert opinion to remove the specific obligations on the operator-specific termination markets.

The market analysis procedure, including the separated partial procedures, was still ongoing at the end of the reporting period.

4.1.1 Arbitration between operators

As part of its role as an arbitrator, the regulatory authority ensures a fair balance of interests among operators of public communications networks. If a settlement under private law in the form of a network access or interconnection agreement is not reached, each participant has the option of applying to the regulatory authority for a decision in lieu of such an agreement.

In 2021, the TKK received one request for physical unbundled access and an application for the definition of interconnection conditions.

The request for unbundled physical access specifically concerned the use of certain rooms at the data centre, which is located in the building of a network node. The TKK rejected the application because the requested access concerned premises used by the application opponent for business activities which were not subject to regulation under the Austrian Telecommunications Act (TKG), so they were therefore not covered by the access obligation imposed on the application opponent.

The aforementioned application for the definition of interconnection conditions, as well as another procedure pending since November 2020, both concerned conditions for the reciprocal termination of text messages.Since the provision of text message termination services is not assigned to any market relevant for sector-specific regulation and no business entity here enjoys significant market power as defined by telecommunications law, an 'appropriate' scope of the conditions in dispute must be set. While the procedure that has been going on since 2020 was settled in September 2021 with a decision to order contractual conditions for reciprocal SMS termination, the application submitted in April 2021 to order another communications network operator to set up contractual conditions for reciprocal SMS termination is still pending at the end of the reporting period after an agreement could not be reached in the preliminary dispute resolution procedure.

4.2 Network deployment and infrastructure use

When expanding communications networks, operators have to route their infrastructure across private and public property. Operators can claim wayleave rights under these circumstances. Yet another option is to co-use existing infrastructure (masts, ducts, maintenance holes or lines) owned by other businesses, thereby reducing the costs of expanding fixed and mobile networks (co-use rights). If the parties involved cannot reach an agreement, within the scope of the TKG 2003 (valid until 31 October 2021) they could request the TKK to take a decision. Prior to any TKK decision, RTR attempted to arbitrate (mediation). If this was not successful, the TKK issued a decision in lieu of the contract. With the entry into force of the TKG 2021, responsibility for these decisions in lieu of contracts was also transferred to RTR.

The TKG 2021 also expanded the infrastructure rights to include a new location right, which enables the establishment of locations ("antenna masts including all of the site facilities required, such as are necessary regardless of the specific technology deployed for technical operations"); as with other infrastructure rights, this right can be asserted by regulatory order if necessary. The clearest difference between wayleave rights and location rights is that the former tend to be subordinate, which with the latter is true only to a highly limited extent. In the case of wayleave rights pursuant to Art. 75 TKG 2021 (or prior to that Art. 11 TKG 2003), the property owner can in principle continue to dispose of the property, even if this means that the party entitled to erect the line has to relocate or possibly even remove the line or installation. In the case of location rights, this is limited to the extent that only "claims resulting from a verified technical necessity" must be taken into account. In such cases, the owner must also offer the entitled party "a suitable substitute location". According to the explanatory notes to the government bill on the TKG 2021, this significantly higher degree of intervention also means a greater reduction in value, for which must the owner must be compensated.

From 1 January 2020 to 31 October 2021, 26 requests were submitted to the TKK, in part for granting wayleave rights and in part concerning co-use rights. After the TKG 2021 entered into force, two other requests (both for co-use) were also submitted to RTR. The 270 odd completed cases involving queries that did not lead to a formal procedure also bear witness to the central role that is still played by infrastructure rights, as previously set out in Section 2 TKG 2003 and now in Section 7 TKG 2021. Decisions published by the TKK can be viewed (in German) at https://www.rtr.at/de/tk/EntscheidungenGesamt.

4.3 Net neutrality

Net neutrality refers to the equal treatment of all data transmitted via the internet. Such equal treatment is independent of the sender, recipient, location, content, service or application. Net neutrality is important because it allows every internet user to retrieve and share information, content as well as services and applications. This helps ensure freedom of expression, economic growth and innovation through the internet. Working to protect net neutrality, the Telecoms Single Market (NN) Regulation has been in force at EU level since November 2015. The associated BEREC guidelines, which were adopted in August 2016 and first amended in June 2020, aim to ensure uniform implementation of the Regulation across Europe. With regard to net neutrality, the year 2021 was dominated by three rulings of the European Court of Justice (ECJ) and a ruling of the Austrian Administrative Court on provisions of the NN Regulation.

Requested to assess zero-rating issues, the ECJ reaffirmed an earlier ruling from 2020 by making it clear that 'zero-rating options' are in breach of the NN Regulation. This clarification means that in relation to zero-rating the BEREC guidelines will be updated. The goal is to revise the guidelines by mid-2022.

In its ruling, the Austrian Administrative Court dealt with the issues of prioritisation of video on demand (VoD), IP disconnections after 24 hours and charging fees for the assignment of public IP addresses. In this case, the court concluded that such measures are in breach of the NN Regulation, thus fully confirming the TKK decision dated 18 December 2017.

The TKK has been given new competence within the scope of international consumer protection cooperation. In the case of infringements of European consumer law in the online environment, requests can be made to have incriminated online content restricted. These restriction measures must then be taken by access providers and other intermediaries as well as domain name registration offices. The regulatory authority serves in such cases as an enforcement body if the immediate offenders cannot be identified. If an infringement falls within the scope of responsibility of several authorities, they must mutually coordinate their further course of action.

It should also be noted here that work in the field of net neutrality was, as ever, strongly informed by international cooperation, and by national procedures and advisory activities conducted in order to ensure the fulfilment of net neutrality standards.

4.4 Ensuring legally compliant terms of contract

With the TKG 2021, the Telekom-Control-Kommission's task of ensuring that communications service providers' contractual terms and conditions (including general terms of service, service descriptions and tariff provisions) are legally compliant was transferred to RTR as of 1 November 2021. Providers must draw up contract terms and notify them to RTR in advance for review. RTR can reject the application of these contract terms to business transactions if the terms breach the provisions of telecommunications law or certain points of civil or consumer protection law.

In 2021, 402 cases were reviewed, which was a strong increase compared with the previous year's 333 cases. This also has to do with the fact that the new TKG 2021 has made various adjustments necessary, and that providers of interpersonal communications services (ICS) are now also subject to reporting requirements. Numerous enquiries from both end users and providers were also handled on the subject of notifying or reviewing contractual conditions. Content reviews of terms and conditions focus not only on compliance with provisions of telecommunications law but also civil and consumer protection legislation. In detail, it became apparent in 2021 that more and more European and international undertakings are becoming active as providers on the Austrian market. In ensuring that contract terms comply with the law, the TKK – and since 1 November 2021 RTR – has been facing a new set of challenges, since some of these providers have only limited knowledge of the relevant substantive and procedural provisions of Austrian and EU law, and may also not have an adequate command of German as Austria's official language.

The TKK, and since 1 November 2021 RTR, has been primarily concerned with ensuring that telecoms make any necessary changes to contract terms already doing procedures, thus ensuring that legal compliance is established as soon as possible. In 2021, this goal was again achieved in almost all procedures, so that only one objection decision had to be issued against primacall GmbH in May 2021, for not providing information on the discount that end users receive when entering into a contract with a minimum contract term of 24 months. For telecoms customers, checking through contract terms in advance reduces their risk of needing to go to court to clarify the legality of individual clauses once the contract has already been signed. Such legal proceedings are also associated with a very high cost risk. At the same time, consumers are often unable to identify potentially unlawful clauses that are in fact unenforceable even though they have been agreed and included in the general terms of service. This practice of vetting contract conditions terms also makes an important contribution to fair competition between communications service providers while also preventing them from gaining a competitive edge by introducing unlawful terms.

4.5 Mobile and broadband spectrum

4.5.1 Future spectrum awards

In 2016, the regulatory authority originally published a Spectrum Release Plan covering the period up to 2020, subsequently completing two successful 5G auctions in accordance with this declaration of intent. The regulatory authority, together with the Federal Ministry of Agriculture, Regions and Tourism (BMLRT), began in 2021 work on a new Spectrum Release Plan, to cover the following five years. The plan is aimed at ensuring planning reliability for all stakeholders.

Over a long time frame, use of the following spectrum is being proposed for mobile and broadband services:

- 26 GHz
- Remaining 3410–3800 MHz spectrum
- 2.6 GHz
- 2.3 GHz
- 42 GHz
- 6 GHz
- 60 GHz

For some of these bands, decisions on harmonisation have already been made by the European Commission; for others, harmonisation is being planned or discussed. Based on the TKG 2003, the formerly applicable legal framework, the regulatory authority (specifically the TKK) had been responsible for awarding spectra that in the spectrum use plan were classified under Art. 52 Par. 3 TKG 2003 (limited in quantity). Based on the TKG 2021, which entered into force on 1 November 2021, the regulatory authority is now responsible for awarding harmonised ECS spectrum (for mobile and broadband use), as soon as accordingly defined in the Frequency Utilisation Ordinance and as long as no general authorisation (for unlicensed use) has been granted. As a consequence – and depending on decisions that are still to be taken at international level (by the ITU, CEPT or EU) – it is most likely that all or at least part of the spectrum mentioned above will fall within the TKK's scope of responsibility.

During a consultation on the upcoming award procedures, the BMLRT and the regulatory authority collected important suggestions and discussed possible approaches. Here are special focus was on the 26 GHz band. A summary of the statements received has been published on the RTR website at https://www.rtr.at/TKP/aktuelles/veroeffentlichungen/veroeffentlichungen/konsultationen/konsultation_spectrum_release_plan_stn.de.html (in German).

The regulatory authority, together with the BMLRT, published the current Spectrum Release Plan in February 2022.

4.5.2 Refarming spectrum in the 2100 MHz and 2600 MHz ranges with the aim of adapting terms and conditions to 5G use

Article 57 Par. 1 of the TKG 2003 authorises the competent authority to modify how and to what extent spectrum is assigned. This can be required, for example, as a result of developments and changes in international telecommunications law or due to the need to adapt to modified spectrum use at international level. The proportionality of the measure and the economic impact on affected parties must be considered when making any such changes.

In the year under review, the TKK initiated and concluded a procedure to deal with changes in the technical terms and conditions of use for the 2100 MHz and 2600 MHz frequency ranges, in particular because the European Commission had amended its respective implementing decisions. The aim of these two implementing decisions was to adapt the technical conditions to the current circumstances and make them suitable for

5G. Thus, several of the items of the terms and conditions of use for the 2100 MHz and 2600 MHz ranges also had to be adapted, especially with regard to the specifications for performance standards. In addition, four international agreements between Austria and several neighbouring countries relating to the 2600 MHz frequency range had to be replaced by agreements that had been updated in the interim. After reviewing and weighing the potential economic and technical impact of the planned changes to the terms and conditions of use, no grounds were identified for not implementing the changes, or for doing so only later. On the contrary, these steps were needed due to international requirements.

4.5.3 Review of coverage level in the 3410 – 3800 MHz frequency range

The first coverage obligations for the 3410 – 3800 MHz range entered into force at the end of 2020. Licence holders must operate a certain number of locations depending on the frequencies they have been awarded in each case. To be considered a location within the meaning of the obligation, these locations must fulfil certain criteria (e.g. transmission power, transmitted bandwidth).

Table 24: Locations to be operated per company from 31 December 2020

Locations to be operated per company	from 31 December 2020
A1 Telekom	151/152*
Hutchison Drei	151/152*
T-Mobile	151/152*
MASS Response	11
LIWEST	25
Salzburg AG	29
Holding Graz	15

* 151 locations nationwide, 152 locations distributed over 12 regions

To ensure the effectiveness of the verification process, the regulatory authority developed a number of options for (empirical) verification of coverage obligations, including verification of the specified criteria. The review procedure was carried out based on the data of the licence holders submitted at the end of January 2021. It revealed that five enterprises had fulfilled the requirement and two had not had the required locations fully operational by the end of 2020 and therefore had to pay penalties. The related appeal proceedings were still pending at the end of the reporting period.

4.5.4 Review of coverage level in the 2100 MHz frequency range

The first coverage obligations based on the 2020 auction of the 2100 MHz range became effective at the end of 2021. Since the end of 2021, the three holders of frequency usage rights in this range must operate the number of locations specified in the assignment decision. Each of the three companies must operate as of this date at least 2,000 locations with spectrum bands in the 2100 MHz range. The geographical distribution of these 2,000 locations must ensure that at least 75 locations are operated in each province. To be considered a location within the meaning of the obligation, these locations must also fulfil certain criteria. The review enabled the identification of data requirements for providers, and data requests were duly sent out to the licence holders at the end of 2021. The review procedure was pending at the end of the reporting period.

4.5.5 Procedure for selecting and exchanging poorly served cadastral municipalities

As part of the second 5G auction in 2020, the regulatory authority assigned to operators 1,702 of the 2,100 poorly served cadastral municipalities to ensure wide-area coverage. The conditions stipulate that the operators may decide as flexibly as possible which cadastral municipalities they supply with service. However, this only applies under the condition that a cadastral municipality can only be accepted by only one operator in fulfilment of the coverage obligation. Operators can exchange cadastral municipalities (e.g. because they cannot find a good location) for still available ones until the respective deadline. They also have the option of exchanging deadlines and trading cadastral municipalities among each other. In order to make this process as smooth as possible, the regulatory authority has developed a portal that allows cadastral municipalities to be nominated and exchanged in accordance with the rules under the decision. This portal went online in the first quarter of the reporting year. In 2021, over 1,300 successful transactions were registered on the portal.

4.5.6 Preparations for coverage reviews after the 5G auction in 2020

In a decision issued by the TKK on 19 October 2020, A1 Telekom, Hutchison and T-Mobile were assigned frequency usage rights in the 700, 1500 and 2100 MHz ranges. The regulatory authority has taken into account all European and national policy coverage targets in the second 5G auction, as part of the coverage obligations.

The procedure has already been initiated to review the coverage obligation to be fulfilled already by the end of 2021 (band-specific 2100 MHz obligation; see above). Over the next few years, numerous additional obligations will become effective (basic and extended requirements). An example is that, from mid-2022, the first 185 cadastral municipalities must be supplied by the licence holders, with compliance to be verified by the regulatory authority. In the year under review, the regulatory authority started preparations and initial planning for the implementation and design of the review procedures (including process, evaluation of the necessary data, statistical procedures and measurement procedures).

4.6 Network cooperation

One of the main innovations of the TKG 2021 that has significantly expanded the competences of the TKK concerns network cooperation. The central provision is Art. 85, which provides for a two-phase approval procedure for sharing agreements, based on the merger procedure set out in the Cartel Act 2005, thus introducing formal ex-ante control by the TKK. This increases legal certainty for the cooperation partners involved and represents a real paradigm shift, as inadmissible network collaborations could previously only be addressed ex post, in a supervisory procedure in connection with spectrum assignment decisions or through an appeal to the Cartel Court.

The procedure is initiated by the contracting parties when reporting the cooperation agreement to the TKK. In the first phase, the TKK will examine within a period of eight weeks whether an 'in-depth review' of the cooperation should be performed due to possible competition concerns. The Federal Competition Authority and the Federal Public Attorney for Cartel Matters are also to be involved in this decision, with "utmost account to be taken" of their opinions. The parties to the procedures cannot file a separate appeal against the TKK's decision on whether or not to initiate a second phase. Phase II, lasting four months, is to be concluded with a decision which, like other decisions of the TKK, can be appealed to the Federal Administrative Court and, as a third instance, to the Austrian Administrative Court.

Early on in the legislative process, RTR had studied the new approval regime and the various implications and questions associated with it, and these aspects have already been discussed in part with the operators, on the occasion of the 2021 Regulatory Dialogue and at various meetings.

In 2021, no procedures under Art. 85 were decided or initiated. The regulatory authority is involved in various preliminary talks with operators, and in 2022 the TKK is expected to be confronted with several procedures relating to network cooperation, including large-scale procedures.

The regulatory authority plans to adapt the previous position paper on infrastructure sharing into guidelines, explaining the new authorisation regime of Art. 85 in more detail and answering related questions. First and foremost, it will be necessary to elaborate on procedural issues here, but such a revision also offers an opportunity to make substantive changes and implement new concepts. The regulatory authority awaits the first Art. 85 procedures as an opportunity to gather experience to be incorporated into the new guidelines.

4.7 Universal service

Since August 2016, the market has provided connectivity to a public communications network on a competitive basis. Thus, in accordance with the provisions of the TKG 2003, the provision of nationwide coverage with public pay telephones at generally and readily accessible locations remains the last legally specified obligation held by the universal service provider.

In the reporting period, one procedure was pending before the TKK regarding financial compensation for those verifiably accrued costs of providing universal service that could not be recovered despite efficient operation. The procedure was discontinued after the universal service provider reached an agreement under private law with the enterprises obliged to finance the service.

With the entry into force of the TKG 2021, the scope of universal service was reduced to a minimum range of public communications services at affordable prices. The new legal framework does not contain a definition of a minimum bandwidth; legislation continues to assume internet access to be 'functional.' This is not explicitly defined as broadband, but the bandwidth must support the services listed in Annex V of the European Electronic Communications Code (EECC). The Federal Minister for Agriculture, Regions and Tourism may issue an ordinance setting a minimum bandwidth, if necessary to ensure full social and economic participation in society.

Even if the universal service obligation in the TKG 2021 is basically met by the market and no universal service provider is currently designated, irrecoverable costs may still accrue to operators when responding to individual coverage requests as a part of ensuring universal service. Therefore, the TKG 2021 still includes a provision for a sectoral financing mechanism. New to the group of companies under obligation are those NIICS with more than 350,000 end users nationwide. These contribute 30 per cent of the costs of the universal service fund and fund administration, in proportion to the number of end customers they have in Austria.

4.8 Electronic signatures and trust services

As set out in the Signature and Trust Services Act (SVG), the Telekom-Control-Kommission (TKK) is the supervisory body for those trust service providers (TSPs), as defined in the eIDAS Regulation (910/2014), who are established in Austria.

4.8.1 Procedures before the TKK

Four of the five procedures initiated in 2020 or earlier were concluded in 2021. One procedure (concerning special issues in connection with PDF signatures) remained open in 2021 due to the need for further supervisory activities. An additional 37 cases were initiated in 2021. Eight of these had not yet been completed by the end of 2021.

The Austrian market for providers of qualified certificates in 2021 included four providers of electronic signatures, three of electronic seals and two of website authentication. Qualified timestamps were also offered by two providers.

Qualified trust service providers (TSPs) are required every two years to undergo a conformity assessment by an accredited conformity assessment body. The resulting conformity assessment reports are to be evaluated by the supervisory body. In compliance with this rule, three qualified TSPs submitted in 2021 new conformity assessment reports for auditing by the supervisory body. In addition, one TSP submitted confirmation by a conformity assessment body attesting to the security of an identification method.

Eight procedures related to modifications of qualified trust services. Another procedure concerned organisational changes at a qualified TSP. In two procedures, the TKK dealt with organisational matters relating to a confirmation body.

In twelve cases, the supervisory body took action as part of official duties in response to reported potential security breaches. One case involved malware that was reported to be spying out authorisation codes for qualified electronic signatures. Seven cases involved the creation of qualified electronic signatures by unauthorised persons, with at least two cases being due to security breaches by signatories. In four cases, the TKK dealt with errors arising during the registration or identification of parties applying for certificates or during the activation of signature creation data.

In three procedures, the TKK decided on requests by non-qualified trust services to included in the trusted services list.

European level issues were the subject of two procedures.

4.8.2 Infrastructure

In supervisory operations, the TKK works through RTR, with the latter separately responsible for certain tasks. This applies especially to the infrastructure required to verify certificates, electronic signatures, electronic seals and electronic time-stamps, all of which is operated by RTR.

This includes:

- he ‘trusted list’ made available at www.signatur.rtr.at/currenttl.xml (a list of information related to TSPs and the trust services they provide, which is required to be made available in a standardised format by each Member State);
- the signature verification service made available at www.signaturpruefung.gv.at, which allows verification of electronic signatures, electronic seals and electronic certificates from other EU and EEA countries, where these items are listed in the trusted list for the particular country;
- a ‘trust infrastructure’, enabling the supervisory body to take over the certificate database of a TSP that discontinues service.

The hardware required for these services was renewed in 2021.

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05

Activities of RTR Telecommunications and Postal Services Division

5	**Activities of RTR Telecommunications and Postal Services Division**	**164**
5.1	Conciliation – an alternative to the courts	164
5.2	Third-party services	167
5.3	Communications parameters: administration of the Austrian number range	168
5.4	Emergency communications	169
5.5	Ordinances	170
5.6	Security of networks and services	170
5.7	Single information point for infrastructures	173
5.8	Universal service	175
5.9	International affairs	175

05 Activities of RTR Telecommunications and Postal Services Division

5.1 Conciliation – an alternative to the courts

5.1.1 Facts and figures on conciliation procedures

In the second year of the pandemic, conciliation activities returned to a virtually normal state of affairs. The year 2020 had seen a clear rise in complaints, concerning things such as internet connectivity as more people began working from home, or because of parcel delivery times following the surge in online shopping. In 2021, by contrast, such complaints were rare. Providers of postal and communications services, on the one hand, had apparently responded to the changed pattern in customer demand. At the same time, everyone was becoming increasingly accustomed to the 'new reality', another factor reducing the problem load. These developments also account for the decline in conciliation cases compared with the previous year. A moderate increase was seen only in the postal sector.[26]

RTR has three conciliation bodies:[27]

- Conciliation body for telecommunications services
- Conciliation body for media
- Conciliation body for postal services

Happily, there were no significant developments in 2021.

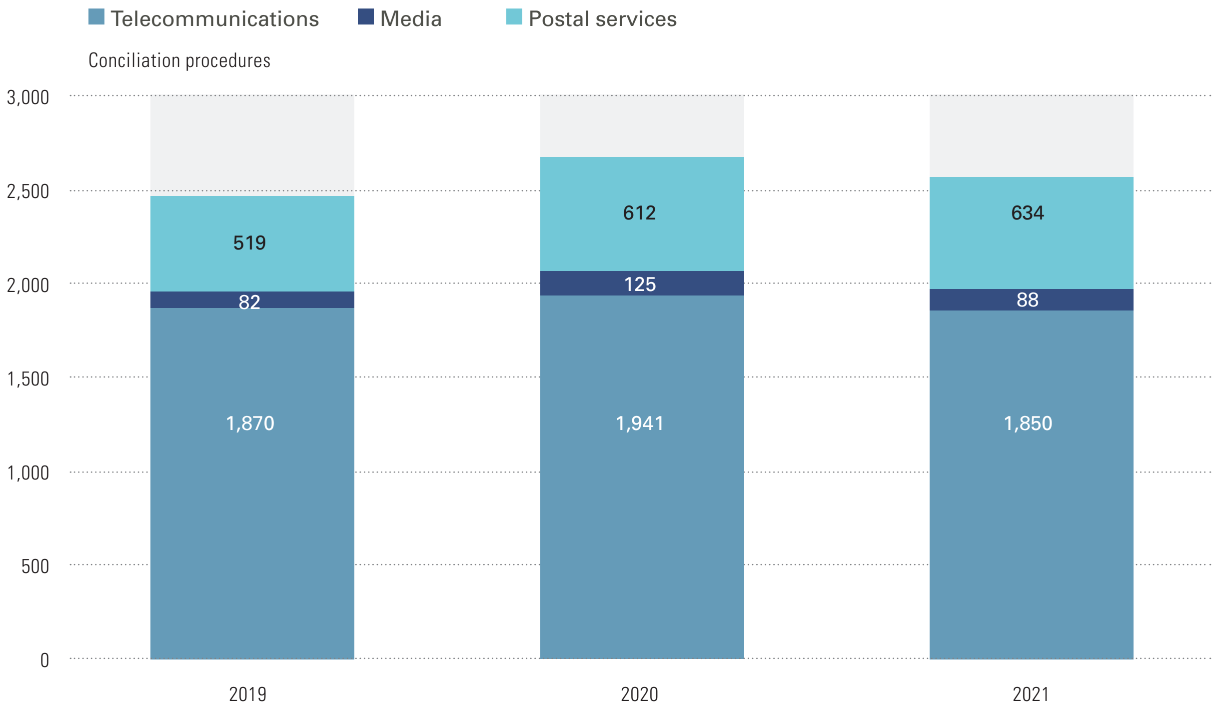
In recent years, the caseload for communications services has remained stable at around 2,000 cases. During the reporting period, none of the specific, 'hot-button' issues occurred that have tended to cause a tremendous surge in complaints in the past. From the conciliation body's perspective, the telecoms sector therefore gets a good report card for the year.

The same applies to media conciliation cases, where the annual caseload also remained at a similarly low level.

[26] For further details, please see section 6.3

[27] A detailed overview of the activities of the three conciliation bodies is given in the 2021 annual report on these bodies, available from www.rtr.at (in German).

Figure 44: Conciliation procedures involving telecoms, media and postal services, 2019–2021



Professionalism and cooperation continued to predominate in dealings with providers in Austria. Such an outstanding statistical outcome could not have been achieved without providers' assistance in conciliation.

Over 91 per cent of a total of 1,938 cases relating to telecommunications and media were resolved within 90 days. Conciliation procedures brought about a settlement in 79 per cent of cases.

The following trends can be identified for the types of complaints received in 2021:

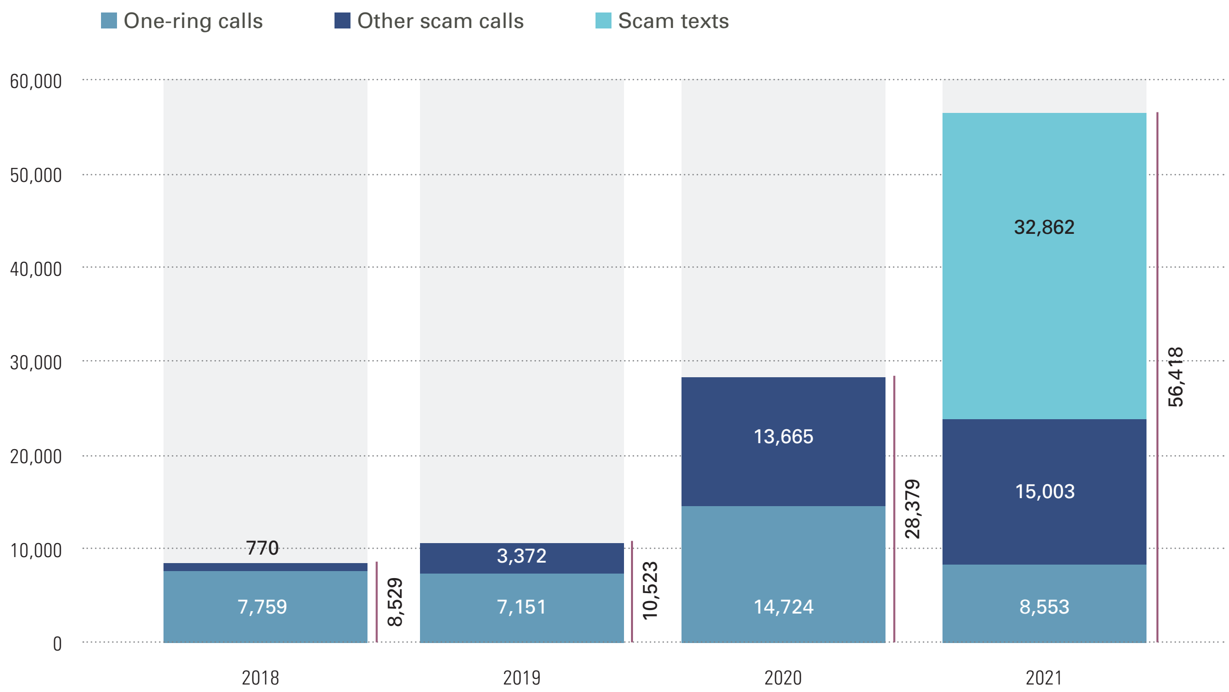
- Complaints in relation to roaming continue to remain at a low level as a result of limited numbers of people travelling abroad.
- The increased importance of internet connectivity caused another slight increase in the volume of complaints about mobile internet access. Complaints about fixed-network internet remained roughly the same, following a sharp increase here in 2020.
- A noticeable rise in the complaints caseload for SMS billing can be attributed to a specific problem, namely the 'Flubot' virus. The automated bulk sending of text messages is one symptom of smartphones affected by this particular virus.
- The upward trend in cases relating to contractual problems seems set to continue, while affecting conciliation procedures for telecommunications and media in equal measure.

5.1.2 Contact point for reporting phone number misuse

The contact point for reporting phone number misuse[28] was originally set up in April 2018, to gather evidence about the actual magnitude of the 'one-ring call' problem. This information was then to be used to assess the need to educate and inform the public. This contact point has since established itself as an indispensable platform for reporting phone number misuse in general.

The growing importance of this institution was underlined by the huge recent rise in misuse reports during 2021, with the figure doubling year on year (see next figure). This was not, as in previous years, driven by one-ring calls (which declined significantly in 2021), but was caused by a new wave of nuisance/scam calls that first peaked in May 2021.

Figure 45: Reports of scam calls (incl. one-ring calls) and scam texts, 2018–2021



Phone number misuse is combated in many ways and on many levels, with all stakeholders lending support, market participants and users alike. Technological protection measures are also crucial here. Protective apps or features already offered as part of the smartphone's operating system[29] can significantly mitigate prevalent risks such as identify theft or exorbitantly high phone bills.

The 2021 reporting year also brought with it positive developments directly for the contact point for reporting phone number misuse: as a result of the TKG 2021, the institution is now formally designated as a single point of contact and new intervention options, such as phone number blocking or bans on debt collection, have simultaneously been introduced for RTR.

[28] A more detailed overview of the contact point for reporting phone number misuse is given in the 2021 annual report for the conciliation bodies, available from www.rtr.at (in German).

[29] Examples of security functions integrated into smartphones include caller ID and Android spam protection (see https://support.google.com/phoneapp/answer/3459196).

5.2 Third-party services

Services from third parties, particularly number-independent third-party services, have been closely monitored for a number of years now. In the context of number-based third-party services ('traditional value-added services'), the Communications Parameters, Fees and Value-Added Services Ordinance (KEM-V 2009) should be mentioned, as it includes provisions that have resulted in a steady decline in complaints directed against value-added services. The regulatory authority monitors developments in number-independent third-party services particularly closely, so as to determine whether regulatory interventions may be needed. For these services, Austrian providers have nonetheless adopted a policy of self-regulation combined with the accommodation of user concerns in relation to complaints to produce a situation where regulatory involvement is not currently seen as necessary. In 2021, the number of conciliation requests submitted in this context reached a record low. Considering this sector in terms of user complaints, third-party service provision can be said to have been straightforward and satisfactory during 2021.

Table 25: Conciliation procedures involving third-party services, 2019–2021

	2019	2020	2021
Total number of conciliation procedures	**1,952**	**2,066**	**1,938**
Procedures involving value-added text messaging	0	1	1
Procedures involving value-added voice services	11	9	4
Procedures involving number-independent third-party services	102	156	50

Services subject to notification requirements

Pursuant to Art. 6 TKG 2021 (formerly Art. 15 TKG 2003), the intent to provide a public communications network or to offer a public communications service as well as to modify or terminate such a network or service must be notified to the regulatory authority prior to the start of operation, modification or termination.

Table 26: Notified active services 2017–2021

Service category	2017-12-31	2018-12-31	2019-12-31	2020-12-31	2021-12-31
Public telephone services at fixed locations	390	391	387	443	531
Call shops	43	38	33	27	26
Internet cafés	50	48	42	35	32
Public internet communications services	418	421	413	419	419
Public communications networks	511	532	564	582	612
Public leased-line services	79	82	80	82	82
Other public communications services	30	31	34	42	43
TOTAL services notified	**1,521**	**1,543**	**1,553**	**1,630**	**1,745**

As of 31 December 2021, 1,745 active services had been notified by a total of 1,064 operators, of which 58 were operators of call shops and/or internet cafés. Based on a 2011 amendment to the TKG 2003 that has been included in the TKG 2021, such operators are exempt from a large number of obligations arising from the TKG 2003/2021 that apply in general to businesses required to provide notification as defined in Art. 6 TKG 2021 (formerly Art. 15 TKG 2003; this includes notification of general terms and conditions).

Pursuant to Art. 6, Par. 7 TKG 2021, RTR must forward each notification concerning services subject to reporting requirements to BEREC by electronic means. Internal measures focusing on the implementation of new service categories, with the aim of having all reports handled by the new system and duly forwarded to BEREC, were started back in 2021 and will be completed before the end of 2022. Any amendments or updates to existing reports will be submitted to GEREK in the course of 2022.

5.3 Communications parameters: administration of the Austrian number range

5.3.1 Central number database (ZR-DB)

On 15 September 2021, the central number database was officially launched as part of a two-step process. The first step, on 14 September 2021, involved initially populating the database with mobile telephone number data, whereby all of the master data (including addressees of official decisions, communications network operators, communications service providers, rights of use) were imported into the database. Three weeks later, on 5 October 2021, the same procedure was followed for geographical telephone numbers and service numbers. The database has been fully available to market participants since 7 October 2021. As a result, notifications of phone number porting, phone number changes of ownership and the communications network operator have now become mandatory.

The database will greatly simplify regulatory and monitoring activities related to telephone number assignment while facilitating the querying of location and subscriber data when responding to emergency calls, and providing information in other cases as required by law. These are, alongside legal requirements mandating the notification of the use of telephone numbers via the database and the implementation of direct routing, the remaining challenges that will be addressed during 2022.

5.3.2 Reports detailing statistics on telephone number administration

In total, 776 applications for the assignment of phone numbers were submitted in the 2021 reporting year. A total of 741 decisions were issued. Applications were either withdrawn or refused in 36 cases. In the 2021 reporting year, 769 applications were processed and completed overall.

Table 27: Decisions on telephone number requests, 2017–2021

	2017	2018	2019	2020	2021
Number of affirmative decisions	**558**	**566**	**648**	**664**	**733**
Geographic numbers	318	332	402	422	469
Non-geographic numbers	240	234	246	242	264
Number of negative decisions	**7**	**15**	**6**	**3**	**8**
TOTAL	**565**	**581**	**654**	**667**	**741**

In 2021, RTR issued a total of nine decisions, all of them positive, in the context of administrating special communications parameters, which include mobile network codes, a basic and essential addressing element for mobile networks.

5.4 Emergency communications

In relation to emergency communications, RTR again fielded enquiries from call handling centres, operators and ministries. This not insignificant aspect of RTR's work involves mediation between several parties and continues to be a challenging role. These challenges cannot be resolved by means of conventional regulatory methods: instead, an intuitive approach combined with technical expertise is required to ensure legal provisions are implemented appropriately. Regretfully, owing to constraints on available resources, the level of engagement on the part of RTR was once again reduced to a minimum during the reporting year.

The new TKG 2021 also ushered in several changes relating to emergency calls, such as the obligation, now enshrined in the TKG, that emergency communications – independently of technical feasibility – must be routed to the most appropriate public safety answering point; this obligation also applies to text-based emergency communications (e.g. SMS). The implementation, by all operators, of a uniform interface for retrieving subscriber data constitutes a major challenge for all market participants. Unlike under previous legislation, a transmission is now required rather than a query.

To better accommodate the need for accessible emergency call services in the future, as stipulated by the TKG 2021, RTR launched a cooperative venture with the DEC112 association, with the aim of accelerating the modernisation of emergency call structures in Austria and improving a 'next-generation emergency call system'. This requires both the introduction of a text-based emergency communications system for the uniform EU emergency number 112 as well as the operation of a corresponding centralised infrastructure to modern standards, with its functionality to be evaluated and improved in line with relevant recommendations and measures for real-time operation within the competence of the Federal Ministry of the Interior (emergency number 112, emergency number 133 and emergency communications service for the deaf).

5.5 Ordinances

The TKG 2021 mandates regulatory authorities RTR-GmbH (RTR) and Telekom-Control-Kommission (TKK) with over 30 competencies for issuing ordinances. Apart from the continuation of a widely known authority to issue ordinances stemming from the TKG shift control space 2003, other, new legal foundations were also laid. Topics in this context range from spectrum, network and service security, and measures intended to support the protection of the open internet, to regulations on infrastructure and consumer rights or technical particulars concerning the forwarding of emails.

As regards the previous ordinances issued on the basis of the TKG 2003, a transitional provision envisages all of these ordinances remaining in force until the new ordinances – based on the TKG 2021 – have been duly issued. However, it should be noted that such previous provisions apply only insofar as the TKG 2021 does not envisage another provision to the contrary.

The regulatory authorities have comprehensively addressed this array of ordinance competencies and, owing to this large number, established appropriate priorities. On the one hand, a series of ordinances had to be issued without fail by RTR or (in one case) by the TKK. On the other, amendments also needed to be made to previous ordinances as a result of changes affecting the legal framework or developments in the market.

Since the entry of the TKG 2021 into force, RTR has already initiated a number of ordinance procedures.

Specifically, RTR promptly amended the existing Number Porting Ordinance (NÜV 2012) to reflect the provisions of the TKG 2021, with the result that end users will now have the right to have their phone numbers ported to a new contractual relationship with another provider free of charge. As a next step, the Number Porting Ordinance will be amended so it more closely reflects the provisions of the TKG 2021.

Furthermore, the RTR has also initiated procedures to review the 2019 Ordinance on Reference Rates for Impairment (Art. 55 TKG 2021) in relation to the electronic format used to notify general terms and conditions and fee provisions in relation to telecommunication services (Art. 133 TKG 2021), concerning the notification of changes not solely favourable to the user (Art. 135 TKG 2021) and concerning the specification of particulars about data to be collected for statistics (Art. 181 Par. 4 TKG 2021).

Drafts of new ordinances are published on the RTR website and pass through a public consultation process.

5.6 Security of networks and services

Since November 2011, operators of public communications networks or services have been required to report to RTR, according to a format specified by RTR, any security violation or impairment of integrity that has a considerable impact on network operations or the provision of services. RTR is in turn required to submit an annual report to the European Commission and to the European Network and Information Security Agency (ENISA), describing the notifications received and the measures taken. RTR can also inform regulatory authorities in other Member States, ENISA or the public about certain notifications on an ad hoc basis. Here the goal of transparency nonetheless always needs to be seen in the context of requirements for protecting the privacy of provider data.

With the entry into force of the TKG 2021, regulations for network and service security have also changed. As with authenticity and confidentiality, integrity and availability are now also considered aspects of the security of networks and services. The regulatory scope no longer extends merely to traditional communications services such as telephony and internet access, but also covers number-based message services (e.g. SMS), number-independent interpersonal communications services (e.g. email, online chat) and signal transmission services (e.g. leased lines). The criteria for notifiable security incidents have also been expanded to include additional criteria.

5.6.1 Reports of network failures

In 2021, eleven notifications of security violations or impairments to the integrity of electronic communications networks or services were submitted to RTR's reporting portal. In two cases, the regulatory authority saw no grounds for submitting a notification.

- In February 2021, a fire breaking out near a network node took a large number of base stations offline. Around 50,000 subscribers were without broadband access for a period lasting approximately ten hours, although voice calls were still possible via GSM and roaming.
- In the same month, an overvoltage incident in a network node caused impairments to mobile communications services for a period lasting 17 hours. Around 60,000 subscribers had only limited access to phone service, while around 10,000 subscribers also had only intermittent internet access.
- Also in February 2021, technical problems resulting from countermeasures to a distributed denial of service (DDoS) attack caused impairments to internet access for an unspecified number of subscribers in a fixed network for a period of around two hours.
- In May 2021, maintenance work caused an outage that resulted in a loss of fixed-network internet access for around 1.4 million subscribers during a period lasting less than one hour.
- In June 2021, a configuration error caused a loss of fixed internet access for around 560,000 subscribers during a ten-minute period.
- In July 2021, a major IT component at a mobile network operator developed a fault that took 33 hours to resolve. During this time, the availability of emergency numbers was impaired for around 400 subscribers.
- In September 2021, instability in a programming interface caused a network overload incident, as a result of which telephone service for around 950,000 subscribers to a mobile communications network was limited for a period lasting around two hours.
- In the same month, technical problems with a major network component again caused a network overload, as a result of which around 1.6 million subscribers to a mobile communications network were unable to make outgoing calls for the duration of roughly one hour.
- A similar incident occurred in October 2021, causing a partial phone service outage that lasted about 30 minutes and affected around 1.6 million subscribers to a mobile communications network.

5.6.2 Security of 5G networks

RTR also focused its activities on the security of 5G networks in 2021. Foundational work in this area had been completed at European level with the EU Toolbox on 5G Security published by the NIS Cooperation Group, the majority of whose measures are implemented in Austria by the Telecommunications Network Security Ordinance 2020 (TK-NSiV 2020). Alongside general regulations applicable to all communications networks and services, the Ordinance envisages specific security measures for operators of 5G networks with a mobile subscriber base of more than 100,000 customers. These include the following reporting obligations:

- Evidence of the existence of an information security management system (ISMS)
- Submission of a declaration of conformity regarding the fulfilment of telecommunications-specific security standards
- Regular submission of an overview in terms of function and manufacturer of the security-relevant components deployed to operate the 5G network

The RTR obtained this information from the affected network operators in 2021.

At European level, RTR continues to assist the Federal Chancellery with its tasks in the NIS cooperation group, providing technical expertise on 5G networks in particular. Beyond this, RTR is also active in the ad hoc 5G Cybersecurity working group at BEREC, which is helping to establish a shared understanding of EU Toolbox measures.

5.6.3 Cross-sectoral activities

In 2021, cross-sectoral cooperation with the energy sector continued, building on the activities stemming from the sector risk analysis as initiated and organised by RTR. Hosted jointly by the two parties, a series of workshops focused on the identification of mutual interdependencies and cascade effects that impact both sectors, which make a shared approach to the mitigation of these cross-sectoral risks both prudent and necessary. At the same time, these activities generate an expert network of regulatory authorities, operators and interest groups that can intervene promptly as and when needed.

5.6.4 New guidelines from ENISA

One point of focus for work in ECASEC (European Competent Authorities for Secure Electronic Communications, formerly ENISA Article 13a Expert Group) was the adaptation of ENISA Technical Guidelines to the requirements of the European Electronic Communications Code (EECC). In March 2021, the Technical Guideline on Incident Reporting under the EECC was published, followed by the Technical Guideline on Security Measures under the EECC plus 5G Supplement in July 2021. The RTR participated actively in the revision of these guidelines.

5.6.5 Statement on NIS 2

In December 2020, the European Commission submitted a proposal for a NIS 2 Directive, with the intention of bringing communications networks and services (including trust services) into the scope of the Directive and superseding the previous EECC security standards. In a statement published to address this proposal, RTR noted the priority need to continue to properly account for sector-specific security aspects.

5.7 Single information point for infrastructures: an information hub for telecommunications network operators

The legislative framework had been amended in 2015, resulting in a package of measures designed to reduce the costs of deploying high-speed networks. These measures include the ZIS and the ZIB, single information points that are operated by RTR.

Full details and background information on the two information points have been published in the Communications Report 2019 (https://www.rtr.at/TKP/aktuelles/publikationen/publikationen/kommunikationsbericht/communikationsreport_2019.en.html) and on our website: https://www.rtr.at/TKP/was_wir_tun/telekommunikation/zentrale_informationsstellen/ZIB_ZIS.de.html (in German).

5.7.1 Single information point for infrastructure data

The Single Information Point for Infrastructure Data (ZIS) was established at RTR in 2016 and since manages a directory of all existing and planned infrastructure expansion that can be used for telecommunications purposes. The ZIS permits the efficient exchange of information about existing infrastructure and planned construction work, and consequently facilitates the efficient co-use and installation of infrastructure.

What kinds of data are stored in the ZIS?

The requirement to report geodata applies to all Austrian municipalities as well as other public bodies that are responsible for transmission infrastructure or for planning construction work. Information must also be reported by providers of public communications networks, who are subsequently permitted to query the data collected. Companies operating physical infrastructure for oil, gas, electricity, district heating, water, funicular railways or transport must also report data. The group of organisations obliged to report data is referred to as 'network or grid providers.'

Network or grid providers are required to digitise data on existing infrastructures and planned construction projects, and upload these data to the ZIS. To support network or grid providers in this process, the ZIS Portal makes available an application that facilitates the online digitalisation of both transmission infrastructure and planned construction projects. To ensure both the quality and the completeness of the data reported, on uploading, data are reviewed and approved by RTR as part of the reporting process.

The ZIS Portal has offered a new and comprehensive bulk reporting option since autumn 2021. Authorised users can use this function to report large volumes of data simultaneously and multiple construction activities in a single step.

The ZIS is not a public directory. Only providers of public communications networks are entitled to query infrastructure data, since only they are entitled to co-use under the Telecommunications Act (TKG). For the purpose of administering earmarked funding (for broadband), the Federal Minister for Agriculture, Regions and Tourism has exercised the legal option of designating authorised parties at RTR who are entitled to consult data about existing and planned infrastructures. Currently about 60 individuals from the provinces and the Ministry are so entitled.

Legal background

As of 1 November 2021, the legal framework for the ZIS is provided by Art. 80 of the Telecommunications Act 2021 (TKG 2021). A remit for the ZIS was first introduced in response to the EU Directive on reducing the costs of broadband expansion, implemented in late 2015 in an amendment to the Austrian Telecommunications Act 2003 (TKG 2003). In addition to assigning RTR the task of technical implementation as well as a support role for the ZIS, this legislation also authorises RTR to issue ordinances in this context. RTR most recently exercised this power to promulgate the Ordinance on the Single Information Point for Infrastructure Data 2019 (ZIS-V) on

21 February 2019. This ordinance is currently being revised based on the TKG 2021. The ordinance sets out all of the provisions for querying data.

ZIS Portal use as of 31 December 2021

Since June 2016, some 10 million data records have been supplied by the potential group of roughly 3,300 organisations required to report – including 2,095 Austrian municipalities.

As of 31 December 2021, 256 of the companies required to report had applied to RTR and received authorisation to query the ZIS Portal. A total of 624 query requests were made in 2021 by authorised telecoms companies using the 769 user accounts authorised to access the database.

Requests were processed on average within 1 day 10 hours and 49 minutes in 2021, this figure referring to the entire turnaround time.

More detailed information is published on the RTR website at https://www.rtr.at/zis (in German).

5.7.2 Geographical surveys of broadband coverage levels

In July 2019, a platform for geographic surveys was set up at RTR for the collection of data relating to current and planned supply of service to connections within telecommunications networks. The data collected relates to both fixed and mobile networks. Information on bandwidths, technologies and active connections is also stored in the database. Besides supporting companies in making data available, RTR is tasked with data verification and organisation, with the goal of providing an up-to-date picture of broadband coverage in Austria.

Providers of public communications networks and providers of public communications services are required to supply data. Every year, the companies are requested by RTR to report their most recent data to the ZIB. The ZIB Portal offers a map editor: this allows coverage areas to be selected and the corresponding data to be stored in CSV files for later uploading. Some companies do not work with a geographic information system or maps. For these entities, RTR provides support in the form of an Excel-based data-editing tool that converts address data into the 100 metre grid used by Statistics Austria and matches these data with municipalities, with all required CSV files prepared for uploading to the ZIB Portal.

Apart from doing all it can to help businesses meet their responsibilities here, RTR also makes information about the ZIB available as downloads and responds to individual queries (zib@rtr.at).

A portion of the data (current and planning data) is made available to the Federal Ministry of Agriculture, Regions and Tourism to enable revisions of the broadband atlas. This means entities required to report information need only supply data once.

Legal background

As of 1 November 2021, the legal framework for the ZIB is provided by Art. 84 of the Telecommunications Act 2021 (TKG 2021). A remit for the ZIB was first introduced by an amendment to the TKG in December 2018. An Ordinance on Submission of Information to RTR as Single Information Point for Broadband Coverage (ZIB-V; Federal Law Gazette II 202/2019) entered into force on 5 July 2019 and is currently being revised based on the TKG 2021.

ZIB Portal use as of 31 December 2021

Work here in 2021 focused on providing support to companies for data preparation and reporting, as well as ensuring the quality and comprehensiveness of these data. The data preparation tool provided to these companies was improved and extended based on feedback from users. Operational processes relating to data reporting and data preparation in the ZIB Portal were also improved.

After passing quality checks, the data were used for analysis in relation to market monitoring as well as for the RTR Internet Monitor, and also exchanged with the Federal Ministry of Agriculture, Regions and Tourism, to create funding maps and for publication in the broadband atlas.

The focus in 2022 will be on further enhancing the ZIB Portal. Improvements will be made to the reporting process and tools for data preparation, and operators will also be offered the option of a preliminary quality check for data prior to reporting. Alongside these enhancements directly affecting the ZIB Portal, an emphasis will also be placed on data quality and completeness by expanding the data quality assurance process.

Where applicable, any content change or technical modifications resulting from the amended Telecommunications Act will be implemented in both the ZIB and the ZIS.

More detailed information is published on the RTR website at https://www.rtr.at/zib (in German).

5.8 Universal service

During the reporting year, in the course of the procedure heard before the TKK mentioned in section 4.7 concerning financial compensation for universal service provider costs, RTR, responding to a request from the universal service provider and the companies under obligation in this procedure, made data available and ensured a secure data exchange with the aim of achieving an agreement under private law.

RTR continues to respond to universal service enquiries submitted by private citizens. In 2021, end users raised a number of issues in relation to this topic, particularly concerning broadband coverage at a specific location and the costs involved in establishing connectivity. As a result of changes introduced by the TKG 2021, RTR also received several enquiries relating to public telephone services.

The new legal framework assigns new tasks to RTR also in relation to the universal service. One example is monitoring the development and level of end-user prices, where RTR can intervene as necessary by issuing a decision securing service affordability. Regarding universal service availability, RTR will in future be assigned its own powers for specific enquiries received from end users at a certain location, supplementing the support provided by the Federal Minister for Agriculture, Regions and Tourism.

5.9 International affairs

International activities are now an integral and important part of day-to-day work. From mobile phone use on holiday to parcel shipments from neighbouring countries, the seamless experience enjoyed by the end user is the result of a huge volume of groundwork behind the scenes. The RTR represents both Austria and the European community in these activities.

5.9.1 RTR and BEREC – electronic communications

The RTR is represented in several working groups at BEREC, the Body of European Regulators for Electronic Communications. The RTR also co-chairs the Fixed Network Evolution and Roaming groups.

5.9.2 Activities relating to Covid-19

One of BEREC's key objectives is the promotion of full connectivity. The Covid-19 pandemic and the sudden, rapid switch to working from home has underlined the importance of connectivity as never before. Even in this crisis, the European Commission and BEREC resolved to ensure an open and functional internet. Internet service providers were asked to work closely with the national regulatory authorities and report problems as soon as they arose.

BEREC then collected and published the feedback received from both providers and the regulatory authorities. All in all, it can be said that European networks are stable, very well-equipped and the increased level of internet use is likely to become the norm. As the situation ultimately stabilised, regular reporting was phased out at the end of 2021[30].

To ensure that all Member States could make the best-possible use of knowledge gained during crisis management, BEREC decided to publish a report detailing the insights obtained[31]. The rapid response and efficient cooperation practised by the national regulatory authorities, network operators, and national and European facilities, proved to be a factor for success in mastering the crisis in terms of communications networks.

On the other hand, it would seem that the digital divide widened, at least at least during the pandemic, with national economies and population groups experiencing differences in terms of access to communications technologies. In response to this, BEREC commissioned a study[32] aimed at helping the responsible authorities to close this digital gap. Among the findings of the study were the importance of information for the general public and the options for utilising communications technologies. The study also highlighted the need to provide affordable products and services for low-income groups.

5.9.3 Roaming

The recasting of the Roaming Regulation was one of the first major work packages in 2021. The European Commission published its corresponding proposal in February. BEREC welcomed[33] the proposal, analysing it in an Opinion[34] published in April. Alongside a further reduction in price caps at the wholesale level, the European Commission also recommended extending 'roam like at home' obligations to quality of service. As before, users will be able to use their tariff plans when roaming in the EU as they do at home. Where technically feasible, the new change aims to ensure QoS is also the same as in the home country. Deviations from this level should also be clearly documented.

30 https://berec.europa.eu/eng/document_register/subject_matter/berec/reports/10120-berec-summary-report-on-the-status-of-internet-capacity-regulatory-and-other-measures-in-light-of-the-covid-19-crisis
31 https://berec.europa.eu/eng/document_register/subject_matter/berec/reports/10135-berec-report-on-covid-19-crisis-lessons-learned-regarding-communication-networks-and-services-for-a-resilient-society
32 https://berec.europa.eu/eng/document_register/subject_matter/berec/reports/10076-study-on-post-covid-measures-to-close-the-digital-divide
33 https://berec.europa.eu/eng/document_register/subject_matter/berec/press_releases/9830-press-release-berec-welcomes-the-legislative-proposal-of-the-ec-on-roaming-regulation-review
34 https://berec.europa.eu/eng/document_register/subject_matter/berec/press_releases/9935-press-release-berecs-opinion-on-amending-the-roaming-regulation-proposed-by-the-european-commission

Lastly, measures are envisaged that improve the accessibility of emergency services when abroad while increasing the transparency of value-added service pricing. While supporting the proposal for the most part, BEREC also recommended further measures, including additional transparency regulations covering unintentional roaming in satellite networks (such as when on board ships or aircraft). These recommendations were also accepted by policymakers.

On the Roaming Regulation, an initial agreement on policy[35] was achieved between the European Commission, European Council and European Parliament in December, with the final draft due to be published in 2022. This will introduce a new set of tasks for BEREC, such as revising the guidelines for roaming at retail and wholesale level, and developing databases on emergency calls and value-added services.

5.9.4 Digital Markets Act (DMA) and platforms

Digital platforms were a point of focus for BEREC's activities in 2021. Following the submission of proposals for their regulation by the European Commission at the end of 2020, BEREC published an Opinion on the DMA[36] in March, while simultaneously launching a consultation on the draft of a report about the ex-ante regulation of digital gatekeepers.

In June, BEREC published a report directly addressing the topic of DMA and its interplay with the EECC[37]. This was followed in October by the publication of the finalised report on the ex-ante regulation of digital gatekeepers[38].

At the same time, BEREC published a report on harmonised definitions for indicators applying to over-the-top (OTT) services[39], which will in future form a basis for ensuring that data on OTT services as collected by BEREC members are as comparable as possible. Initial work was also completed on reports (such as on the internet ecosystem) due for publication in 2022.

5.9.5 Zero-rating

On 2 September 2021, the European Court of Justice (ECJ) published rulings on three cases that declared zero-rating to be an unlawful practice. The BEREC Open Internet working group immediately started work on an analysis of the impact of these decisions as well as a revision of the BEREC guidelines on the implementation of the Net Neutrality Regulation.

This work also included launching a call for inputs[40] in October to allow stakeholders to share their views. Despite the tight schedule, around two dozen responses[41] were duly submitted. BEREC used the occasion of the last plenary assembly in the year to submit a definitive timetable for the guideline revision, with a consultation to be held in March 2022.

[35] https://ec.europa.eu/commission/presscorner/detail/de/IP_21_6665
[36] https://berec.europa.eu/eng/document_register/subject_matter/berec/press_releases/9888-press-release-berecs-opinion-on-the-digital-markets-act-key-proposals-for-a-swift-effective-and-future-proof-regulatory-intervention-on-digital-gatekeepers
[37] https://berec.europa.eu/eng/document_register/subject_matter/berec/press_releases/9967-berec-recommends-clarifying-the-scope-of-the-digital-markets-act-in-relation-to-number-independent-interpersonal-communication-services-ni-ics
[38] https://berec.europa.eu/eng/news_and_publications/whats_new/8958-berec-proposals-for-a-swift-effective-and-future-proof-regulatory-intervention-towards-digital-gatekeepers
[39] https://berec.europa.eu/eng/news_and_publications/whats_new/8965-harmonised-definitions-for-over-the-top-services-indicators
[40] https://berec.europa.eu/eng/news_consultations/Closed_Public_Consultations/2021/9008-call-for-stakeholder-input-to-feed-into-the-incorporation-of-the-ecj-judgments-on-the-open-internet-regulation-in-the-berec-guidelines
[41] https://berec.europa.eu/eng/news_and_publications/whats_new/9054-berec-publishes-the-received-stakeholders-input-to-feed-into-the-incorporation-of-the-ecj-judgments-on-the-open-internet-regulation-in-the-berec-guidelines

5.9.6 RTR and ENISA – cybersecurity and trust services

At the European Union Agency for Cybersecurity (ENISA), one key activity was monitoring the transposition of existing EU law and the preparation of new EU legislation. Member States took steps to transpose the 5G Cybersecurity Toolbox, which Austria achieved with the Telecommunications Network Security Ordinance 2020 issued by RTR.

Monitoring was then used to determine whether transposition would have the desired effects. To assist in this process, ENISA provided its expertise to Member States and collected data to facilitate the later adoption of changes or improvements by policymakers at EU level.

Revisions of this kind occurred in the reporting year, with ENISA advising the Commission on topics such as electronic IDs (eIDs) and an amendment to the recast Network and Information Security Directive (NIS2).

In trust services, RTR has chaired the ENISA Article 19 Expert Group since 2018 and is scheduled to do so until the end of 2022. This working group addresses issues relating to Article 19 of the eIDAS Regulation, which governs security measures incumbent on trust service providers and reporting duties relating to security incidents. Under the leadership of RTR, this working group produced a position paper on the NIS2 Directive that significantly influenced the proposal for amending the eIDAS Regulation published by the European Commission.

Alongside ENISA, RTR is also an active member of the Forum of European Supervisory Authorities for Trust Service Providers (FESA), which aims to achieve the harmonisation of supervisory practice and cooperation between the supervisory bodies on matters of common interest. As one example, the forum has agreed on proven procedures for ensuring end-to-end supervision even in the case of trust services provided across several Member States.

5.9.7 RTR and OECD – economic cooperation and development

The RTR Telecommunications and Postal Services Division represents Austria in the Working Party on Communications Infrastructure and Services Policy (WP-CISP) at the OECD. The OECD pursues the goals of promoting economic prosperity, equality, opportunities and well-being, and serves as a clearing house for the exchange of knowledge, data and analyses, as well as insights and the sharing of best-practice examples.

In 2021, the WP-CISP’s activities included a report on networks of the future. In the mobile communications networks of the future, a greater role will be played by the virtualisation of many network functions, the combination of various components in the access network, the use of cloud services and the wider deployment of artificial intelligence (such as for network control).

For wired broadband, optical fibre connections will also become more widespread. Compared with other OECD member countries, mobile networks in Austria are especially important in terms of data volume handled.

In the future, the OECD Secretariat considers greater cooperation to be necessary on regulatory matters beyond the scope of communications infrastructures – namely for issues in relation to increased digitalisation, data protection or network security.

In the context of discussions on the future of frequency management, the RTR suggested that the use of spectrum beyond traditional mobile telephony would play a greater role in the future. The need to consider competing forms of use not only in mobile telephony but also in other sectors would therefore be a key aspect of frequency management going forward.

5.9.8 RTR and ERGP – postal services

The European Regulators Group for Postal Services (ERGP) celebrated its tenth anniversary in the reporting year. The ERGP advises and assists the European Commission on the regulation of postal services within the EU. The group also takes a leading role in consultation, coordination and cooperation between Member States and the European Commission.

The postal services market has seen radical changes over the last decade. While electronic services are increasingly taking the place of letter post, parcel volumes have been hugely expanded by e-commerce and the recent pandemic. Plans to recast the Postal Services Directive – unchanged since 2008 – to accommodate these developments have yet to be finalised. Although the European Commission did publish an evaluation report[42] on the Postal Services Directive and the Regulation (in force since 2018) on cross-border parcel delivery services in 2021, this does not set out a clear strategy for the future.

Major changes in the postal services market are also reflected by the key issues of platforms and sustainability, which the ERGP addressed in 2021 by the publication of two reports at the end of the year.

Online merchants are increasingly moving from a reseller role to becoming fully-fledged postal service providers. Rapid market growth is granting them a competitive edge over conventional providers of postal services. Customer visibility is also higher and easier to achieve than for example with local post offices. For business customers, merchants can either organise postal services themselves or leverage their position of strength to negotiate favourable conditions.

These issues are addressed in a report on online platforms and merchants[43], which details the ensuing impact when these parties provide postal services and are included in sector regulation. The report also examines these platforms in the context of the Digital Services Act (DSA) and Digital Markets Act (DMA).

The second report on the Green Deal and its impact on the postal sector[44] constitutes the first step taken by the ERGP towards a longer-term focus on the topic of sustainability. In this report on the sector status quo, the ERGP notes that some postal service providers have already taken steps to make their operations more sustainable, while highlighting the fact that national regulatory authorities currently have no powers to intervene in this area.

Alongside a report on the impacts of the Covid-19 pandemic, which proved especially challenging for the parcel market, in 2021 the ERGP also prepared a core indicator report[45] on the postal sector as well as a report on service quality in relation to consumer protection and complaint handling[46].

42 https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=CELEX:52021DC0674
43 https://ec.europa.eu/docsroom/documents/48199
44 https://ec.europa.eu/docsroom/documents/48201
45 https://ec.europa.eu/growth/sectors/postal-services/european-regulators-group-postal-services_de
46 https://ec.europa.eu/growth/sectors/postal-services/european-regulators-group-postal-services_de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06

Regulatory activities in the postal sector

6	**Regulatory activities in the postal sector**	**182**
6.1	Procedures before the PCK	182
6.2	Procedures before RTR	184
6.3	End-user conciliation procedures	185

06 Regulatory activities in the postal sector

The Post-Control-Kommission (PCK) and the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) are jointly responsible for safeguarding competition in the postal services market. In addition to providing operational support to the PCK, RTR has separate regulatory duties relating to the notification of services, conciliation and end user dispute settlement. The most significant regulatory activities undertaken by the two authorities in 2021 are presented briefly below.

6.1 Procedures before the PCK

6.1.1 Closure and discontinuation of postal service points

In the context of the closure or discontinuation, a distinction must be made between postal service points (PSPs) operated by Österreichische Post AG (Post AG) and PSPs operated by third parties.

Post AG must directly report to the Post-Control-Kommission (PCK) each intended closure of a PSP it operates, and may only proceed with closure once certain preconditions set out in the Postal Market Act (PMG) have been met.

In such cases, the obligation to provide the universal service can also be met by other PSPs, such as existing PSPs operated by Post AG or a Post AG partner (a third-party-operated PSP). Where the preconditions for closure as set out in the PMG are not met, the PCK may conclude the procedure by prohibiting closure. The PCK may make authorisation of the closure contingent on another specified PSP providing replacement service. Alternatively, the PCK may drop the procedure and allow closure to go ahead if it believes that the preconditions under the PMG have been met. More information on procedures relating to the closure of PSPs operated by Post AG can be found in communications reports for previous years. Post AG notified the regulatory authority of the planned closure of a total of 15 directly operated PSPs in the reporting year of 2021.

In addition to monitoring planned closure of directly operated PSPs, the PCK also conducts supervisory procedures to review any discontinuation of third-party-operated PSPs, for instance resulting from insolvency of postal service partners or the termination of contracts.

Under the PMG, Post AG is also required in such closure cases to ensure the provision of universal service as well as coverage with PSPs throughout the country. Under certain conditions, alternative service supply solutions such as deploying rural delivery personnel can be implemented in such situations.

Procedures conducted by the PCK in 2021 involved both closures of third-party-operated PSPs and of directly operated PSPs. Procedures were initiated in a total of 56 cases. All of the supervisory procedures initiated were concluded without issuing a decision, since the provision of the universal service and the comprehensive provision of coverage by PSPs had been ensured in each case.

The total number of PSPs in Austria declined during the reporting year, from 1,752 (as of 31 December 2020) to 1,746 (as of 31 December 2021). As of 31 December 2021, rural delivery personnel had been additionally deployed in eight cases as an alternative service supply solution.

Table 28: Postal service points operated by Post AG and by third parties, 2018 to 2021

	2018	2019	2020	2021
Post AG-operated PSPs	424	413	402	395
Third-party-operated PSPs	1,352	1,342	1,350	1,351
Total PSPs	**1,776**	**1,755**	**1,752**	**1,746**

Source: RTR

6.1.2 Payment orders for the financial contribution under Art. 34a KOG

To cover the cost of postal sector regulation, the provisions of the KommAustria Act (KOG) require the federal government to cover from its budget one portion of expenses and the postal service industry to contribute the remaining share.

Where postal service providers fail to meet their obligation to pay financial contributions, the Post-Control-Kommission (PCK) is obliged to issue an official decision ordering payment of the contribution. In 2021, all obligations were met and the PCK did not need to order payment of the financial contribution in any case.

6.1.3 Issuing of licences

A licence issued by the PCK is required in order to operate a business for conveying letters weighing 50 g or less. In 2021, there were no changes to previously issued licences.

Thus, seven business entities continue to hold licences as of the end of 2021:

- feibra GmbH
- hpc DUAL Österreich GmbH
- Medienvertrieb OÖ GmbH
- noebote GmbH
- RS Zustellservice Rudolf Sommer
- Russmedia Service GmbH
- Wien IT GmbH

6.1.4 General terms of service and tariffs

In connection with providing universal services, the universal service provider (Post AG) is required to issue general terms and conditions that specify rules for providing the services and their associated tariffs, with the general terms and conditions being notified to the PCK. Within two months, the PCK can object to any notified general terms of service that fail to conform to specific provisions of law. Three procedures concerning modifications of Post AG's general terms and conditions were conducted in the 2021 reporting year.

Other postal service providers offering services in the universal service sector are also required to issue and to notify to the PCK the applicable general terms and conditions. The review is carried out to the same standards as those that apply to the universal service provider, although the PCK does not verify the tariffs. In 2021, two procedures concerning modifications of general terms and conditions of other postal service providers were conducted.

6.1.5 Postal tariff adjustment

Beginning on 1 July 2021, in the case of postal items from third countries where duty is not paid in advance, the import tariff (previously customs clearance tariff) is now charged on a staggered basis depending on the value of the parcel, and the HGV toll surcharge has been increased.

The requested price changes for parcels have been in force since 1 October 2021. In addition to varying price increases depending on the weight class and distance zone, the 'up to 2 kg' weight class was split into two weight classes ('up to 1 kg' and 'up to 2 kg') on the one hand, with zone 1 for international parcels being split into zones 1a and 1b as well. Furthermore, the 'special conveyance' service was replaced by three new sub-services ('small bulky items', 'large bulky items' and 'fragile').

Amendments to the general terms and conditions were also requested for advertising, which came into force on 1 January 2022. The Info.Mail product has been split into Info.Mail Public and Info.Mail Werbung. For newspapers and Sponsoring.Post, the prices were increased in proportion to the Consumer Price Index (CPI).

The PCK commissioned RTR experts to review the tariffs and submit evaluation reports for the individual cases. Evaluation reports examined whether the costs of the universal service sector were being (more than) recovered, and it was found that the tariff adjustment for the overall basket is below the forecast change in CPI. As a result, PCK did not object to the reported changes in the general terms and conditions (including tariffs).

6.2 Procedures before RTR

6.2.1 Notification of provision of postal services

Postal service providers are required to notify RTR in advance of the intended provision of a postal service as well as any change to or discontinuation of such a service. The list of notified postal services, including the name of the postal service provider, is to be published on the internet by RTR. In 2021, 40 business entities notified to RTR the provision of postal services. As a result, the list of postal service providers maintained by RTR comprised a total of 175 business entities at the end of 2021.

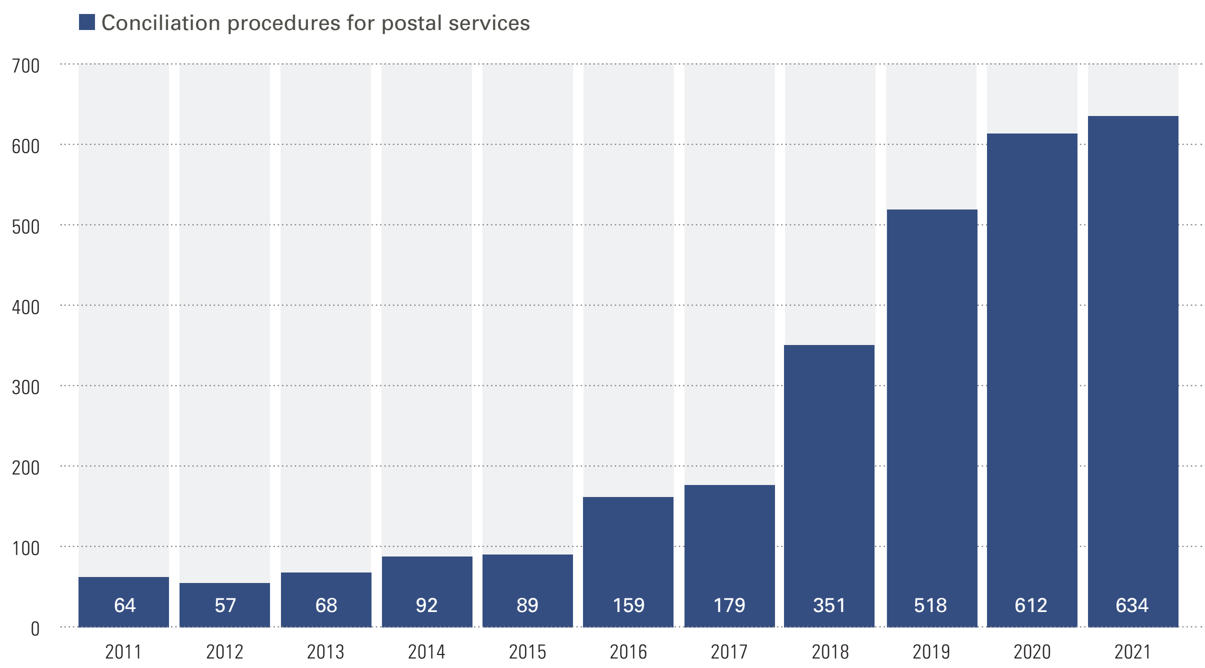
6.2.2 Review of Post AG's cost accounting system

One of the regulatory authority's remits is to periodically review the cost accounting system used by universal service provider Post AG. Within its internal cost accounting systems, the universal service provider is obliged to maintain separate accounts for services classified as universal services and for those not falling under this category. The internal cost accounting systems must be based on uniformly applied and objectively justifiable principles of cost accounting. As in previous years, the review carried out in the reporting year revealed that the cost accounting system used in 2020 complied with the criteria listed.

6.3 End-user conciliation procedures

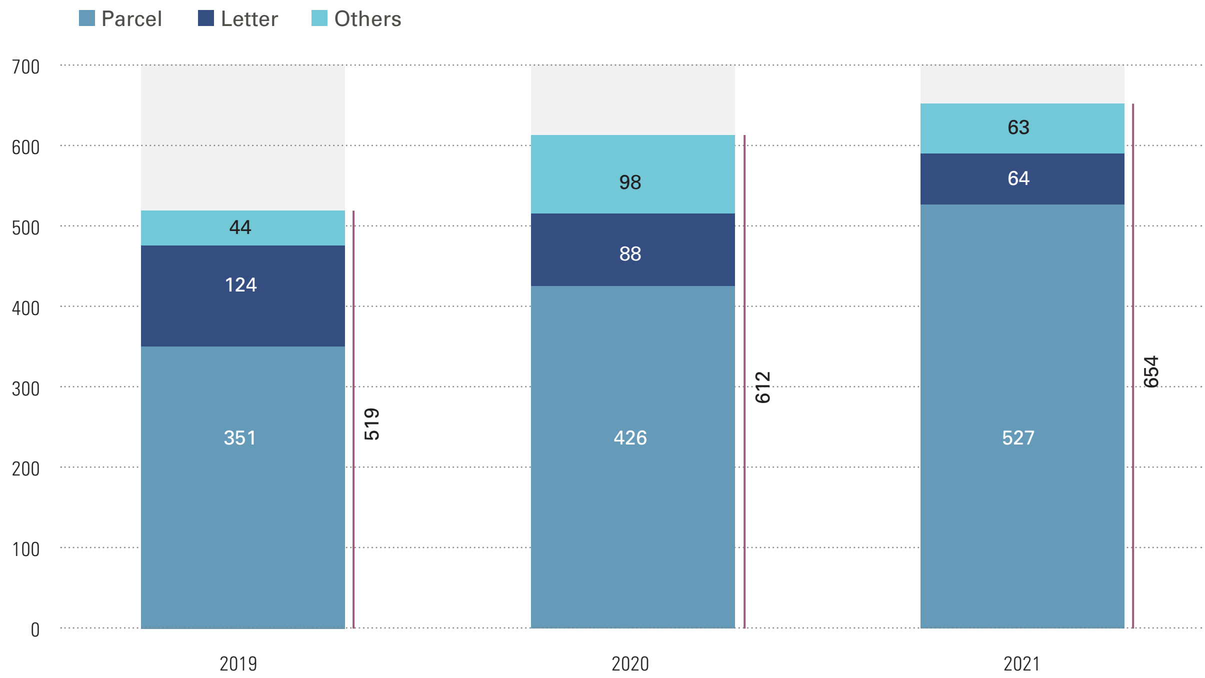
In the reporting year, a total of 634 conciliation procedures for postal services were registered, 22 more than in 2020. Of this number, 64 related to letter services and 527 to parcel services. The figure below shows the trends in these procedures since the conciliation body for postal services was set up. The significant increase in procedures during the period between 2018 and 2021 is largely due to increasing parcel volumes, although this is negligible considering the enormous volumes that are handled. Roughly 88.2 per cent of the conciliation procedures were completed within 90 days, with 78 per cent of these concluded with positive outcome.

Figure 46: Conciliation procedures for postal services, 2011–2021



In keeping with the trends regarding letter and parcel volumes, conciliation procedures in the letter category continue to decline, while conciliation procedures in the parcel category have been increasing significantly. As in previous years, complaints centred on three issues: parcel delivery problems, parcels lost in other countries and letter delivery problems.

Figure 47: Conciliation procedures for postal services by category, 2019–2021



6.3.1 Postal service recipient complaints

The sender and the respective postal service provider enter into a contract for conveyance of postal items. Insofar as it involves the assertion of claims arising from the contract for conveyance of postal items, only senders can therefore usually request a conciliation procedure with RTR.

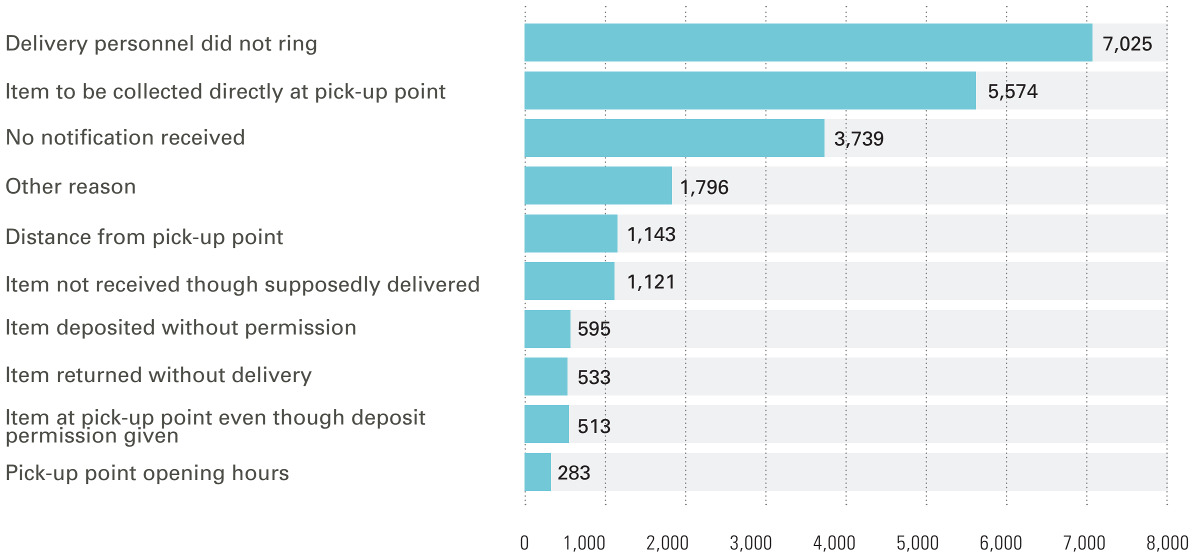
Accordingly, recipients of postal items do not currently enjoy optimal legal protection. They cannot usually assert claims from a contract for conveyance of postal items, despite the direct involvement of the postal service provider, nor can they have their claims examined as part of a conciliation procedure with RTR.

However, postal service providers must always comply with the general provisions under the Postal Market Act (PMG) applying to postal items. The portal for postal service recipient complaints[47] was set up in February 2021, to monitor compliance with these provisions and to provide a platform for recipient complaints in the event of delivery problems. The intention here is to strengthen recipients' position.

The data collected on the portal for postal service recipient complaints allow complaint trends to be examined on an ongoing basis. Where statistical irregularities appear, postal service providers may impose where necessary measures that fall within the postal regulator's scope of supervisory competence.

[47] For more information about the postal service recipient complaint form, see the annual report of the conciliation bodies for 2021 at www.rtr.at

Figure 48: Subjects of postal service recipient complaints (multiple answers) in 2021



RTR will continue to make active use of this tool and in particular will ensure that all postal service providers fulfil their obligations arising from the PMG, which expressly requires that deliveries be attempted.

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07

RTR’s activities as a competence centre

7	**RTR’s activities as a competence centre**	**190**
7.1	Selected activities of the Media Division	190
7.2	Selected activities of the Telecommunications and Postal Services Division	192
7.3	Public relations: information and transparency	194

07 RTR's activities as a competence centre

RTR is tasked with serving as a competence centre for broadcasting and telecommunications industry[48] affairs, in doing so complying with the general principles of economy, efficiency and expediency.

This competence centre role involves analysing issues relating to the activities of KommAustria, TKK and RTR. Examples here include the commissioning of study reports and the preparation of expert reviews. The findings from such evaluations are to be appropriately prepared for public disclosure.

The following chapter presents examples of activities falling under the competence centre remit (cf. Art. 20 KommAustria Act, KOG).

7.1 Selected activities of the Media Division

7.1.1 Studies

7.1.1.1 2021 Video Survey

The Video Survey by the RTR Media Division and the Teletest Working Group has been published annually since 2016. This survey presents, in the form of tables and charts, and free of interpretations, the use of all video offerings, from linear television and broadcaster media libraries to alternative online services and the use of video in social media. As an annual comparison, the study offers insights into the changes in video use in relation to broadcasting and online products. It also tracks the market shares and reaches of the various products and collects information on preferred devices. The results are presented for the entire population aged 14 and older and for numerous subgroups such as the key advertising target group of 14- to 49-year-olds, presented for the first time in 2021.

Market research institute GfK Austria carried out a representative survey on behalf of the RTR Media Division and the Teletest Working Group, completing over 4,000 computer-assisted web interviews (CAWI) to investigate how people in Austria aged 14 and up consume video. The survey is traditionally held in February. The 2021 Video Survey was carried out in the period between 1 February and 28 February 2021, in other words during the third wave of the coronavirus and the associated COVID-19 measures.

The study is available (in German) on the RTR website at https://www.rtr.at/medien/aktuelles/publikationen/Publikationen/Bewegtbildstudie2021.de.html.

48 RTR does not act as a competence centre for postal service regulation.

7.1.1.2 Study of presence and presentation of athletes by gender in Austrian media

The study entitled "Gender Balance in Sports Reporting?" was supported by the RTR Media Division and a private association: 100% Sport – Austrian Centre for Gender Competence in Sport (100% Sport – Österreichisches Zentrum für Genderkompetenz im Sport. The study was prepared by the Media Affairs agency, a media market analysis specialist.

The focus of the study is the presence and presentation of athletes of different genders in Austrian media. Sports reporting in Austrian media was analysed with regard to the quantitative and qualitative relationships within reports about male and female athletes. Daily newspapers, ORF reporting and web portals were included in the analysis.

One takeaway: in the mass media formats with the greatest reach, female athletes are clearly under-represented compared with their male colleagues. On average, the share of reporting on women in the sports pages of the daily newspapers was 12 per cent compared with 15 per cent in daily ORF sports news, while the most influential sports web portals cover women only 7 per cent of the time.

The survey is available (in German) on the RTR website at https://www.rtr.at/medien/aktuelles/publikationen/Publikationen/Studie_Genderbalance_Sportberichte.de.html.

7.1.2 Symposiums

7.1.2.1 Symposium: Accessible media usage – setting shared goals

This conference on 30 June 2021 was focused on the amended legislation that entered into force at the start of the year, requiring media service providers to gradually expand their accessible programmes. At the event, representatives of associations for people with disabilities, private broadcasting, ORF, KommAustria and the RTR Media Division delved deeply into the topic of accessibility in media. See section 3.1.3 for details.

7.1.2.2 Video event: Online hate speech – a chronic or treatable disease?

The event entitled "Online hate speech – a chronic or treatable disease?", held by KommAustria and the RTR Media Division, dealt not only with the new legislative framework given by the Anti-Online Hate Speech Act and the Communications Platforms Act, it also offered space for guests' discussion of professional and – in some cases personal – experiences with the topic of online violence.

7.1.3 Research Institute for Electronic Mass Media Law

The Research Institute for Electronic Mass Media Law, abbreviated REM, was founded in 2005 and set up as a not-for-profit association with headquarters at the RTR offices. REM focuses on academic research into legal issues relating to electronic mass media (see https://rem.ac.at).

In 2021, the members of the REM management board were as follows: Prof. Barbara Leitl-Staudinger (University of Linz, Austrian Constitutional Court, REM chair), Prof. Hans Peter Lehofer (Austrian Administrative Court, deputy chair), Prof. Walter Berka (University of Salzburg), Alfred Grinschgl, Prof. Michael Holoubek (Vienna University of Economics and Business, Austrian Constitutional Court), Michael Ogris (KommAustria), Oliver Stribl (RTR) and Matthias Traimer (Austrian Federal Chancellery).

REM workshop

The annual spring workshop offered by Recht Elektronischer Massenmedien (REM), a research institute specialised in electronic mass media law, was held in May, under the motto of Implementing the AVMS Directive – New Developments in Media Law (see https://rem.ac.at/online-workshop/).

17th Austrian Broadcasting Forum

The 17th Austrian Broadcasting Forum examined from a variety of perspectives the topic of "Regulating Communication Platforms" (see https://rem.ac.at/regulierung-von-kommunikationsplattformen/). The opening of the conference was dedicated to the memory of Prof. Walter Berka, who passed away unexpectedly in July 2021 and whose research had deep impact in factor shaping Austrian broadcasting and media law. He was also a founder and longstanding board member of mass media law research institute REM.

7.2 Selected activities of the Telecommunications and Postal Services Division

7.2.1 Studies

7.2.1.1 Single sign-on services: overview and current developments

The study entitled "Single sign-on services: overview and current developments" examines the impacts of single sign-on services on the openness of the internet and on competition. Service providers generally equip their websites with SSO solutions from social networks including Facebook and operating systems such as Apple OS. This significantly boosts the market position of these providers and increases their influence over what happens on the internet.

The study further illuminates the treatment of such services in the draft version of the Digital Markets Act (DMA). It is planned in future to prohibit digital gatekeepers from requiring the use of proprietary SSO services. The technical design restrictions (i.e. third-party cookies) under consideration among browser developers like Google are also discussed in the study.

Another focus is an overview of the market players in Austria on the supply and demand sides.

The survey is available (in German) on the RTR website at https://www.rtr.at/TKP/aktuelles/publikationen/publikationen/single_sign_on_entwicklungen.de.html.

7.2.2 Symposiums

7.2.2.1 Five years of net neutrality – a look back and forward

In early July, the Telecommunications and Postal Services Division of RTR hosted a virtual discussion event on "Five years of net neutrality – a look back and forward". The event marked the fifth year since introduction of the EU Net Neutrality Regulation, intended to protect users' free access to an open internet.

Barbara van Schewick (Professor of Law at Stanford Law School), Rudolf Schrefl (CEO Hutchison Drei Österreich) and Klaus M. Steinmaurer (Managing Director of the RTR Telecommunications and Postal Services Division) discussed whether the expectations placed on this Regulation have been met, what went well and where difficulties have been encountered. The panel also considered the future, addressing questions such as which (specific) challenges lead to technical change, whether new approaches to solutions are required here and how regulatory authorities should respond, as well as how the internet will look in future.

7.2.2.2 22nd Salzburg Telecom Forum

Entitled "Europe in the digital decade", the 22nd Salzburg Telecom Forum was held by RTR, the University of Salzburg and the European Commission over the course of two days. Since the number of participants was limited due to COVID-19 restrictions, the conference was also livestreamed and recorded (see https://www.rtr.at/TKP/aktuelles/veranstaltungen/veranstaltungen/TKForum/22._salzburger_telekom_forum.de.html#pastevents).

The agenda for the first day included keynotes by Roberto Viola (Director General DG CNECT, European Commission), Patricia Neumann (Country General Manager, IBM Austria) and Knut Blind (Technische Universität Berlin) plus two podium discussions, on the topics of "Regulation in the digital decade" and "Innovation and regulation". The first day was closed with a motivational statement by Federal Minister Elisabeth Köstinger on innovation in Austrian telecommunications policy.

Under the motto of "Law in digital disruption", the focus of the second day were legal presentations. The speakers included Denis Sparas (DG CNECT), Andreas Wiebe (University of Göttingen), Tobias Keber (Stuttgart Media University) and Clemens Thiele (attorney).

7.2.2.3 Virtual event series: RTR-Net-Work-Digital

In its role as telecommunications and postal regulatory authority, RTR launched the event series RTR-Net-Work-Digital in spring of 2021 to (critically) discuss topics of digitalisation and promote an exchange of ideas on the digitalisation issues facing society today.

The two panel discussions at the launch event in May were focused on digital European security policy. Panel 1 was dedicated to the topic of 5G and security. European security requirements were discussed, including their feasibility and implementation in Austria. Panel 2 was concerned with the Directive on Security of Network and Information Systems (NIS2), which brings a number of improvements over NIS1. Among other aspects, NIS2 requires all companies of a certain size to take cybersecurity measures.

The second event of RTR-Net-Work-Digital addressed the topic of blockchain from various perspectives. Beginning with the questions of what blockchain is and how the technology works, insights were offered into possible applications, such as in the areas of telecommunications, energy, cryptocurrencies and trust services.

The third RTR-Net-Work-Digital event was dedicated to the tech topic of cloudification, offering information and discussion of the current state of European cloud policy for implementation of the GAIA-X initiative as well as the Austrian Ö-Cloud initiative. Attention was also given to the importance of cloud services for network operators, especially in the context of 5G but also as an option for business customers.

Additional information on the event series RTR-Net-Work-Digital can be found (in German) on the RTR website at https://www.rtr.at/TKP/was_wir_tun/telekommunikation/weitere-regulierungsthemen/rtr_netz-werk-digital/rtr_nwd.de.html.

7.3 Public relations: information and transparency

A series of public relations activities was held in the reporting year to illuminate specific aspects of the work of regulatory bodies KommAustria, TKK, PCK and RTR. The aim here was to inform the general public and ensure transparency.

Media relations and enquiry management

The aim of media relations (which includes press releases, press conferences and individual interviews with media representatives) is to share early on information on regulatory decisions, associated topics and funding decisions as well as to raise public awareness of problematic issues (such as telephone number abuse).

This also includes enquiry management. RTR deals with a large number of enquiries daily, both by phone and in writing, covering increasingly complex issues. In 2021, written enquiries submitted via rtr@rtr.at increased by over 18 per cent, from 3,286 in the previous year to a total of 3,891. As in previous years, the majority of enquiries concerned end-user issues. Responses to written enquiries usually took about 1.5 working days.

Table 29: Volume of enquiries, 2019–2021

	2019	2020	2021
Written enquiries to rtr@rtr.at (total)	2,859	3,286	3,891
• Enquiries concerning end-user issues	1,760	2,072	2,802
First-time phone advice	2,658	3,114	3,702

Source: RTR

For initial enquiries relating to user protection and conciliation procedures for communications postal services, consumers can obtain advice from experts on weekdays by calling 01 58058 888. In the reporting year, initial advice was given in 3,702 cases, an increase of almost 19 per cent over the previous year.

New website www.rtr.at

The website www.rtr.at is the central communication medium of the regulatory authorities, serving to ensure transparency over their entire range of activities. The range of information and services offered was also expanded in many areas during the reporting year.

Publications

Every year, RTR's list of publications includes the Communications Report (covering the statutory reporting requirements), the annual report of the conciliation bodies, the Net Neutrality Report, the RTR Monitor reports (on telecommunications, internet, postal services and roaming) and newsletters from the two divisions of RTR.

In addition, a range of figures and market information from the fields of media, telecommunications and postal services are published, including in formats suitable for electronic processing (such as Open Data).

Information events

Workshops and information events for distributing information that is relevant for market participants and the general public were largely held as virtual events in the reporting year.

www.rtr.at

08

Market developments from a regulatory viewpoint

8	**Market developments from a regulatory viewpoint**	**198**
8.1	The Austrian communications and advertising markets	198
8.2	Trends in the telecommunications markets	222
8.3	Developments in the Austrian postal market	238

08 Market developments from a regulatory viewpoint

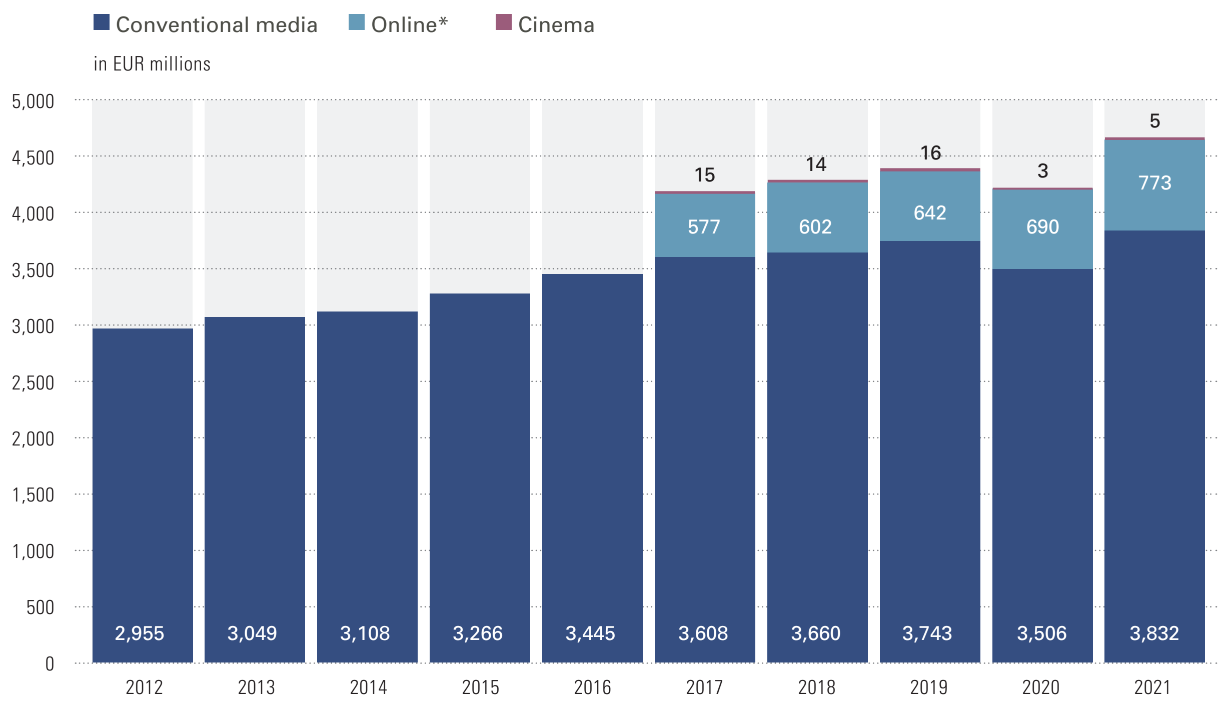
8.1 The Austrian communications and advertising markets

8.1.1 Changes in the advertising market

Conventional advertising media in Austria – print, television, radio and outdoor advertising – earned EUR 3.832 billion in gross revenues in 2021, the second year of the pandemic (2020: 3.506 billion).[49] This equates to growth of around 9.2 per cent (EUR 326 million) compared with the previous year,[50] as well as an increase of almost 2.4 per cent (EUR 89 million) compared with the pre-pandemic year 2019.

Taken together with online[51] and cinema advertising, the annual result was even more positive, thanks to strong growth in the online segment. In contrast to 2020, all media categories were able to post clear year-on-year gains in 2021. In print, outdoor advertising and cinema, however, gross advertising revenues proved unable to match the results obtained in 2019.

Figure 49: Gross advertising expenditure for conventional media including online and cinema advertising, from 2017



Source: FOCUS Research 2022; EUR millions; *Online: projection based on interviews (advertising businesses and media agencies), excl. cinema/conventional flyer advertising to 2016, incl. cinema and online from 2017 excellent

[49] All figures for gross advertising sales in Austria: FOCUS Research 2021/2022
[50] Statistical analysis based on the advertising price lists of the media channels in each case
[51] Source: FOCUS, projection based on expert interviews with companies buying advertising and media agencies

Conventional media, online media and cinema generated total gross advertising revenues of EUR 4.61 billion in 2021 (2020: 4.2 billion; 2019: 4.4 billion; 2018: 4.28 billion). This equals year-on-year growth of 9.8 per cent as well as an increase of 4.8 per cent compared with the pre-pandemic year 2019.

All media advertising income is given in gross figures based on published price lists. Details of any potential discounts are obviously not disclosed and are therefore unaccounted for. Yet trends – even multi-year trends – can be identified from these data.

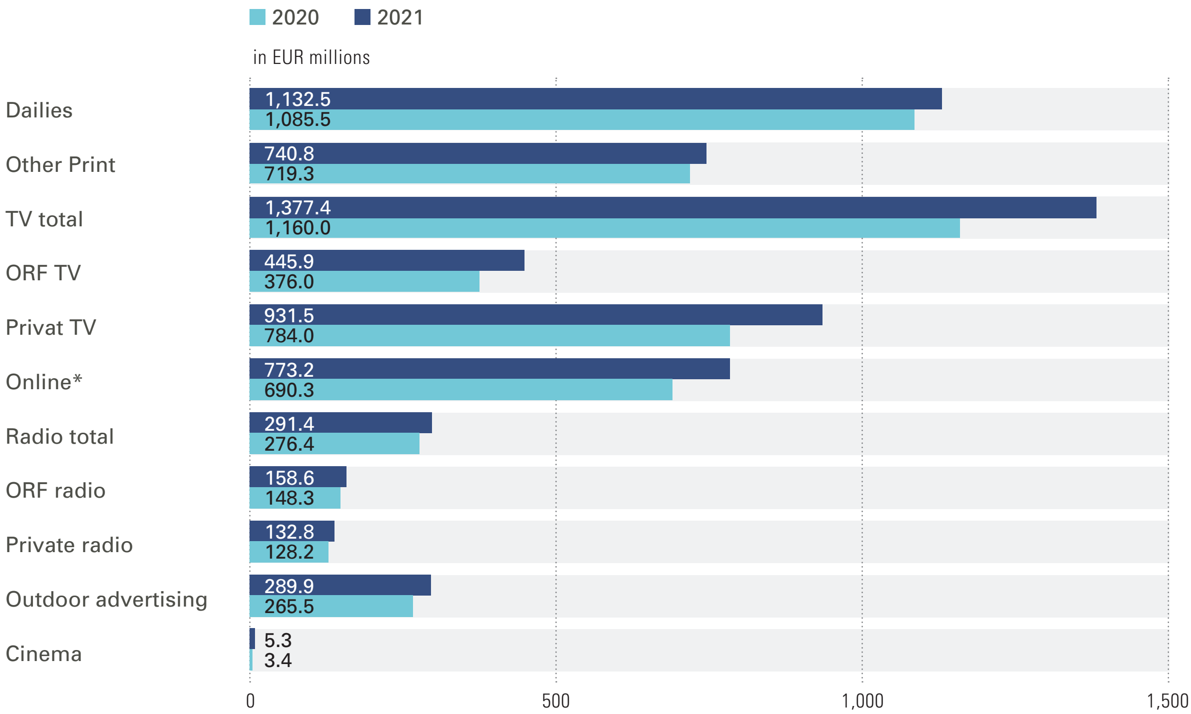
A positive result for TV, online and radio advertising in 2020

The first half of 2021 in particular was marked by a veritable boom in advertising, with positive effects felt across all media categories.

From February 2021, advertising spending rose sharply and was already 12.3 per cent higher year on year by March. In April, advertising businesses were spending just under 20 per cent more on advert placements than in April 2020, while by May and June, spends had each risen by 27 per cent year on year for these months. While figures for July and August again reflected the usual summer ad spend gap, positive growth compared with prior-year months nevertheless held until the end of the year. Growth of just under 8 per cent in September and around 11 per cent in October was the highest for the second half of the year, while another increase of 5.9 per cent for the month of December closed what was a very positive year for most media formats in 2021 – especially given the ongoing pandemic.

Working from home, occasional periods of home schooling and a lack of leisure activities ultimately rewarded the three media categories of television, radio and online in particular with significant growth until the end of 2021, after an initial slump at the onset of the pandemic.

Figure 50: Gross advertising expenditure in Austria by category in 2020 and 2021



Data: FOCUS Research 2022; EUR millions
* Projection based on 359 interviews with advertising businesses and media agency representatives in 2020

Television generated gross advertising income of EUR 1.377 billion in 2021, around 18.8 per cent (EUR 200 million) higher than in the previous year (2020: –4.3%). Private broadcaster growth was 18.8 per cent (gross advertising income EUR 932 million, 2020: –7.6%), on par with the 18.6 per cent posted by the ORF (EUR 446 million, 2020: +3.3%). When compared with 2019, growth in this category was also an impressive 13.6 per cent.

While online media had maintained a constant growth trajectory even before Covid, this angled further upwards in 2021 with gross advertising growth of 12 per cent. Until 2016, FOCUS Media Research provided figures only for the gross amounts spent by businesses on conventional online advertising (mostly banner ads and direct response advertising on websites,[52] with some mobile marketing and in-stream video ads, including pre-rolls but excluding YouTube). In 2017 FOCUS then switched its survey methodology to a projection based on the results of interviews with representatives of advertising businesses and with media agencies. This change has since enabled a valid estimate of the overall online advertising market, so that keyword advertising and spending on social media advertising can also be reported. In the case of conventional media, gross volume continues to be assessed by a quantitative assessment of the placement of newspaper ads, TV, radio and cinema commercials, and billboard advertising.

In 2021, spending on online advertising totalled EUR 773 million, rising by EUR 83 million (12%) year on year (2020: EUR 690 million or 7.6%; 2019: EUR 642 million or 6.6%). Compared with 2019, gross advertising revenues for online rose by no less than 20.5 per cent in 2021. Within online advertising, social media was again the main driver for growth, posting gains of 17.9 per cent (2020: 11.9%; 2019: 14.9%). Advertising in relation to online video moved up into second place with outstanding growth of 15.3 per cent (2020: 6.1%; 2019: 8.2%), while gross advertising spend on search engine advertising posted growth of 12.3 per cent (2020: 8.2%). Website banners and other traditional online advertising formats seem to have staged a robust comeback. A loss of 0.5 per cent in 2018 was followed by growth of some 3 per cent in 2019 and 7.3 per cent in 2020, rising further to 10.6 per cent in 2021. Only the format of online mobile (online advertising tailored specifically to mobile user devices) had to be content with less impressive gains, improving gross advertising income by 'only' 4 per cent (2020: 3.8%; 2019: 10.5%).

Radio closed 2021 with year-on-year gross advertising growth of 5.4 per cent (2020: 9.1 per cent) and therefore a below-average result – even in terms of figures for the last few years. When comparing 2021 with 2019, however, radio achieved gross advertising growth of 15 per cent, boosted for the most part by strong performance in the second half of 2020. In 2021, gross spend from businesses on radio spots amounted to EUR 291 million, some EUR 15 million more than in 2020 and EUR 38 million more than in the pre-pandemic year 2019. In contrast to 2020, however, spending in 2021 was tilted in favour of the ORF, whose gross radio advertising revenues accordingly rose by 7.0 per cent year on year (just under EUR 159 million). The private radio segment achieved growth of 3.6 per cent, totalling some EUR 133 million. In 2020, the ORF and private broadcasters benefited equally from the rapid turnaround in the second half of the year. ORF radio saw its gross advertising income rise by around EUR 12 million (9%) year on year to EUR 148.3 million in 2020 (2019: 7.4% to EUR 136 million), while private radio achieved income growth of 9.2 per cent, rising to EUR 128 million in 2020.

In previous years, private broadcasters had recorded a comparable figure for growth only in 2017, when earnings rose by 9.3 per cent. With the exception of that year, private broadcasters had recently achieved gains ranging from 6 to 7 per cent (2016: 6.2%; 2015: 6.7%; 2014: 6.3%).

Print (all formats), outdoor and cinema, were unable to regain the levels last seen in 2019, despite the noticeable gains achieved in 2021. In 2021, gross ad revenues for print rose by 3.8 per cent year on year but remained 4.8 per cent below the 2019 figure. Outdoor advertising made gains of 9.2 per cent but still trailed the pre-pandemic year by 6.4 per cent. Of the three, cinema achieved the most modest improvement to gross ad income, achieving growth of 52.9 per cent but still closing 2021 at a level 67.4 per cent lower than 2019.

Newspapers, previously earning the highest gross advertising revenues of all media categories for decades on end, were finally overtaken here by television in 2017. Since then, television has slowly but surely extended its lead as the top revenue-earning category. This remained true even for the negative growth experienced in the crisis year of 2020, when television gross advertising earnings declined by 4.3 per cent (nearly EUR 53 million) to EUR 1.16 billion compared with 2019. In 2020, newspapers also saw their gross advertising earnings drop by 6.5 per cent (EUR 76 million) year on year to EUR 1.085 billion. In terms of gross advertising income, newspapers therefore trailed television by no less than EUR 74 million in 2020 – a revenue gap that has been expanding

[52] Direct response advertising: interactive banners with direct links to an online shop.

annually since 2017 (2017: EUR 14 million, 2018: EUR 31 million, 2019: EUR 51 million). This trend persisted even in 2021, the year all media categories including newspapers finally got 'back to business.' Although newspapers improved their year-on-year gross advertising results by 4.3 per cent (EUR 47 million) to EUR 1.132 billion, television nonetheless secured gains of just under 19 per cent (EUR 217 million), rising to EUR 1.377 billion and therefore increasing its lead over newspapers by no less than EUR 245 million.

Print media in the 'other' category (regional weeklies, magazines/general interest magazines and trade magazines) had seen their gross advertising revenues fall by 10.7 per cent in 2020 (EUR 86 million) to EUR 719.3 million. These formats were able to once again improve their year-on-year gross advertising revenues by 3 per cent (EUR 21.4 million) in 2021. Even with this result, however, they still remain some EUR 64 million (8%) below EUR 805 million, the figure for the pre-pandemic year of 2019. Within both this subgroup and print media overall, magazines and general interest magazines closed the gap to the greatest extent, achieving growth of 6 per cent. Gross advertising income for regional weeklies recovered only modestly, with growth of 1.9 per cent compared with 2020. With a loss of 0.6 per cent, trade magazines returned to negative territory – the only subgroup to do so. In 2020, trade magazines had suffered a loss of 20.3 per cent, becoming the hardest hit of any print media.

Turning to outdoor advertising, which had naturally suffered badly during the lockdowns in 2020, this group was able to recover in 2021, as restrictions were relaxed and lifestyles gradually returned to normal. In 2021, outdoor advertising improved its year-on-year gross advertising revenues by 9.2 per cent (2020: –14.3 per cent or EUR –44.2 million to EUR 265.5 million). However, preliminary figures for these two 'Covid years' show that outdoor was still 6.4 per cent lower than 2019 by the end of 2021. The transport segment (advertising in and on public transport, bus/train stops and stations), which had been least affected by the events of 2020 (–0.9%), reported gains of 20.4 per cent in 2021. This was followed by street furniture (such as passenger shelters, bench seats, bike racks, public toilets or waste bins) with an increase of 18.4 per cent and then the segment that had achieved the strongest growth over the last few years, digital out-of-home (DOOH, including all public screen formats), with gains of 13.6 per cent (2020: –16.8%). Traditional billboard advertising made year-on-year gains of only 4 per cent in 2021, recouping little of 2020's loss of 14 per cent. Only advertising in the ambient media segment, a broad category covering ad media in the environment like beer mats, washrooms in restaurants or cultural facilities, admission tickets or taxi headrests, had yet to achieve an obvious recovery in 2021, again posting a year-on-year loss, this time of 6.2 per cent (2020: –28%).

Taken as a percentage, cinema achieved the biggest turnaround in all media categories in 2021, with growth of no less than 52.9 per cent. Yet cinema had set itself a very low bar to beat in the previous year. In 2020, cinemas were shuttered after just two and a half months, causing gross advertising income to collapse by 78.7 per cent to a mere EUR 3.4 million. Accordingly, the 52.9 per cent increase in 2021 improves that figure only to EUR 5.3 million and so to a result 67.4 per cent below that of 2019 (EUR 16 million).

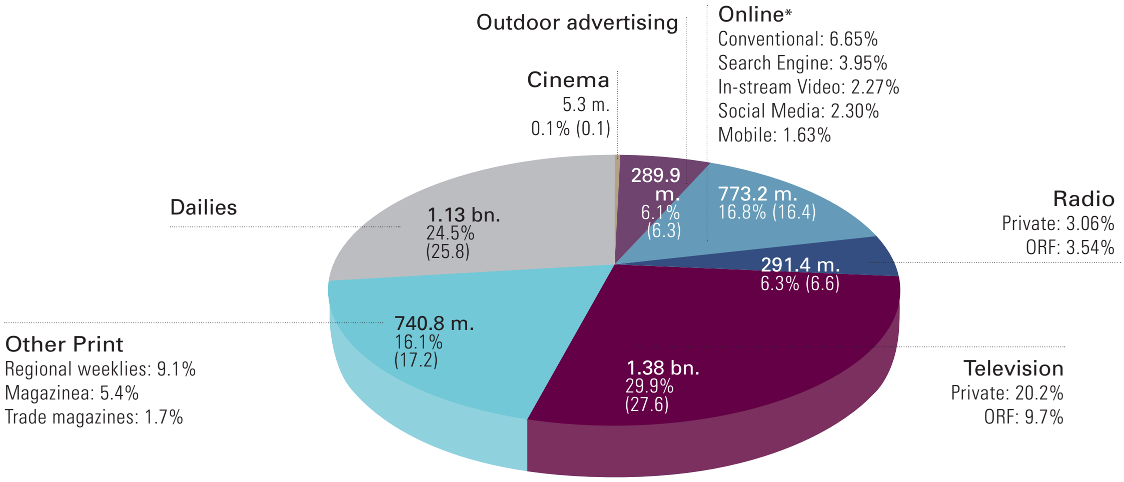
Distribution of gross advertising expenditure by category

Looking at the distribution of gross advertising expenditure across media formats, television advertising achieved the strongest growth in its share, rising 2.3 percentage points to take 29.9 per cent of the EUR 4.61 billion that was spent in 2021 on advertising in conventional media, cinema and online overall. As a segment, private television commands 20.2 per cent of overall spending on advertising (2020: 18.7%); the ORF's share is 9.7 per cent.

Although print lost 2.4 percentage points and saw its share shrink most among the main categories, it remained the strongest media category on 40.6 per cent. Newspapers slipped 1.2 percentage points to 24.6 per cent (2020: 25.8%). Other print media dropped back to 16.1 per cent (2020: 17.2%).

Online grew its share of the advertising spend by four tenths of a percentage point to 16.8 per cent in 2021, while outdoor took 6.3 per cent, gaining two tenths of a percentage point compared with 2020.

Figure 51: Per-category share of total volume of gross advertising income in 2021 (2020)



Source: FOCUS Research 2022, 2021 Advertising Report; *projection from expert interviews; EUR and per cent

Despite its positive trend in gross advertising income, radio was outclassed by the stronger performance of television and online. In terms of the distribution of the advertising pot among all categories, this translates to a slightly smaller share of 6.3 per cent, a loss of three tenths of a percentage point. This figure comprises the ORF on 3.4 per cent (2020: 3.5%) and private radio on 2.9 per cent (2020: 3.1%).

Cinema took the smallest, 0.1 per cent share of ad spending but at least maintained a stable positive trend in doing so (2020: 0.1%; 2019: 0.4%).

8.1.1.1 Comparison with the German advertising market

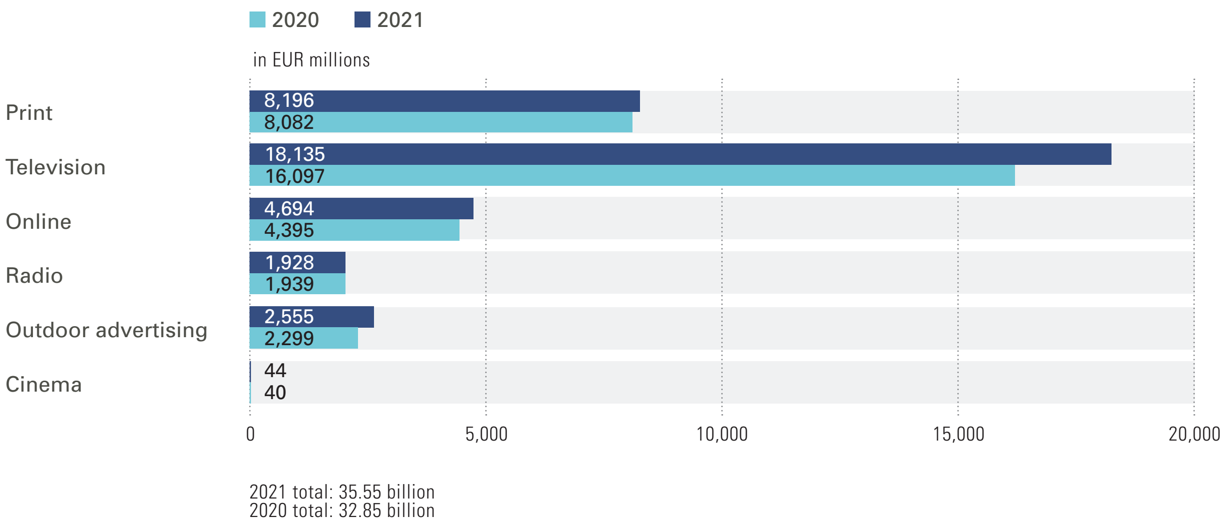
Although the advertising market also recovered markedly in Germany in 2021,[53] growth in gross advertising earnings was less dynamic, gaining 6.8 per cent to Austria's 9.8 per cent. On the other hand, the German media market experienced less shrinkage than Austria in 2020 (–2.5% compared with –4.5%) and the corresponding ad market bounce-back was therefore also less dramatic in 2021. In terms of actual spending, gross advertising income for traditional media (print, TV, radio, outdoor) plus online and cinema in Germany totalled EUR 35.55 billion in 2021[54] (2020: EUR 32.86 billion).

As in Austria, television also achieved the highest year-on-year growth in gross advertising in Germany in 2021, with earnings rising by 12.7 per cent (TV Austria: 18.8%) to EUR 18.1 billion. Second-placed for growth in 2021 was German outdoor advertising, which rose 11.1 per cent (Austria: 9.2%) to EUR 2.6 billion, followed by online, which grew 6.8 per cent (Austria: 12%) to just under EUR 4.7 billion. Even in 2020, however, online advertising in Germany was able to record exceptional growth of 16.7 per cent as a result of ad spend being reallocated.
In print, gross advertising income in Germany rose by 1.4 per cent to just short of EUR 8.2 billion, performing much less strongly than Austria's figure of 3.8 per cent for the segment. While newspapers managed to gain 2.6

[53] All figures for Germany's advertising market: Nielsen Media Germany GmbH 2022, adjusted
[54] Below-the-line channels such as pure-play ad channels excluded from Nielsen's 2021 Ad Trends for Germany

per cent, the average for the category was eroded by the loss of seven tenths of a percentage point suffered by German newspapers and magazines. Even so, the final figure for gross advertising income for the print segment in Germany remains positive – for the first time for many years. A realistic country-to-country Austria–Germany comparison can, however, only be based on the overall performance of the two domestic print markets: the 'Newspapers' category in Germany includes not only dailies but also weekly and fortnightly regional papers, and similar publications. This rules out any direct comparison of the Austrian classification ('Newspapers' and 'Other print media') with the German 'Newspapers' and 'General-interest magazines' categories.

Figure 52: Gross advertising expenditure in Germany by category in 2021 and 2020



Source: Nielsen Media Germany GmbH 2022; EUR millions

While the 13 per cent growth in the gross advertising spend on German television was very similar – with private broadcasters gaining 13 per cent and public broadcasters 12 per cent – it nonetheless remains unusual, since private and public broadcasters only had to bear losses of 1 per cent and 2 per cent, respectively, in 2020. Even in pre-pandemic years, gross advertising growth in television had remained resolutely moderate compared with other categories. German television had seen advertising revenues grow by 0.6 per cent in 2019, and by 1.4 per cent and 1.3 per cent in 2017 and 2018, respectively. In euro terms, gross advertising earnings for private broadcasters grew to EUR 16.9 billion in 2021 (2020: EUR 14.9 billion, –1%), and around EUR 640 million for the public-service broadcasters ZDF and ARD (2020: EUR 570 million, –2%). In 2021, private broadcasters therefore posted gross advertising revenues that exceeded the entire German television market in the 2019 pre-Covid year by EUR 600 million. Pay TV made rather less of a comeback in 2021, rising by 7 per cent to just under EUR 630 million (2020: EUR 550 million, –12%). Pay TV had been hit particularly hard by cancellations to league and tournament matches in 2020.

In 2020, advertising businesses in Germany had shifted a lot of their ad spending to online during this first pandemic year, driving gross advertising growth of 16.7 per cent and gains of some EUR 630 million. This double-digit growth in online advertising was therefore unlikely to be repeated in 2021 – and this scenario indeed failed to materialise. Expenditure on online advertising nonetheless increased again in 2021, rising year on year by 6.8 per cent (EUR 300 million) and therefore to pre-pandemic levels. Spending on online in Germany therefore totalled EUR 4.7 billion (2020: EUR 4.4 billion). Nielsen's figures for Germany include only mobile and desktop advertising, however. This fact, together with differences in data collection methods, rule out any direct comparison with Austria (2021: 12%).

In contrast to Austria, radio in Germany was unable to reap the benefits of working from home, home schooling and the general market turnaround, but posted a loss for the second year running in 2021. A decline in gross advertising income of just under EUR 12 million to EUR 1.928 billion, while equating to a loss of six tenths of a percentage point (Austria: +5.4%), was more moderate than it had been in 2020 (–4.3%; Austria 2020: +9.1%).

As in Austria, outdoor advertising in Germany managed to recover strongly in 2021, posting gross advertising income of EUR 2.55 billion – an increase of 11.1 per cent compared with 2020 (Austria: 9.2 per cent) that more than compensated for the gross revenue loss of 6.7 per cent in 2020. In contrast, the 9.2 per cent increase in Austrian outdoor was unable to make up for its 14.3 per cent decline in 2020.

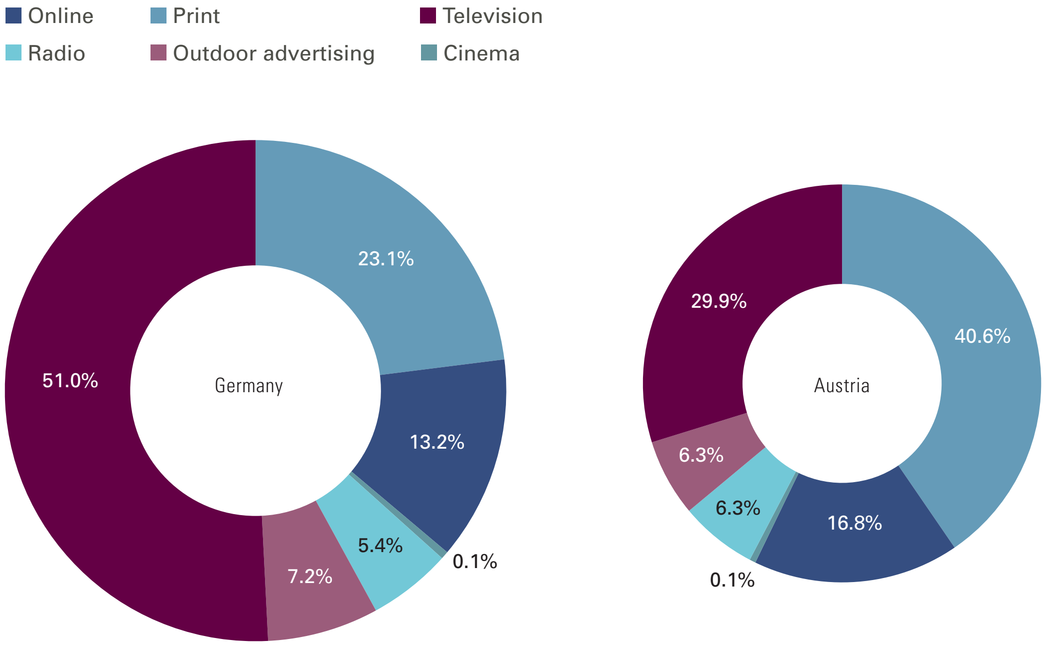
In cinema, while gross advertising earnings in Germany rose by 9 per cent (Austria: 52.9%) in 2021, this was, as with Austria, a rather disappointing result given the low baseline to beat. Even the fact that, compared with 2020 figures, German cinemas boosted gross advertising revenue in November 2021 by 710 per cent and by almost 73 per cent in December made little difference. In the final analysis, annual advertising revenues in euros in 2021 ultimately rose by only around EUR 3 million year on year to EUR 44.1 million.

8.1.1.2 Gross advertising spending by category in Germany and Austria

Aside from the gross advertising volumes in their domestic markets, the most noticeable difference between Germany and Austria is the diametrically opposite role held by print and television in each country.

In terms of the percentage share of gross advertising spending in Germany, television strengthened its dominant market position by one percentage point. In 2021, just over half (51%) of the total ad spend of EUR 35.55 billion in Germany was invested in TV spots. At this scale of spending, the gain or loss of a single percentage point in total advertising volume means a difference of some 300 to 350 million euros, depending on the exact total volume in any one year. In Austria, television traditionally takes second place to the print market. While the former has made modest gains here in recent years, its current share of 29.9 per cent of advertising spending (2020: 27.6%) still sees it trailing print by a wide margin. On the other hand, Austrian print media's share of gross advertising revenues did shrink year on year by over two percentage points to 40.6 per cent in 2021 (2020: 43.0%). In Germany, print's position in the overall advertising market remained stable at 23.06 per cent in 2021 (2020: 22.9%).

Figure 53: Gross advertising expenditure – share per media category in 2021, Germany vs. Austria



Source: Nielsen Media Research (D) 2022; FOCUS Media Research (AT); percentages

Online took the third-largest proportion of gross advertising spending in both countries, with similar percentages also being achieved. In Germany, however, the Nielsen market research organisation includes only mobile and desktop advertising in its online figures. This and other reasons, including different data collection methods, prevent a direct comparison of Germany with Austria in terms of online share. This needs to be noted when looking at Germany's 13.2 per cent (2020: 13.8%) figure for gross online advertising spending, which appears lower than Austria's 16.8 per cent (2020: 16.4%).

Outdoor ads and radio spots traditionally account for a similar share in both countries, although in Austria outdoor advertising usually attracts a slightly higher percentage of overall advertising spending than in Germany. This trend was interrupted in the first pandemic year of 2020, however, and the hiatus continued into 2021, with out-of-home once again playing a more minor role in company advertising strategies in both countries. In Germany, outdoor achieved a share of 7.2 per cent of gross advertising spending in 2021, compared with 8.3 per cent in 2020. In Austria, outdoor shed 1.6 percentage points and saw its share reduced to 6.3 per cent of gross advertising spending.

Radio in Germany and Austria also saw its slice of the advertising pie shrink in a similar fashion in 2021. German radio's share of the overall advertising market fell from 6.9 per cent to 5.4 per cent. While radio in Austria had seized a larger piece of the advertising market in 2020, this 7.6 per cent share declined to 6.3 per cent in 2021, falling even below its 2019 figure of 6.8 per cent.

8.1.2 The Austrian television market

8.1.2.1 Television viewing

On average, linear television reached 69.2 per cent of the population aged 12 and over in 2021. While this marked a year-on-year decline of 1.1 percentage points (2020: 70.3%), it was still the second-highest figure in the last five years. Then too, during 2020, the first year of coronavirus, daily reach increased from the previous year by an above-average 3.9 percentage points (2019: 66.4%; 2018: 65.1%; 2017: 65.3%).

Average viewing time also declined year on year, with daily viewing falling by 6 minutes to 203 minutes, although also the second-highest figure after the 209 minutes achieved in 2020. Viewing time has been on a positive trajectory for many years. With the introduction of lockdowns, together with increased demand for news, current affairs and entertainment programming, viewing time rose year on year by an above-average 13 minutes in 2020 (2019: +4 min to 196 min, 2018: +6 min to 192 min, 2017: +8 min to 186 min, 2016: +7 min to 178 min).[55]

In month-by-month terms, while viewing time and reach in 2021 stayed below the record highs achieved in 2020, the general trend was similar to that of the previous year, with many figures representing the second-highest since records began. In January 2021, which marked the end of the second major wave of Covid infections in Austria, the year started with a daily average viewing time of no fewer than 248 minutes. This was 3 minutes more than even the highest figure for 2020, recorded in March at the official start of the pandemic and during the first lockdown. From then on, viewing time in 2021 shed about 10 minutes every month, reaching its lowest level in July and August with 169 minutes (July and August 2020: 175 minutes) before rising again to 212 minutes in November (2020: 239 min) and 216 in December (2020: 231). The month-by-month trend for daily reach followed a similar trajectory. In 2021, television reached the largest proportion of the population aged 12 and over in the period January to March, with an average of 74 per cent in each month (spring peaks 2020: March 75.4%, April 74.4%). Reach in July and August 2021 stayed high, at 62.7 per cent (2020: 64.8%) and 62.2 per cent (2020: 64%), respectively. Daily reach for television dropped more significantly behind prior-year monthly figures only in November and December 2021, slipping to 71.8 per cent (Nov 2020: 74.7%) and 70.9 per cent (Dec 2020: 72.6%), respectively.

Average time spent viewing fell more significantly in 2021, however, underperforming figures from all of the last three years. The figure for 2021 was just 285 minutes (2020: 291 min, 2019: 290 min, 2018: 290 min, 2017: 281 min). Unlike viewing time, which considers the average time spent using the television by all persons in a TV household – including those who do not watch TV – the 'time spent viewing' is a metric calculated only from the average usage time of the proportion of the population that actively watches TV.

Special-interest news and current affairs channels gain noticeable reach in 2021

The impact of this slight overall decline in daily reach for television was very uneven in terms of individual channels. While the ORF generally managed to maintain the substantial gains made to reach in 2020, commercial full-range channels suffered varying degrees of loss. The positive effects of the pandemic were augmented by political turbulence during 2021, boosting the reach of special-interest news and current affairs channels in particular.

The ORF television channels, which had increased overall daily reach in 2020 by a significantly above-average 4.1 percentage points to a daily average of 53.8 per cent of the viewing public aged 12 and over, held this at 53.4 per cent in 2021 (2019: 49.7%; 2018: 49.4%). However, this is largely thanks to the success of ORF 1, which improved from 26.1 per cent to 27.2 per cent, thereby returning to the more successful times of 2017 (27.2%) and 2018 (27.4%). ORF 2, whose daily reach had strengthened by 4.6 percentage points to 43.7 per cent in 2020, held this level in 2021, slipping only six tenths of a percentage point to 43.1 per cent and therefore staying significantly above figures achieved in recent pre-pandemic years (2019: 39.1%; 2018: 37.8%; 2017: 38.7%). ORF III, which had increased daily share by 1.3 percentage points to 11.8 per cent in 2020, easily maintained this

[55] All figures for TV: GfK Austria/TELETEST working group 2021 (representative survey of some 1,660 Austrian households) and ORF media research

result with its news and current affairs programming in 2021, posting daily reach of 11.9 per cent. ORF Sport+, which narrowly missed the 4 per cent target in 2019 and subsequently slid back four tenths of a percentage point to 3.5 per cent in 2020, managed to hold daily reach at 3.5 per cent in 2021.

Among private broadcasters, programming at ServusTV again had the widest reach in 2021, virtually maintaining the figure obtained by its exceptional growth in 2020 (+2 percentage points to 15.8%) at 15.6 per cent daily reach in 2021. The other major private channels suffered bigger losses. ATV shed six tenths of a percentage point to fall to 12.4 per cent daily reach and therefore more or less down to the level last seen in 2019 (12.3%). ATV2, which had managed to pass the 5 per cent mark in 2020, fell to 4.6 per cent in 2021, failing to even match its average daily reach figure for 2019 (4.8%). Yet the biggest fall in this group was taken by Puls 4, which lost eight tenths of a percentage point in 2021, sliding to 11.8 per cent daily reach, a figure that trailed its results for both 2017 (11.2%) and 2018 (12.0%).

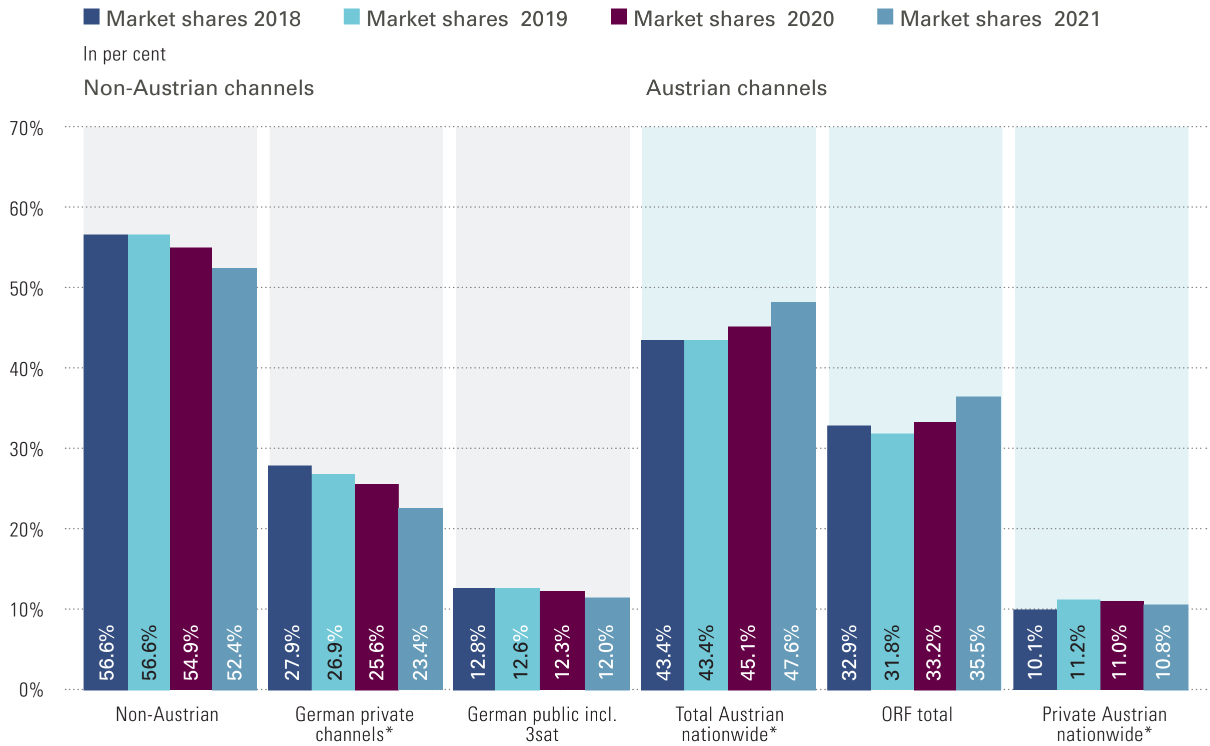
In 2021, the ongoing demand for news and current affairs content largely benefited those broadcasters whose programming promised non-stop reporting on the latest developments. The special-interest news reporting offered by Oe24 TV, which had expanded its daily reach in 2020 by 1.5 percentage points to 3.5 per cent, improved this by another 1.3 percentage points in 2021 to 4.8 per cent daily reach, overtaking ATV2. Similarly, relative newcomer Puls 24 improved the 3.2 per cent daily reach this news channel had effortlessly achieved in the eventful year of 2020 by three tenths of a percentage point to 3.5 per cent in 2021. Launched in September 2020, Krone.tv managed to turn in similar – if less stellar – performance, as it improved its daily reach by four tenths of a percentage point to 0.7 per cent in 2021.

Daily reach figures for joint regional channel R9 (2.2%), goTV (0.5%) and local broadcaster Okto (0.1%) showed no movement from values in previous years.

8.1.2.2 Market shares of Austrian and non-Austrian television channels

The ongoing pandemic combined with political upheavals in Austria continued to drive demand for domestic news and current affairs programming in 2021. Although television lost some reach overall in 2021 (69.2% daily reach) compared with the previous year (70.3% daily reach), viewers nonetheless spent a greater part of their time watching Austrian programmes. Growth in market share for Austrian channels versus foreign channels rose by 2.6 percentage points in 2021 to 47.6 per cent market share and therefore not only consolidated gains made in the first year of the pandemic (2020: +0.7 percentage points to 45.1% share) but also constitutes one of the largest shifts in market share for domestic channels over the last few years. Broadly speaking, German private broadcasters can be said to have absorbed almost the totality of losses accordingly suffered by foreign channels (–2.2 percentage points), while benefits accrued to the ORF channels alone (+2.3 percentage points), specifically ORF 1, which increased its market share by two percentage points to 10.2 per cent. Nevertheless, foreign television channels held 52.4 per cent of the market in 2021 (2020: 54.9%) and so maintained their lead over domestic channels.

Figure 54: Market shares of Austrian and non-Austrian TV channels among individuals aged 12+, 2018–2021



* Comedy C. (A+D), DMAX (A+D), KAB.1, KAB.1 Doku, N24 Doku, Nickel-odeon(A+D), NITRO, PRO7, PRO7 Maxx, RTL, RTLup, RTL ZWEI, SAT.1, Sat.1 Gold, sixx, Sport 1, SuperRTL, VOX

* ATV, ATV 2, GOTV, Oe24TV, OKTO, ORF 1, ORF 2, ORF III, ORF Sport Plus, Puls 24, Puls 4, R9 total, Puls 24, ServusTV

* ATV, ATV 2, Puls 4, Servus TV

Source: AGTT/GfK TELETEST; Evogenius Reporting; weighted by person; includingVOSDAL/timeshift, percentages

Among non-Austrian channels, those broadcast in German and especially those originating from Germany are naturally the most popular in Austria. However, German channels took a market share of only 35.4 per cent (2020: 37.9%; 2019: 39.5%; 2018: 40.7%) in the population group aged twelve and over (12+ target group) in Austria in 2021. This figure equals the market share of German private channels featuring Austrian advertising slots added to the shares held by private channels with German advertising (viewed via satellite) and by public channels from Germany.

8.1.2.3 Market shares of German television channels

As in previous years, new and existing special-interest channels from Germany further fragmented the share of the Austrian market held by German private broadcasters, resulting ultimately in a net loss of market share among German TV channels overall. The previous overall trend for German programming was again confirmed: especially major channels have been relinquishing market share while from year to year minor and/ or special-interest channels have alternately gained or lost marginally, without being able to offset the overall losses suffered by the major channels. Overall, however, these changes have all occurred behind the decimal point, so to speak, with individual channels experiencing gains and losses of between one and six tenths of a percentage point.

The losses incurred in recent years by major German private broadcasters were slightly greater in 2021. RTL slipped six tenths of a percentage point to 3.1 per cent market share (2020: 3.7% share, 2019: 4% share), followed by Pro 7, with a loss of five tenths of a percentage point to 2.7 per cent market share (2020: 3.2% share), Kabel 1, with a loss of four tenths of a percentage point to 1.8 per cent (2020: 2.2% share) and SAT.1, with a loss of three tenths of a percentage point to 2.7 per cent (2020: 3.0% share). Despite its comparatively substantial losses and low share, RTL accordingly remains the market leader for the German private segment.

VOX shed two tenths of a percentage point for a 3.2 per cent market share (2020: 3.4% share), while Sat.1 Gold and Sixx each dropped just one tenth of a percentage point to 1.7 per cent and 0.8 per cent, respectively. Other losses were even more trivial.

Only one German special-interest channel was able to make any substantial inroads into Austrian territory in 2021: RTLup (RTL plus until February 2021) pursued a strategy of relaunching old game shows that improved its market share by two-and-a-half tenths of a percentage point to 1.5 per cent.

German public-service channels remain stable after minor losses

Although the most successful German private channel, RTL trailed public-service broadcaster ZDF for the fourth year running, as ZDF clung on to a 3.9 per cent market share in 2021 to again take the crown as the most successful German channel overall in Austria. ARD held on to its second placing with a market share of 3.0 per cent, although ARD’s regional channels – NDR, WDR, etc. – suffered a slight loss of one-and-a-half tenths of a percentage point to their prior-year share to close on 3.7 per cent. Market share for the Austrian-German-Swiss 3sat channel shed just one tenth of a percentage point, slipping to 1.4 per cent.

Overall and also counting 3sat, German public channels achieved a 12.0 per cent share of the Austrian market in 2021, representing a year-on-year loss of three tenths of a percentage point.

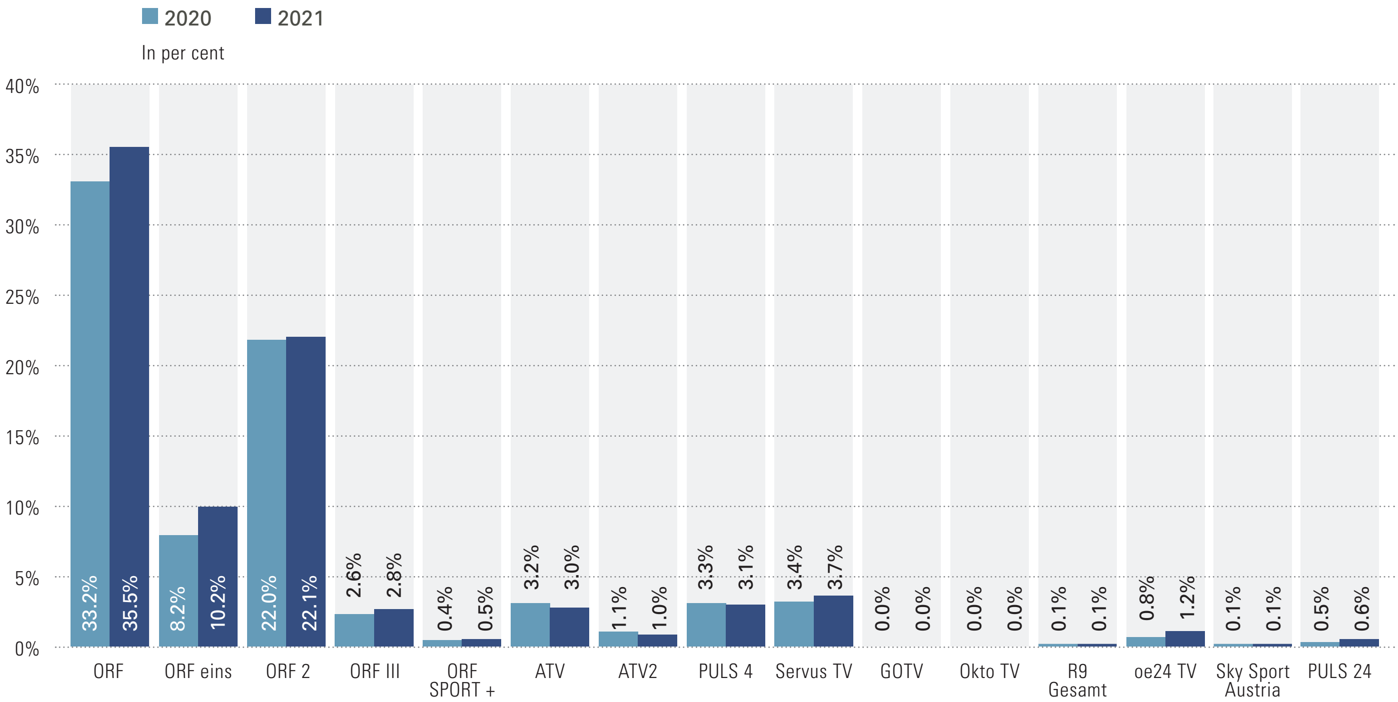
The group of non-Austrian channels claimed a collective market share of 52.4 per cent in 2021 (–2.5 points; 2020: 54.9%). Besides the channels originating from Germany that have already been mentioned, this category comprises other German-language channels, including Swiss public television, and shopping channels such as QVC or HSE 24, as well as of course channels broadcast in other languages.

8.1.2.4 Market shares of Austrian television channels

As was the case for daily reach, gains and losses in market share for Austrian television channels were rather unevenly distributed. In the private television segment, channels with a higher proportion of domestic news content improved their market share in 2021. Nevertheless, such changes in market share almost all involved movements of just a few tenths of a percentage point.

One exception was ORF 1, which gained two percentage points for a market share of 10.2 per cent, profiting in the main from the Alpine Ski World Cup, Nordic World Ski Championships and Euro 2021, although the Olympics played a very minor role here. Including the ORF 2 news programme 'Zeit im Bild' in ORF 1 programming had the intended effect on a public still thirsty for news and current affairs content, however, and therefore also on ORF 1's figures.

Figure 55: Market share of Austrian television channels, 2020 and 2021



Source: AGTT/GfK: TELETEST, Evogenius Reporting, 2021; including VOSDAL/Timeshift; individuals 12+; market share in %

A channel's market share depends on how long that channel was viewed, unlike daily reach, which merely represents how many more people tuned into the channel once a day – possibly only for a few minutes. To increase market share, a channel must actually be used for a longer period of time than in the previous year and the rate of increase for this channel must also be greater than for its competitors in order to obtain a higher percentage of total television minutes viewed in Austria, which then translates into improved market share. Increasing daily reach obviously helps, however, since the more people who decide to watch a channel, the more likely it is that the channel will increase its share of TV minutes viewed.

Uneven results for the private segment – major channels lose ground

After ORF 1, the second-largest market share gains in 2021 were achieved by Oe24 TV, which improved by four tenths of a percentage point to a 1.2 per cent share (2020: 0.8%). Back in 2020, Oe24 TV expanded its share by roughly 160 per cent or 5 tenths of a percentage point to 0.8 per cent (2019: 0.3%). Next in line is ServusTV, which rose by three tenths of a percentage point to 3.7 per cent. In 2019, ServusTV had increased its market share by six tenths of a percentage point to 3 per cent – the highest growth achieved by any Austrian channel, which was followed by another increase of four tenths of a percentage point in 2020. The increase in 2021 further consolidates and strengthens its lead over other Austrian private channels, also first acquired in 2020. Although Puls 24, which launched only in September 2019, claimed an instant market share of 0.5 per cent in 2020, the first full year of usage data collection, the channel extended this by just one tenth of a percentage point to 0.6 per cent in 2021.

ATV, the market leader among Austrian private broadcasters as recently as 2019 with a share of 3.5 per cent, slipped to third place behind Puls 4 in 2020 with a share of 3.2 per cent and lost the last two tenths of a percentage point in 2021 for a share of exactly 3 per cent. While Puls 4 still place a second among Austrian private broadcasters, the channel itself lost two tenths of a percentage point and saw its share shrink to 3.1 per cent. ATV2 also yielded ground in usage and shed one tenth of a percentage point for a market share of exactly 1 per cent.

The market shares of the other private channels remained stable (R9: 0.1%; Sky Sport AT: 0.1%; GO TV: 0.0%; Okto TV 0.0%).

The ORF maintains growth trajectory for overall market share

Combined market share for the ORF channel portfolio climbed 2.3 percentage points to 35.5 per cent, a more significant gain than in 2020 (+1.4 percentage points to 33.2 per cent). In 2020, the ORF had again reversed the long-term downward trend – other exceptions were observed in 2012 and 2015 – and was able to continue on this successful trajectory in 2021.

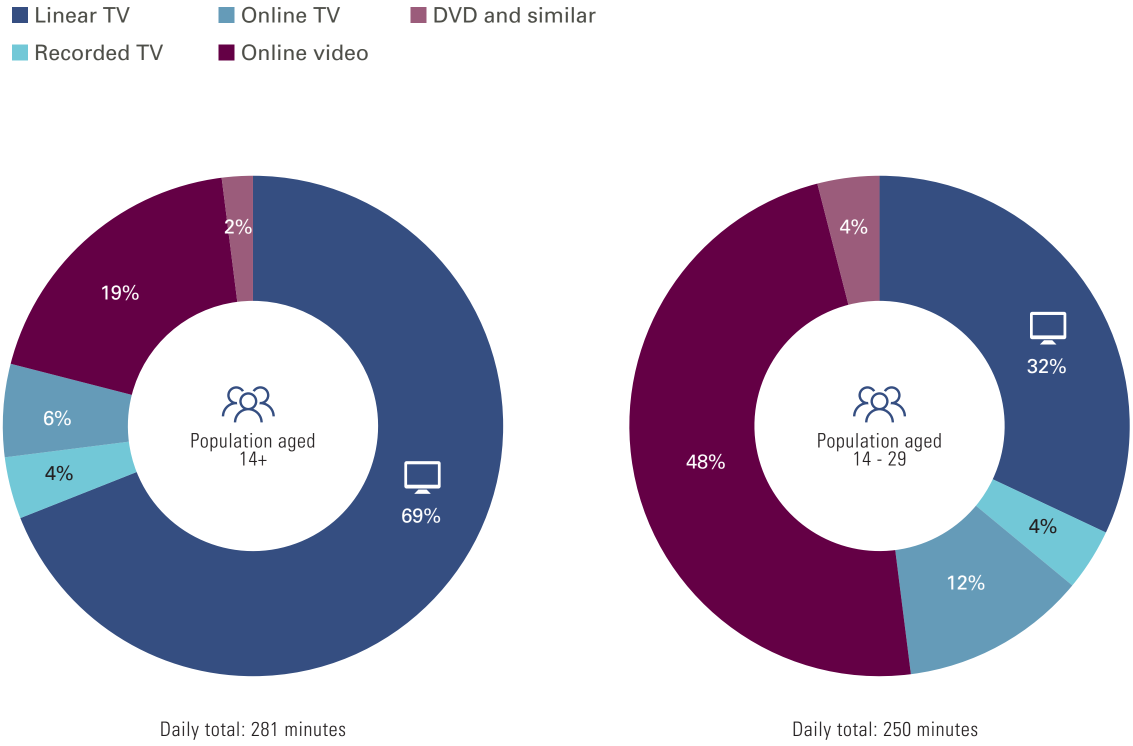
Alongside ORF 1, all other ORF channels improved their market shares, although the two percentage points ORF 1 gained for a 10.2 per cent share were not so easily matched. The best result in 2021 was achieved by ORF III, which gained two tenths of a percentage point for a 2.8 per cent share, although it still failed to pass the 3 per cent mark. ORF 2, which gained 2.2 percentage points for a 22 per cent market share in 2020, improved to 22.1 per cent in 2021. ORF SPORT+ also garnered another tenth of a percentage point, raising its market share to 0.5 per cent.

8.1.2.5 2021 Video Survey: relationship between viewing broadcast and online video

Video viewing time increased sharply in 2021 while ‘linear’ and ‘online’ shares remained unchanged

In 2021, the Austrian population aged 14 and above viewed videos in the form of broadcasts or online services on average for 4 hours and 41 minutes (281 min) a day. This is an increase of 33 minutes compared with 2020. Nonetheless, the share of the various video sources remained virtually unchanged from the previous year. Traditional, linear scheduled television continues to be the most frequently used source by far and, at 69.1 per cent, it accounts for exactly the same share of the daily video viewing mix of Austrians as in the year before. When ‘homemade’ TV recordings (hard disk recorders) are included, broadcasting accounts for around 73 per cent of daily video viewing. Videos from purely online sources such as Netflix, Amazon Prime or YouTube, as well as those provided on social media such as Facebook and WhatsApp, contribute 18.5 per cent or 52 minutes towards the average video viewing time per day by the overall population. Including TV livestreams and media library service requests for television programming , Austrians covered 25 per cent of their daily video viewing needs online (2020: 24.6%). These are the main results of the 2021 Video Survey by the Media Division at RTR and the Teletest Working Group (AGTT).

Figure 56: Daily viewing of video broadcasts and online video, individuals aged 14+ and 14 to 29-year-olds, 2021



Source: RTR/AGTT 2021 Video Survey; shares as percentages; all of Austria.

The Video Survey has been commissioned annually by GfK Austria since 2016. The opinion research institute interviews around 4,000 people, in a representative survey of the Austrian population. This is traditionally held in February and in 2021 it was carried out during the third wave of the coronavirus pandemic.

The survey presents, in the form of tables and graphics, the use of all video services, from linear television and broadcaster media libraries to alternative online services, and including video use in social media. The study explains trends in video viewing by comparing broadcast content with online services. It reveals video use patterns among the overall population aged 14 and above. It also includes a number of subgroups, such as the target group of 14 to 49-year-olds who are considered as having special advertising appeal. This target group was included in the survey for the first time in 2021.

The 2021 Video Survey is available in its entirety on the RTR website at https://www.rtr.at/Bewegtbildstudie2021 (in German).

Viewing of TV programmes and online alternatives grew at the same rate

Of the 33 minutes of additional use of video services, 27 minutes are accounted for by TV programmes in all broadcasting forms including TV live streams and media libraries, while 6 minutes are attributed to video viewing on alternative online platforms such as Netflix or YouTube and on social media. In relative terms, the duration of use of TV programmes on the one hand, and alternative videos on the other, increased to the same extent in 2021, each by 13 per cent.

Young people viewed TV and online alternatives in equal measures

The daily video viewing time of the 'younger generation' aged 14 to 29 increased in 2021 by 10 minutes to 250 minutes per day. Classic television via antenna, cable or satellite accounts for a share of 31.9 per cent. If personal TV recordings are added to this, the broadcasting use in this target group amounts to around 36 per cent. On a daily average, young people viewed videos from online sources around 60 per cent of the time (2020: 59%, 2019: 46%).

TV programmes amount to a share of 48.3 per cent of video viewing time among the young target group and are thus practically equivalent to the use of videos from original online sources (48%). This figure is based on the source of the video services viewed by young people, not from a technical perspective but in terms of origin, and also includes TV live streams and conventional television programmes retrieved from media libraries, in addition to the viewing of broadcasts (36%).

The share of online services in the video mix remained unchanged for the first time

According to the 2021 Video Survey, videos from online sources accounted on average 18.5 per cent per day for the video viewing time of the overall population aged 14 and above. This figure includes sources such as Netflix, Amazon Prime and YouTube, as well as social media such as Facebook and WhatsApp. This means that for the first time since 2016, relative to overall video use, there was no growth in this segment compared with the previous year. Comparing 2019 with 2020, the share of purely online sources in video viewing time had increased significantly from 13.1 per cent to 18.7 per cent. In terms of video viewing by the 14–29 group, its consumption of alternative online services also increased only slightly in 2021 relative to previous years, from 46.8 per cent to 48 per cent. In previous year-on-year comparisons, an increase of 5 to 6 percentage points was usual for the young target group.

Rankings for online services

With a share of 4.4 per cent of average daily video viewing time, Netflix ranked first among the overall population aged 14 years and above in 2021, followed by YouTube with 3.9 per cent, while the TV channel media libraries came third with a total of 3.6 per cent. Amazon Prime Video took fourth place among the most frequently used online services with 2.6 per cent. Other online services trailed at some distance. Instagram ranked fifth among the overall population with 0.8 per cent of daily video viewing. The Twitch platform followed in sixth place with 0.6 per cent. Facebook and WhatsApp were on par with 0.5 per cent each, followed by Disney+ and TikTok, each with 0.4 per cent. Other online videos reached a total average of 4.5 per cent of the daily video viewing time among the overall population aged 14 and above.

For young people in the 14–29 group, Netflix was also the frontrunner among the online services used in 2021, although it achieved only a 12.3 per cent share of this age group's daily video viewing time. This is followed by YouTube in second place with 11.4 per cent. The TV media libraries as a group claimed third place in the online ranking among the 14–29 target group, with 7.3 per cent. Amazon Prime Video ranked far behind, in fourth place at 3.7 per cent. The remaining places were occupied by Instagram (3.3%), Twitch (2.1%), TikTok (1.7%), WhatsApp (1.6%), Snapchat (1.4%) and Disney+ (0.7%). Other online services amounted to 9.8 per cent.

8.1.3 The Austrian radio market

8.1.3.1 National listening figures in 2021

As in 2020, the daily reach of Austrian radio programmes as a whole continued to fall among the overall population aged ten and above compared with the previous year, despite working from home and lockdowns, although admittedly the loss was less significant than in the previous year, falling by five tenths of a percentage point.[56]

On average, 75.2 per cent of the Austrian population aged ten and above listened to radio 'for at least 15 minutes yesterday'[57] (2020: 75.7%). In 2019, radio's daily reach within the general population (10+) had actually grown again for the first time in eight years, making gains of just under 2 percentage points to reach an average of 77.3 per cent of listeners per day. After daily reach had dropped by another 1.6 percentage points in 2020, and after a further loss in 2021, it is apparent that the success from 2019 might have been more of a short-lived recovery rather than a trend reversal.

In 2021, radio was able to reach a slightly larger number of people in the core group of 14 to 49-year-olds. An average of 69.7 per cent of the target group listened to a radio station every day, which corresponds to a slight increase of two tenths of a percentage point. However, radio already had to accept considerable losses in daily reach in this age group back in 2020, losing 3.7 percentage points (daily reach 2020: 69.5%; daily reach 2019: 73.2%).

Average daily listening time among the general population again declined in 2021, slipping by 8 minutes to 188 minutes (2020: –5 min to 196 min). In 2019, however, there had untypically been a significant gain in listening time, by 18 minutes to 201 minutes. By comparison, average listening times in 2017 and 2018 were 179 minutes and 183 minutes, respectively. Seen in this light, the figure of 196 minutes for 2020 is a perfectly respectable result for the radio sector.

In the target group of 14 to 49-year-olds, average listening time in 2021 fell by 4 minutes to a level of 166 minutes. This is a record low for the past five years. In 2020, listening time in the core target group decreased by 15 minutes to 170 minutes compared with the previous year. However, this was also the group that had seen an unusual rise in listening time in 2019, gaining 14 minutes for a total of 185 minutes. This put an end to a long-term downward trend. In 2016, average daily listening time for the 14 to 49-year-old core target group had been 180 minutes, then falling to 172 and 171 minutes in 2017 and 2018 prior to the outlier figure of 185 minutes for 2019. In this context, the 170 minutes of listening time in 2020 should rather be seen as a correction within a long-term trajectory than as a major loss.

Austria-wide market shares and daily reach for ORF and private radio

The daily reach of a radio station expresses the percentage of people within a target age group who tuned into that station 'yesterday' and listened for at least 15 minutes. When for example a listener tunes into three stations for at least 15 minutes each, the amount of positive impact that this listener has on daily reach is the same for all three stations, even if she perhaps listened to two of the stations for only 15 minutes each and the third for two hours.

Thus, daily reach expresses only the size of a target group that turned on the radio or listened to a station once during any given day. This contrasts with market share, which refers to the average number of minutes of daily listening time that are devoted to a given radio station. If people listen to a radio station for an extended period each day, its market share and consequently its value for marketing advertising rises.

Radiotest determines market share based on a survey of respondents' activities on each previous day. The day is divided up into quarter-hour periods, with respondents allowed to name up to three radio stations listened to each quarter of an hour. This, as well as rounding effects, can lead to overlapping among the results for the

56 Source of all data on the Austrian radio market: Radiotest
57 Definition of daily reach for radio, both for radio as a whole and for individual stations

various radio stations, so that the total market share held by radio stations may turn out to be greater than the adjusted (net) figure for all stations in total, for example, for the ORF station network as a whole or private stations in total. This effect was observed again in 2020. Although the individual shares of the market for listeners aged 14 to 49, as held by ORF, national private radio broadcasters and other radio broadcasters (such as foreign broadcasters), should add up to 100 per cent, these shares in fact total 104 per cent.

The following information concentrates on the 14 to 49-year-old core target group which is especially key for marketing. Here, mean listening time is calculated for an entire week, that is, from Monday to Sunday.

Falling daily reach of ORF radio – private broadcasters 'digesting' their losses

The ORF radio network as a whole achieved a daily reach figure of 48.9 per cent among the target group of 14 to 49-year-olds in 2021 (2020: 51.2%; 2019: 54.6%; 2018: 51.6%) and thus fell significantly below the value for 2018. The loss represents a drop of 2.3 percentage points compared with the previous year (2020: –3.4 percentage points).

The greatest share of these daily reach losses among ORF stations was suffered by regional radio stations, whose cumulative daily reach fell by 2 percentage points to 12.8 per cent. Radio Niederösterreich (2.1% daily reach) and Radio Tirol (1.2% daily reach) especially played a role here, with each losing half a percentage point. They are closely followed by Radio Wien (2.3% daily reach), Radio Steiermark and Radio Oberösterreich (both with a daily reach of 1.9%), each losing four tenths of a percentage point. In 2020, the ORF regional radio stations collectively lost nine tenths of a percentage point to achieve a daily reach of 14.8 per cent. As recently as 2019, these stations had risen by 1.1 percentage points to 15.7 per cent, nearly matching the most recent peak figure of 16 per cent daily reach recorded in 2015 and 2016. A downward trend is now emerging.

Among the various ORF stations, Ö3 accounted for the largest share of daily reach loss. Its daily reach fell by 1.4 percentage points to 34.6 per cent among 14 to 49-year olds (2020: a loss of three percentage points to 36%).

FM4, which had improved its situation in 2020 by half a percentage point to a daily reach of 5.5 per cent, also faced a comparably strong daily reach loss in 2021, by eight tenths of a percentage point to 4.7 per cent of daily reach (2019: 5% daily reach, a loss of two tenths of a percentage point).

Only Ö1, the culture and news station, improved its daily reach among 14 to 49-year olds by half a percentage point to achieve a share of 6.2 per cent (2020: a drop of one tenth of a percentage point to 5.7%), thus continuing along the upward trajectory of previous years.

Domestic private radio stations benefited from the loss in daily reach of ORF radio, almost compensating the loss of 2.2 percentage points in 2020 (daily reach 33.6%). Their cumulative daily reach increased by 2 percentage points in 2021 to a daily reach of 35.6 per cent within the key target group for marketing.

Market share losses for the ORF radio network – gains for private radio stations

In 2021, ORF radio stations lost three percentage points of their market share among 14 to 49-year-old listeners. thus achieved a 60 per cent market share within this target group. Back in 2020, the ORF radio network had already lost 2 percentage points to land at a 63 per cent market share of daily radio listening time. In 2018 and 2019, the ORF radio stations had been able to expand their overall market share among listeners aged 14 to 49 (2019: +1 percentage point; 2018: +4 percentage points).

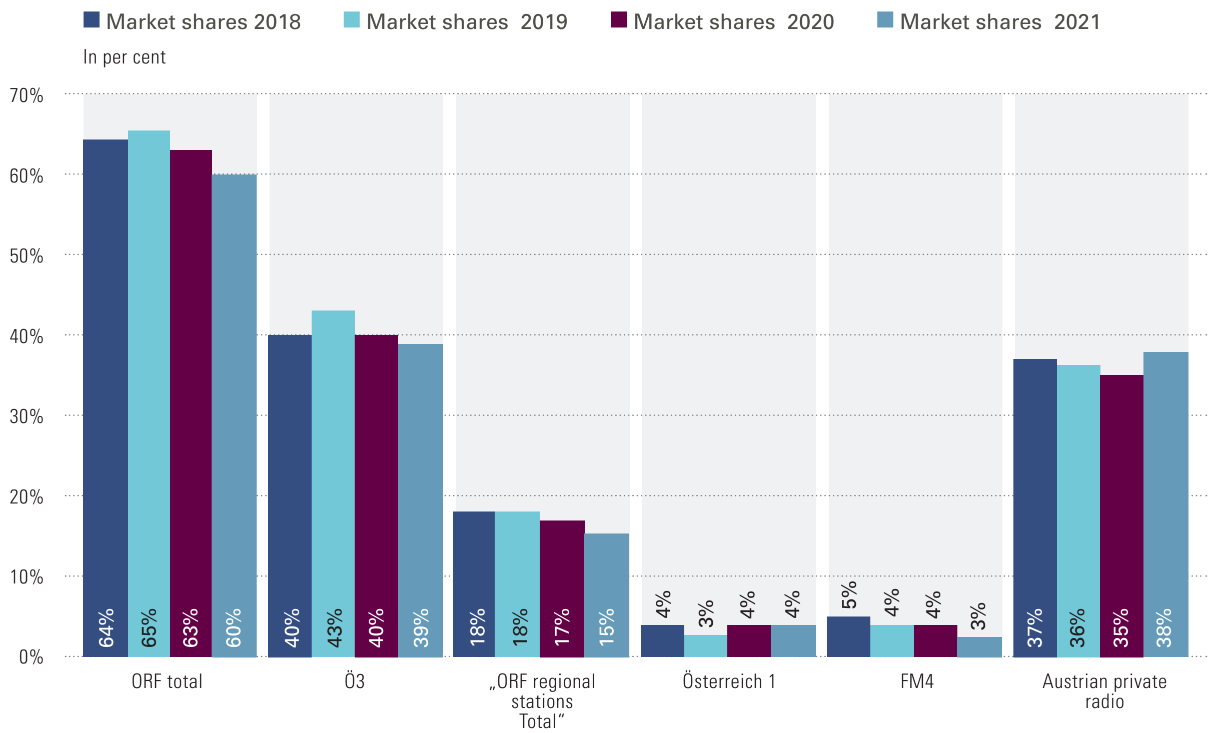
In 2021, the ORF regional radio stations in particular defined the overall trend for ORF radio stations, suffering a loss of 2 percentage points to achieve a market share of 15 per cent. The nine ORF regional stations, which in 2019 had managed to hold on to the sizable growth of 3 percentage points achieved in 2018, saw their overall market share slip by 1 percentage point in 2020, achieving a market share of 17 per cent among 14 to 49-year-olds.

Ö3 continued the downward trend embarked on in 2020 and lost 1 percentage point in 2021 to achieve a market share of 39 per cent. As a result, the direct competitor of the large majority of national private channels fell below the standing reached in 2017. Back then, after slipping for several years, Ö3 had secured a hard-won 40 per cent share of the 14 to 49-year-olds target group, and had initially managed to hold this share in 2018. In 2019, Ö3 had actually increased its share to 43 per cent, thereby returning to its 2010 position. In 2020, however, Ö3 again dropped back down to a market share of 40 per cent.

In 2021, Ö1 continued to hold on to its market share of 4 per cent from 2020. In 2019, the stable level Ö1 had held for some years saw a brief interruption, so that the station lost 1 percentage point to achieve a market share of 3 per cent.

The FM4 youth station lost 1 percentage point of its market share in 2021, thereby falling to a 3 per cent market share. In this way, it continued the downward trend first seen in 2019.

Figure 57: Shares of the national radio market among the 14–49 target group, 2018–2021



Source: Radiotest; percentages; all of Austria.

In 2021, the cumulative market share held by private radio in the provinces and by the national stations Radio KRONEHIT and Radio Austria differed for the first time from the habitual 36 per cent that has prevailed since 2015 (with the exception of 2018: 37%). This share increased by 2 percentage points compared with 2020 to reach 38 per cent in the 14 to 49-year-old core target group. To date, this is the highest cumulative market share claimed by domestic private radio.

Nationwide radio KRONEHIT contributed overall the most to the growth of private radio at national level, making gains of 4 percentage points to achieve a market share of 15 per cent (2020: 11% share).

Shifts in the market share of individual regional radio stations within their core distribution areas were considerable in some cases. This effect had an impact at national level, although somewhat negative on balance. Radio Arabella, for example, lost 2 percentage points in Upper Austria to achieve a market share of 3 per cent, while in Burgenland it lost 1 percentage point to achieve a 1 per cent market share. As a result, its national market share fell from 2 per cent to 1 per cent. Radio Energy also lost 1 percentage point in Vienna to achieve a market share of 6 per cent, thereby falling from a national market share of 2 per cent to 1 per cent. A loss of 3 percentage points for Life Radio in Upper Austria, resulting in a market share of 11 per cent, also involved a loss of 1 percentage point at national level for 2 per cent overall. Life Radio Tirol lost 4 percentage points in its home province to attain a 12 per cent market share. This also had a national impact with a loss of 1 percentage point, resulting in a market share of 1 per cent.

Antenne Kärnten lost 4 percentage points in its home province to achieve a market share of 25 per cent, although this did not have any impact at national level, where it remained at 2 per cent. '88.6 - so rockt das Leben' similarly had no national impact, despite the fact that the station improved its market share in Vienna to 13 per cent, while in Burgenland it was even able to expand its market share by 5 percentage points to 13 per cent. This was compensated for negatively, however, by a loss of 2 percentage points in the densely populated province of Lower Austria, leading to an unchanged national market share for '88.6' of 5 per cent.

Apart from Radio KRONEHIT, only Antenne Steiermark and Antenne Vorarlberg had a positive impact on the national overall market share of Austrian private radio in 2021. Antenne Steiermark expanded its market share in its home province by 4 percentage points – at the expense of Ö3 – to achieve a market share of 24 per cent, thereby improving its national market share from 3 to 4 per cent. Antenne Vorarlberg grew within its distribution area, also at the expense of Ö3, by three percentage points to achieve a market share of 34 per cent. Its market share thus increased from 1 to 2 per cent at national level.

8.1.3.2 Radio listening in Vienna in 2021

The trends for daily reach and market share at national level, both for radio overall and for ORF radio and private stations, are roughly reflected in the figures for Vienna, a fiercely competitive radio market nonetheless dominated by distinctive local conditions. Overall, the percentage reach for radio in the national capital tends to be significantly lower than for the country as a whole.

In 2021, 62.4 per cent of Vienna's total population (aged 10+) listened to the radio on a daily basis (2020: 64.5%; 2019: 63.9%). Nationwide, radio reaches 75.2 per cent of the total population aged ten and over on a daily average. In the group of Vienna residents aged 14 to 49, radio achieved a daily reach of 54.9 per cent in 2021 (2020: 55.6%; 2019: 56.8%), while the nationwide figure for this age group was 69.7 per cent.

This meant that, compared with the previous year, the daily reach of radio in Vienna fell among the overall population by some 2 percentage points and by seven tenths of a percentage point among the core target group. This confirms a long-term downward trend for radio in Vienna as a whole, although still at a high level.

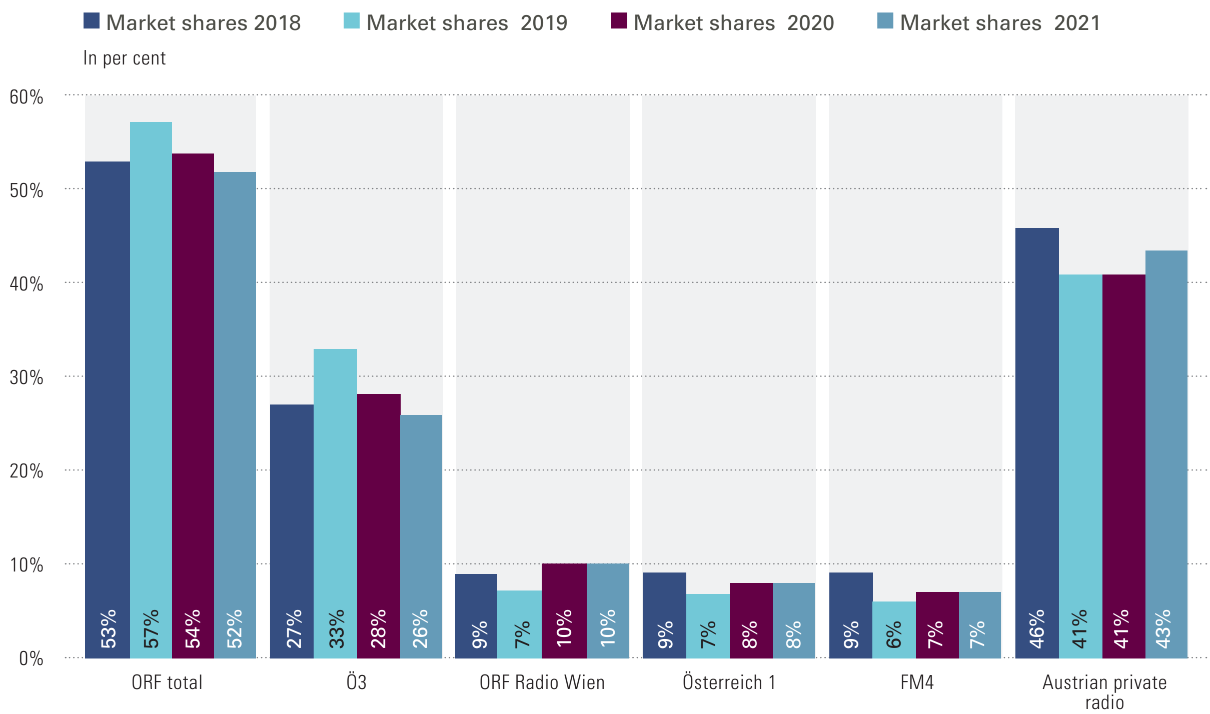
Radio listening time in Vienna fell overall in 2021

Listening time, the variable on which calculation of the market share of individual stations is based, declined considerably in Vienna in 2021. Within the overall population aged ten and above, the time decreased by 18 minutes to 134 minutes per day, while in the 14 to 49-year-old target group, listening time was 101 minutes in 2021, 18 minutes less than in 2020.

Market shares and daily reach among radio listeners in Vienna aged 14–49

The share of the ORF radio network in the Vienna market has been subject to some fluctuations in recent years. In 2021, however, Radio Wien (10% market share), Ö1 (8%) and FM4 (7%) proved to be stable in terms of their market shares compared with the previous year. The loss in market share of the ORF radio network in Vienna by 2 percentage points to 52 per cent is solely due to Ö3, whose market share fell to 26 per cent (2020: 28%), thereby continuing its long-term negative trajectory.

Figure 58: Radio market shares in Vienna among the 14–49 target group, 2018–2021



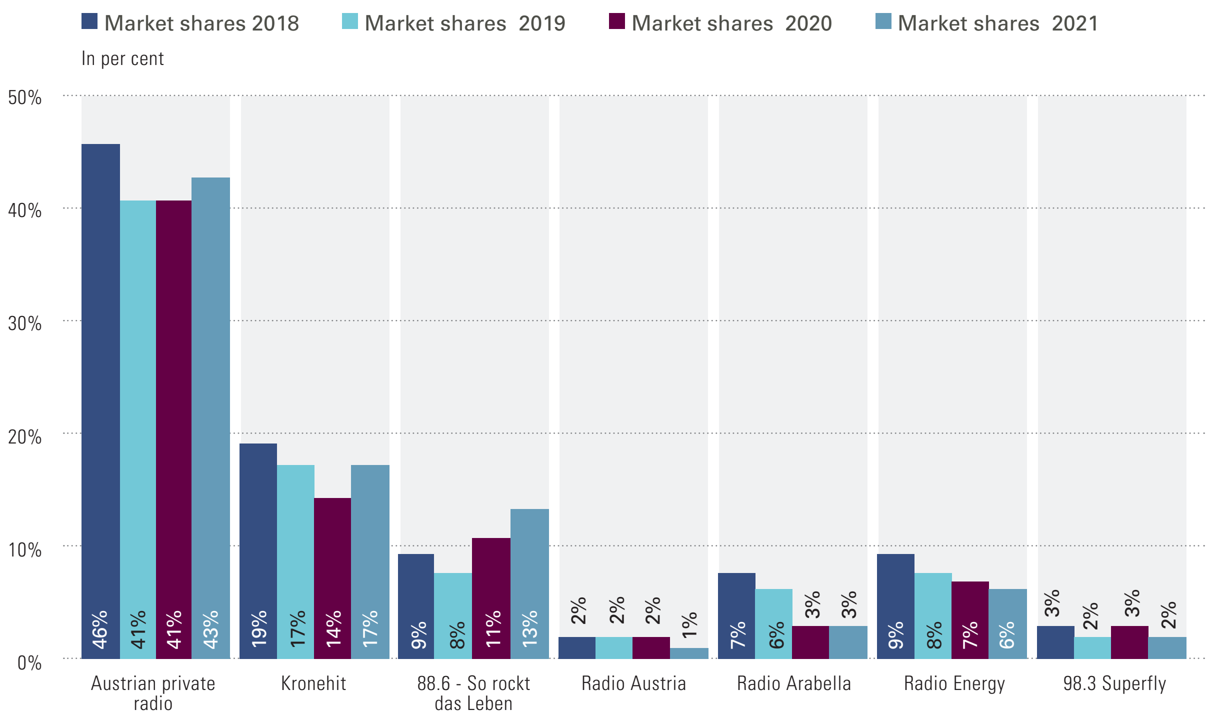
Source: Radiotest; percentages; Viennese market

Ö3 lost 5 percentage points back in 2020 and had fallen to a market share of 28 per cent in the national capital. The fact that the market share of the ORF channel portfolio as a whole suffered a loss of 'only' 3 percentage points was due to the positive results of the other three stations.

The daily reach of the ORF radio network in Vienna also declined in 2021 and fell by some 2 percentage points to 33.6 per cent among 14 to 49-year-olds. Ö3 was again primarily to blame, with a loss of 1.1 percentage points to drop to a daily reach of 19.1 per cent. Yet Radio Wien, with its loss of 6 percentage points and daily reach of 5.9 per cent, and FM4, with its loss of five tenths of a percentage point and daily reach of 5.5 per cent, both had a hand in this as well. Only the culture and information station Ö1 improved its daily reach by half a percentage point to achieve 8.4 per cent, amidst the coronavirus pandemic and political turbulence in 2021.

Private radio stations in Vienna were able to significantly ramp up their market share in 2021 to 43 per cent. Up to this point, it had been fluctuating around an average of between 40 per cent and 41 per cent for many years. This success can be primarily attributed to two broadcasters.

Figure 59: Private radio shares in the Vienna market among the 14–49 target group, 2018–2021



Source: Radiotest; percentages

The nationwide KRONEHIT, which had lost 3 percentage points in Vienna in 2020 to achieve a 14 per cent market share, regained the 3 points in 2021, thereby retuning to a market share of 17 per cent in the group of 14 to 49-year-olds (daily reach in 2021: +2.4 percentage points for 14.2%). Less significant and yet comparatively more spectacular is the development of the station called '88.6 - so rockt das Leben', which increased by 2 percentage points in Vienna in 2021, achieving for the first time a market share of 13 per cent among the key target group for marketing (daily reach in 2021: plus four tenths of a percentage point for 8.5%). 88.6 thus continued to move upward for the third year in a row.

Radio Arabella, with its market share of 3 per cent, remained constant compared with the previous year, although it had enjoyed a market share of 6 per cent in 2019 and even 7 per cent in 2018. Its daily reach also remained stable at 2.8 per cent (2020: 2.7%).

Radio Energy lost 1 percentage point for the fourth year in a row to achieve a market share of 6 per cent, thereby repeating between 2018 (9% market share) and 2021 its past performance in the period 2015 (9% market share) to 2017 (6% market share). Its daily reach nonetheless remained stable at 6.8 per cent (2020: 6.7%).

98.3 Superfly continued to fluctuate between a market share of 2 and 3 per cent in Vienna, with its share falling back to 2 per cent in 2021 (daily reach in 2021 and 2020: 1.5%).

After three years of sideways movement around a market share of 2 per cent, Radio Austria, which has been available nationwide since October 2019, lost 1 percentage point of its market share in Vienna to achieve a 1 per cent market share. In 2017, Radio Austria had still enjoyed a market share of 3 per cent among 14 to 49-year-olds in Vienna. The daily reach of Radio Austria also fell slightly among the Viennese public, from 1.3 per cent in 2020 to 1.0 per cent in 2021.

The daily reach of private radio stations in Vienna as a whole increased in 2021 by 1 percentage point to 28.9 per cent.

8.1.3.3 Radio listening: sources and devices by age group

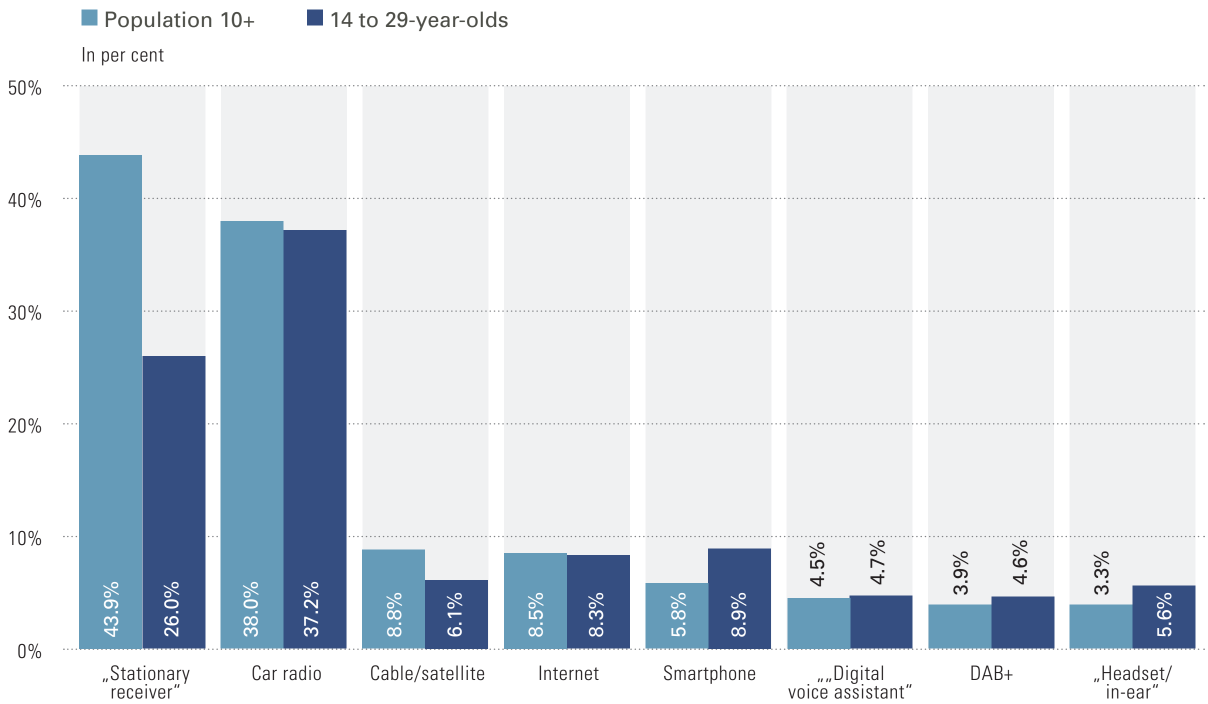
MP3 players can apparently be consigned to history – at least as radio receivers. In 2021 for the first time, they no longer appear in the Radiotest survey of devices and sources used for radio reception. Comparatively more surprising, however, is the fact that smart TVs were no longer reported as radio receivers in 2021.

Beyond that, no major changes from the previous year can be seen. The long-standing downward trend in the use of conventional, stationary radio receivers was indeed observed in the survey of the overall population aged ten and above in 2021, but not to the same extent as in the previous year. Perhaps more interesting is the fact that the use of stationary radio receivers among young people between 14 and 29 years of age remained stable compared with 2020.

The sharp loss in reach for car radios in 2020 slowed down among the overall population in 2021 and a counter-trend was even observed among young people. The slight upward trend for car radio is hardly surprising, however, since the considerable losses for this segment in 2020 – around 6 percentage points in the group aged ten and above, and around 7 percentage points in the 14 to 29-year-old group – were due to the mobility restrictions as a result of the coronavirus protection measures: for some periods in 2021, people were again driving their cars. Nevertheless, in both age groups, the reach values for car radios, which decreased significantly in 2018 for the first time, remained significantly behind the values for 2019.

The role played by other sources and types of devices for radio reception remains very minor when compared with car radios and stationary receivers. The greatest relative gains were made by the internet as a source of radio and digital voice assistants as receivers.

Figure 60: Sources and devices for daily radio listening in 2021, individuals 10+ and 14–29



Source: Radiotest; percentages

Conventional stationary radio receivers were used in 2021 by 43.9 per cent of the overall population aged ten and above on a daily average. This corresponds to a loss in reach of 1.5 percentage points against the previous year (2020: a loss of 3.3 percentage points to achieve 45.4%, 2019: 48.7%, 2018: 48.5%, 2017: 51.9%, 2016: 54.3%). There was no change among young listeners, of whom 26 per cent switched on a kitchen radio, a radio receiver in a music centre or a stereo tuner, every day in 2021. This is the same reach as in 2020, when stationary radio receivers experienced a loss in reach of 6 percentage points in this age group, and the second year in succession of the previous all-time low in terms of reach among young people (2019: 31.1%, 2018: 30.7%, 2017: 33.8%, 2016: 37.5%).

In 2021, 38 per cent of the overall population aged ten and above used a car radio on a daily basis. This is a slight increase of three tenths of a percentage point compared with the previous year's result, when reach fell by 6 percentage points (2020: 37.7%, 2019: 43.5%, 2018: 44.9%, 2017: 46.7%). In 2021, car radios achieved a daily reach of 37.2 per cent among young people aged between 14 and 29, which corresponds to a remarkable increase of 3.3 percentage points (2020: 33.9%, 2019: 41.1%, 2018: 44.3%, 2017: 45.1%). However, in 2020 the reach of car radios in the 14 to 29-year-old group had previously fallen by some 7 percentage points.

The proportion of the overall population aged ten and over that picked cable or satellite as an option for listening to radio station content remained virtually unchanged at 8.8 per cent in 2021 (2020: 8.7%; 2019: 8.4%). Interest in this type of radio reception among young people decreased slightly by half a percentage point, to a reach figure of 6.1 per cent. However, the daily reach of radio reception among young people via cable and satellite has recently been subject to considerable fluctuation (2020: 6.6%, 2019: 4.8%, 2018: 6.8%).

The daily reach of the internet as a source of radio has also experienced ups and downs in recent years, especially among the young target group. The percentage of the overall population that listens to radio via the internet using a laptop, Wi-Fi radio or tablet increased again in 2021 by 1 percentage point to 8.5 per cent (2020: 7.5%, 2019: 7.9%, 2018: 6.1%). The daily reach of the internet as a source of radio increased among young people by 1.2 percentage points to 8.3 per cent (2020: 7.1%, 2019: 8.9%, 2018: 7.0%).

In relation to their previous reach as a radio receiver, digital voice assistants and smart speakers expanded their daily reach substantially in 2021 and demonstrated continuous growth, albeit at a low level. The proportion of the overall population using a smart speaker in the household as a radio receiver rose by 1.1 percentage points in 2021 to 4.5 per cent (2020: 3.4%; 2019: 2%; 2018: 1.5%). Among the young people aged between 14 and 29, whose interest in digital voice assistants as a radio receiver has been very low to date, there was also a noticeable increase in daily reach in 2021, by 1.6 percentage points to 4.7 per cent (2020: 3.1%, 2019 and 2018: 2.3%).

Digital radio service based on the DAB+ transmission standard, the nationwide rollout of which had been launched in May 2019, can now be received throughout the country; this former service once again increased its daily reach in 2021, although not by the same magnitude as in the two previous years. In 2021, 3.9 per cent of the overall population aged ten and above used DAB+ on a daily basis, an increase of four tenths of a percentage point compared with the previous year. In the young target group of 14 to 29-year-olds, digital radio stations received via antenna enjoyed a slightly higher reach than in the overall population in 2020 and this remained the case in 2021. On a daily basis, 4.6 per cent of young people use DAB+, similarly resulting in an increase of four tenths of a percentage point compared with the previous year. Overall, however, growth in the DAB+ segment has clearly slowed down. In 2019, the year of its launch, DAB+ was already being used on a daily basis by 2 per cent of the overall population, and similarly by 2 per cent of young people. In 2020, daily reach for DAB+ had risen in the overall population by another 1.5 percentage points to 3.5 per cent, even achieving another 2.2 percentage points among young listeners for a total of 4.2 per cent in this group.

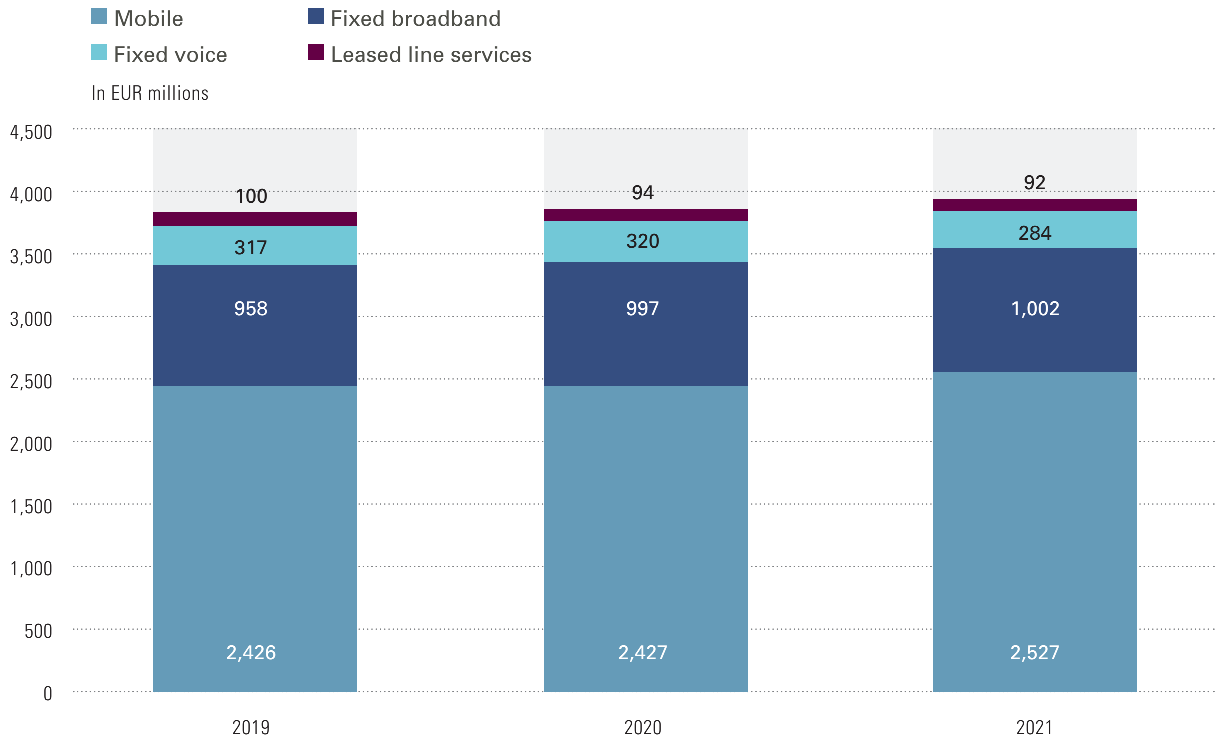
The proportion of the overall population using headphones or in-ears for daily radio listening in 2021 remained almost unchanged at 3.3 per cent (2020: 3.1%, 2019: 3.2%). The proportion of young people using headphones to listen to the radio fell in 2019 and has been fluctuating between a reach of some 5 and almost 6 per cent ever since. In 2021, the change was slightly positive, with a rise of three tenths of a percentage point, which meant that 5.6 per cent of 14 to 29-year-olds used headphones when listening to the radio (2020: 5.3%, 2019: 5.8%, 2018: 6.6%).

8.2 Trends in the telecommunications markets

This section provides a summary of the most significant market developments in mobile telecommunications, broadband and fixed network services.

In 2021, retail revenues in the telecommunications sector rose 1.8 per cent from EUR 3,835 million to EUR 3,905 million. The growth compared with the previous year is therefore higher than in the two previous years (about 1 per cent per year in each case). The largest growth was seen in mobile telecommunications revenue (+4.1% including mobile data subscription), and an increase was also observed in the area of broadband (+0.5%). Fixed voice telephony as well as leased lines and Ethernet services, on the other hand, experienced declines of 10.4 per cent and 2.1 per cent relative to the previous years.

Figure 61: Retail revenues from mobile, fixed broadband, fixed voice and leased line services 2019–2021



Source: RTR

Key market developments in 2021 are listed below and described in detail in the section that follows:

- Mobile alternative providers gain market share, Telecom Control Commission (TKK) investigates wholesale market
- Progress in 5G rollout
- Internet access: mobile broadband enjoys unbroken strong popularity
- High bandwidth coverage in the fixed network increases
- Strong growth in >100 Mbps products, supply-demand gap shrinking
- Use of messaging services: WhatsApp dominates
- Significant rise in consumed data volumes
- Fixed network telephone lines: 2021 more VoB than conventional connections
- Broadband wholesale services: virtual unbundling already accounts for over 75 per cent
- Termination: Eurorates implemented, previous regulations lifted

Mobile alternative providers gain market share, Telecom Control Commission (TKK) investigates wholesale market

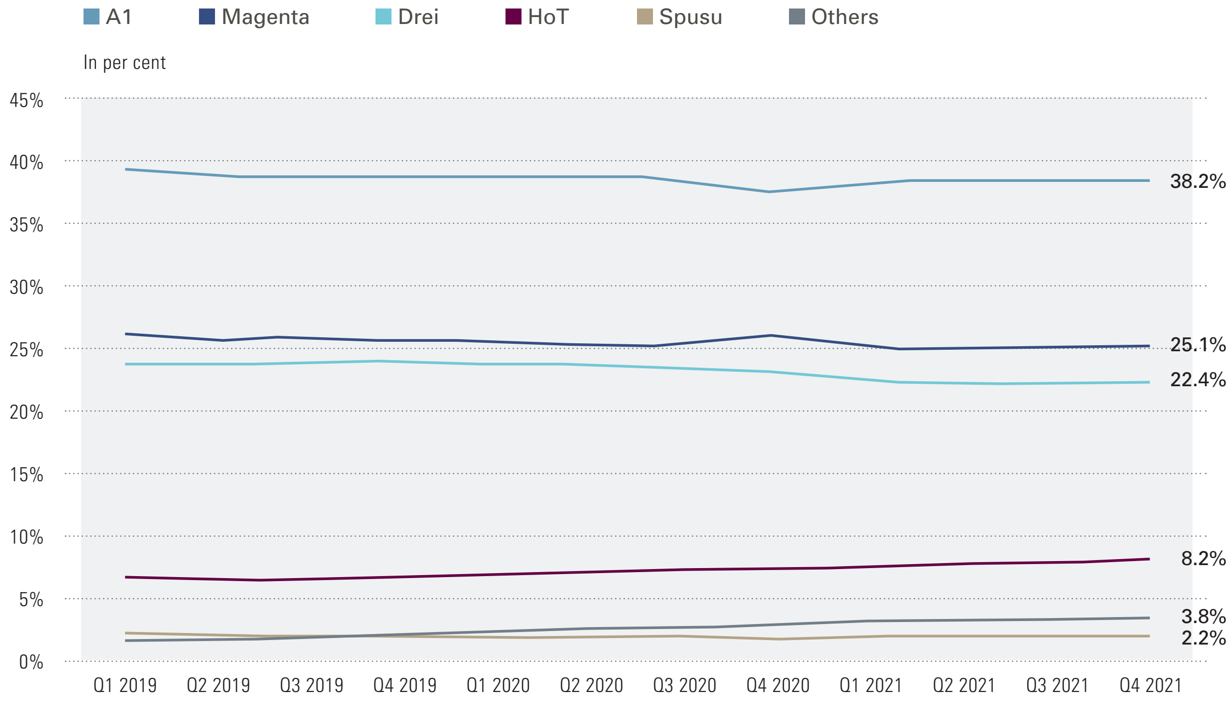
In addition to the three major network operators, A1, Magenta and Drei, Austria also has a number of other providers who are 'lessees' in the networks of the big players.[58] These providers generally rely on low prices and simple offers and have been able to successively expand their market share in recent years. Particular success has been enjoyed here by HoT (Hofer Telekom) and Spusu, who increased their market shares again

[58] A list of the providers and brands can be found here: https://www.rtr.at/TKP/was_wir_tun/telekommunikation/konsumentenservice/information/informationen_fuer_konsumenten/TKKS_BetreiberMN.de.html

in 2021. Overall, at the end of 2021, alternative providers accounted for about 14 per cent of all active SIM cards (excluding M2M SIM cards).[59]

Among the network operators, A1 (including its brands such as b.free, Bob and yesss!) still remains clearly ahead of Magenta and Drei. However, all three companies have lost market share in recent years.

Figure 62: Market shares of the mobile telecoms providers in Austria (used SIM cards, excluding M2M)



Source: RTR

The market entries of the alternative providers resulted in some cases from obligations that were placed on Drei in the course of its takeover of Orange at the start of 2013. These obligations apply for ten years and will expire at the end of 2022. In 2020 and 2021, complaints were regularly received by the Federal Competition Authority (BWB) and the telecom regulatory authority (TKK) concerning uncompetitive sale prices, pressure on virtual mobile network operators and other wholesale customers to change their business models, and cases of access refusal. The telecom regulatory authority, TKK, therefore decided in February 2022 to carry out a detailed analysis of competition on the mobile telecommunications market, especially with respect to new technologies such as 5G as well as innovative new business models.[60]

Progress in 5G rollout

Mobile network providers are using the spectrum they purchased in 2019 and 2020 to move forward 5G deployment.

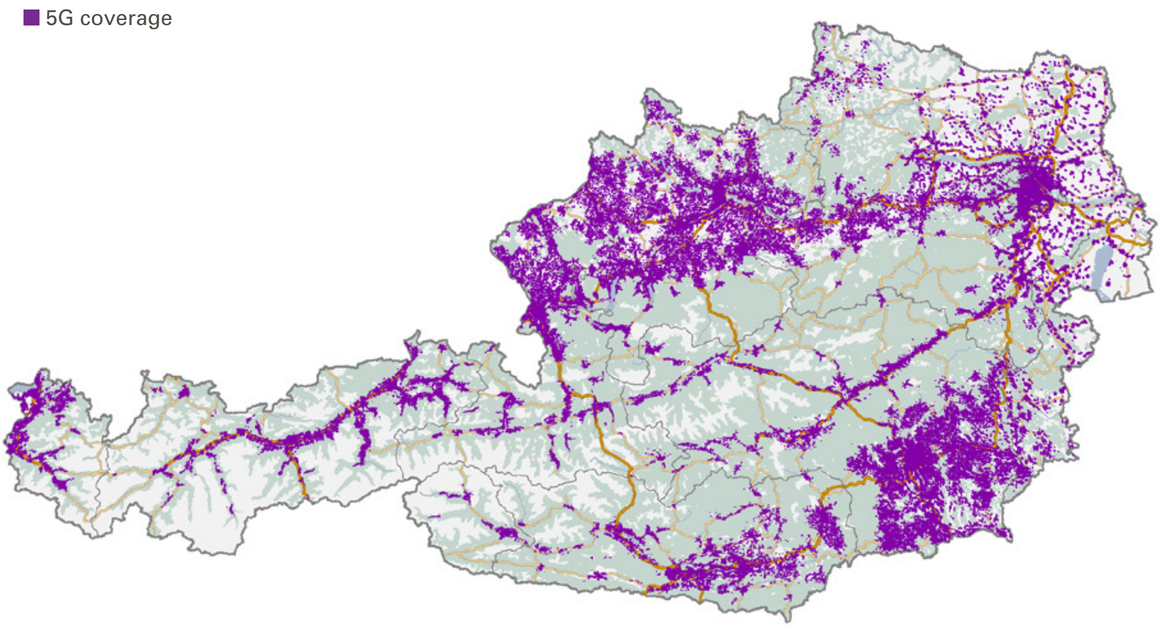
[59] M2M stands for machine-to-machine, in other words SIM cards used in cars or construction machinery.
[60] Refer to https://www.rtr.at/TKP/presse/pressemitteilungen/pressemitteilungen/pinfo22022022tkp.de.html

The first set of frequencies that can be deployed for fifth-generation mobile telephony was awarded by the TKK back in early 2019. This spectrum in the 3.4 to 3.8 GHz range is especially suitable for providing urban coverage. In addition to A1, Magenta and Drei, four regionally active providers also purchased spectrum in this range: LIWEST, Salzburg AG, Holding Graz and Mass Response (Spusu).[61]

In autumn 2020, the TKK awarded another set of frequencies that could be used for 5G, namely spectrum in the 700, 1500 and 2100 MHz bands.[62] Spectrum in the 700 MHz band in particular has good propagation characteristics and is therefore especially suited to use in providing 5G coverage for rural areas. Purchase of this spectrum was associated with coverage obligations, which must be met in the coming years.

Regions covered by 5G by the end of 2021 are presented in figure 63. In addition to the population agglomerations, 5G is also increasingly available in rural regions.

Figure 63: 5G coverage (Q4 2021)



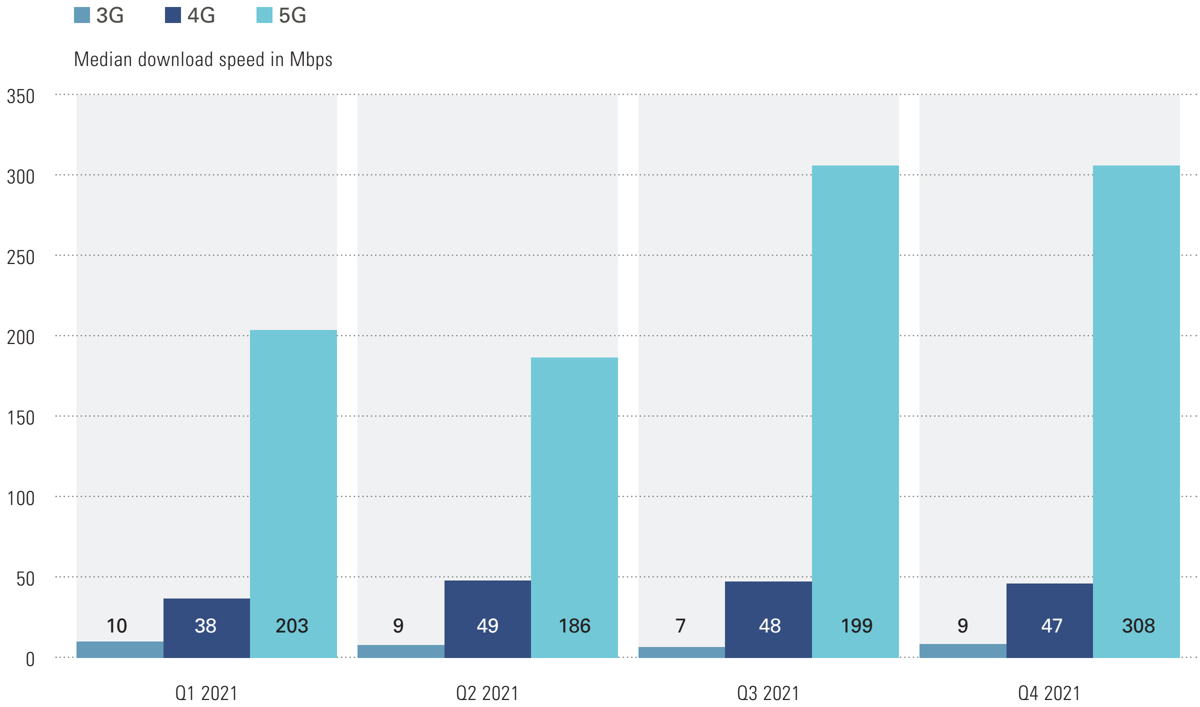
Source: RTR

[61] Refer to https://www.rtr.at/TKP/was_wir_tun/telekommunikation/spectrum/procedures/5G_Frequenzvergabe_3_4-3_8GHz/5G-Auction-Outcome.de.html

[62] Refer to https://www.rtr.at/TKP/was_wir_tun/telekommunikation/spectrum/procedures/Multibandauktion_700-1500-2100MHz_2020/FRQ5G_2020.en.html

The significantly higher speeds achieved by 5G, compared with 3G or 4G, have been demonstrated by the RTR-NetTest. At 300 Mbps, the median[63] download speed of the 5G measurements in Q4 of 2021 was more than six times faster than that measured for 4G (see figure 64). The median upload speed over 5G in Q4 of 2021 was also about 40 Mbps, roughly four times higher than over 4G. In interpreting these figures one should note that the customer base for 5G is still small (fewer consumers with 5G devices and tariff plans) and network load is therefore lower than for 4G.

Figure 64: Median download speeds in 3G, 4G and 5G measurements (Q1 to Q4 2021)



Source: RTR-NetTest

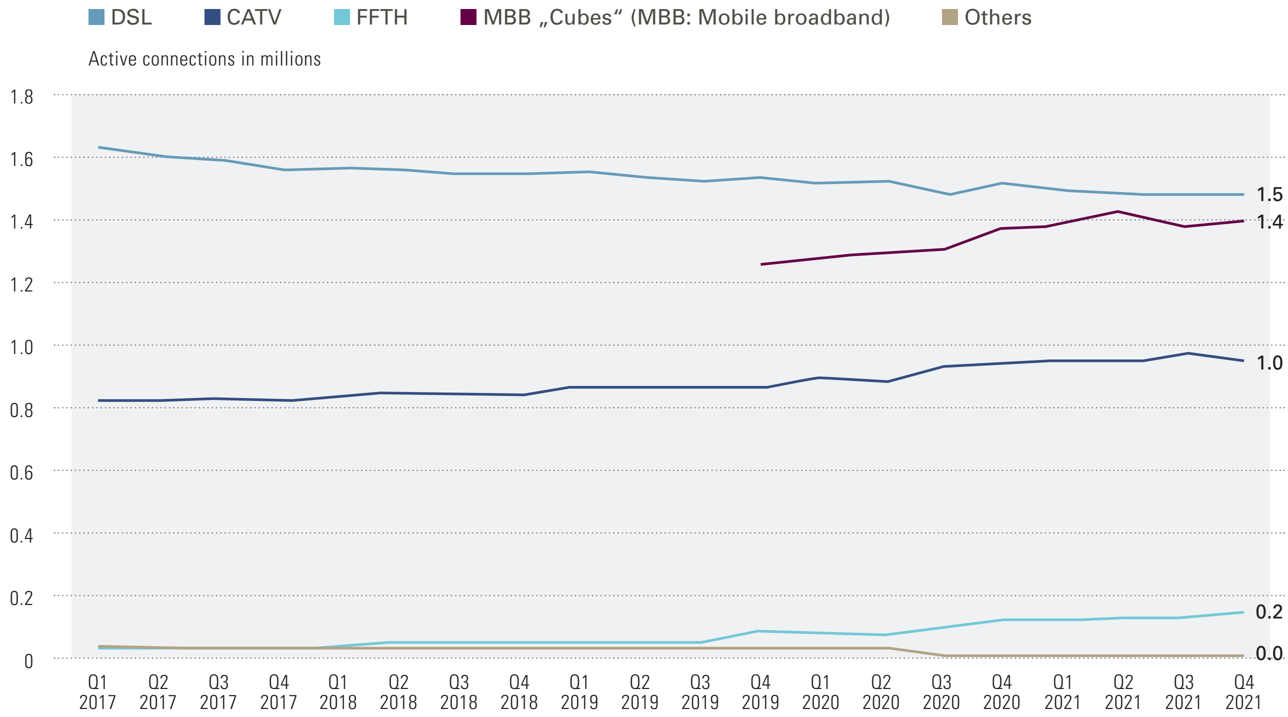
Internet access: mobile broadband enjoys unbroken strong popularity

Mobile broadband use continues to be very popular in Austria, whether with a standard smartphone connection or at home with a 'Web Cube' or Wi-Fi modem. At the end of 2021, there were about 1.4 million such mobile broadband connections, corresponding to about 35 per cent of all stationary broadband connections and roughly the number of DSL connections (see figure 65).

This trend assumed an even steeper trajectory with broadband connections in cable television networks (CATV). At the end of 2021, 1 million such connections were in use. Less pronounced but still clear was the growth in FTTH connections. The annual comparison shows a growth here of about 25,500 active connections (+ 21%) from about 126,500 to 153,000.

[63] The median is the value at the exact midpoint when the measurements are sorted by magnitude (i.e. 50 per cent of measurements lie above this value and 50 per cent below).

Figure 65: Broadband connections by technology (Q1 2017 to Q4 2021)



Source: RTR

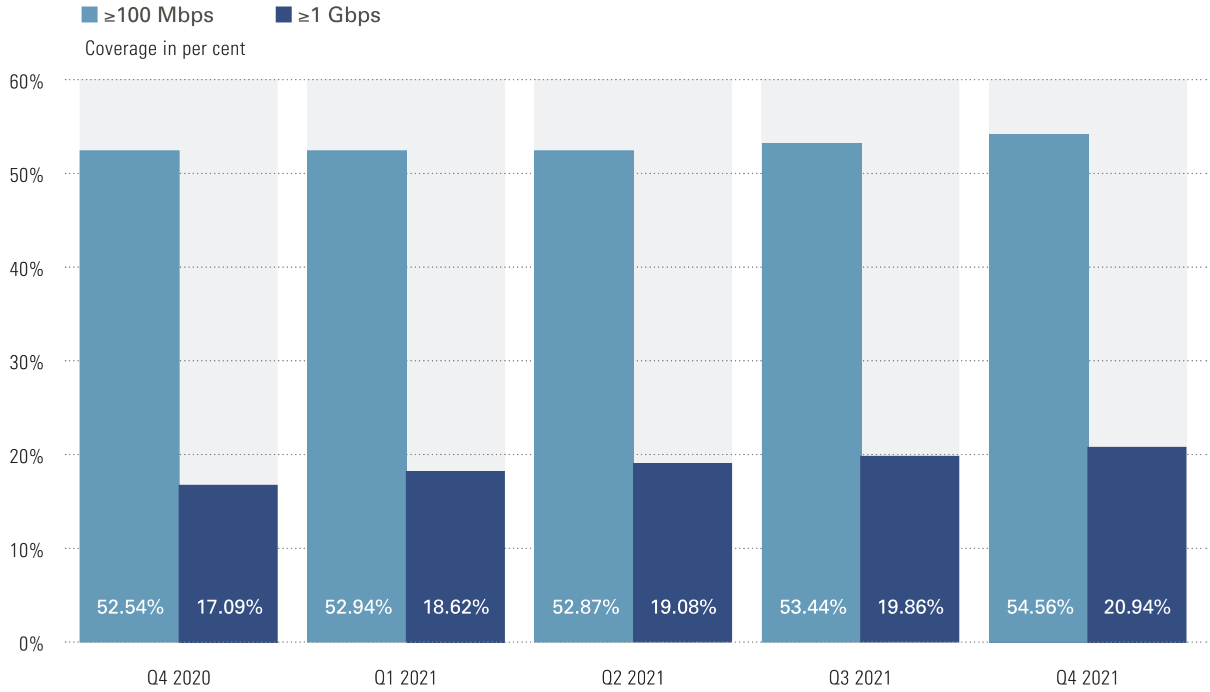
The number of DSL connections continues to decline. Other technologies, such as satellite internet, continue to play only a minor role.

High bandwidth coverage in the fixed network increases

Once again in 2021, the availability of high bandwidths in Austria continued to increase. Bandwidths of at least 100 Mbps were available to about 55 per cent of the population and businesses at the end of 2021.[64] For bandwidths ≥1 Gbps, the annual comparison showed an increase in coverage by about 4 percentage points from 17 per cent to 21 per cent.

[64] This is based on 5,342,951 connected locations, which includes flats and homes as well as commercial buildings.

Figure 66: Per cent coverage with ≥100 Mbps and ≥1 Gbps (Q4 2020 to Q4 2021)



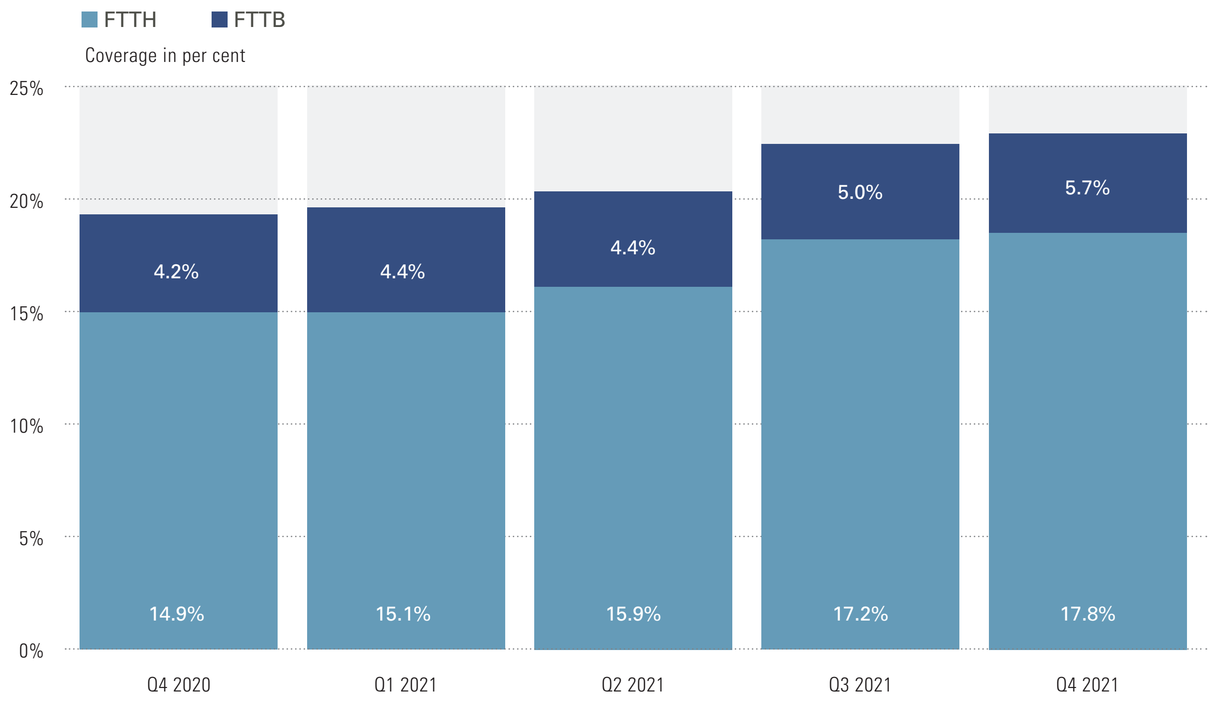
Source: RTR

The increased availability of high bandwidth connections is due in part to cable network operators, who have upgraded their networks with the transmission technology DOCSIS 3.1.[65] But the further deployment of fibre to the home (FTTH) and fibre to the building (FTTB) connections also continued apace. With FTTH, fibre-optic cable is used over the entire transmission path. With FTTB, fibre terminates just inside or before the building, while the transmission in the building takes place via copper wire pair (generally still available) or coaxial cable. Also in the case of FTTB, high bandwidths can be achieved with the use of modern transmission technologies such as G.fast or DOCSIS 3.1.

At the end of 2021, almost 950,000 households and businesses already had the option of utilising a fibre broadband connection; for another 307,000, optical fibre already extended into the building. This corresponds to an FTTB/H coverage of 23.5 per cent with respect to total connection potential. The annual comparison shows an increase in FTTB/H coverage of 4.4 percentage points (see figure 67).

[65] DOCSIS stands for Data Over Cable Service Interface Specification. DOCSIS 3.1 supports data transmission rates of up to 10 Gbps downstream and 1 Gbps upstream, although this total bandwidth is in fact shared among several households.

Figure 67: FTTB/H coverage in households and businesses (Q4 2020 to Q4 2021)

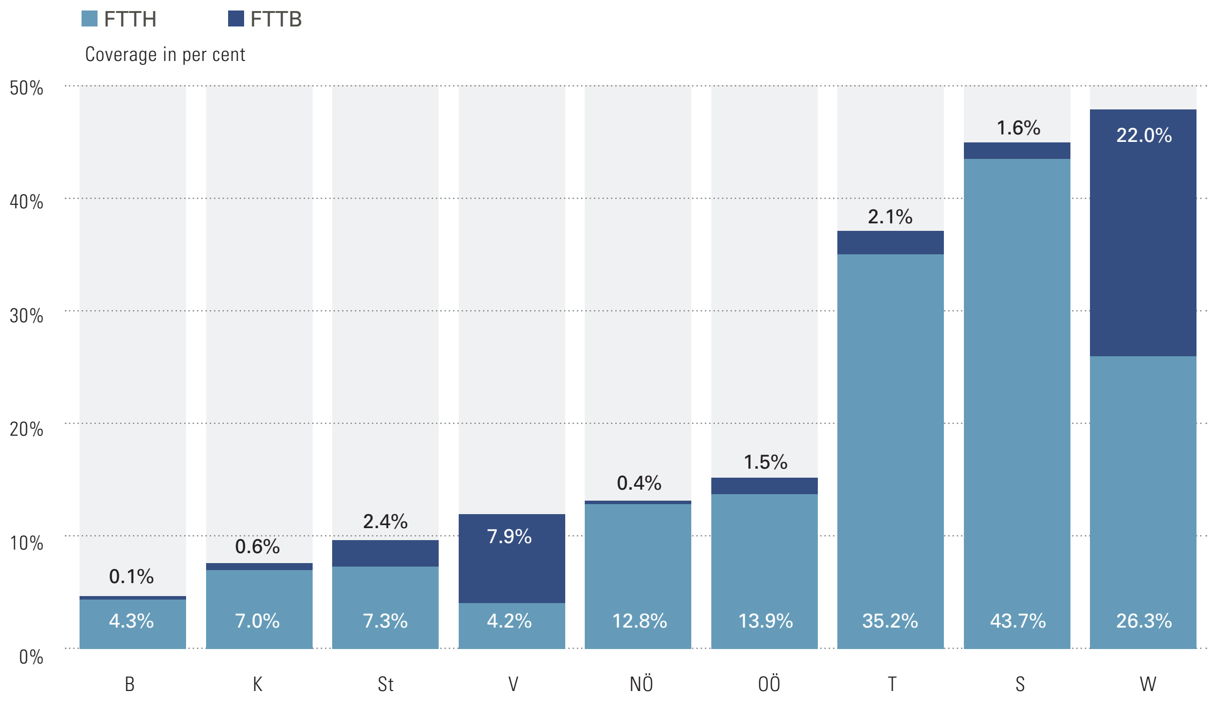


Source: RTR

In terms of province rankings, Vienna leads the way, followed by Salzburg and Tyrol (see figure 68).[66] While FTTH deployment dominates in most provinces, the FTTB share is relatively high in Vienna and Vorarlberg, in particular. In Vienna, this may be due to the high share of multi-unit buildings, where replacing the cabling in the building would be difficult.

[66] These and other analyses can also be found in the RTR Internet Monitor: https://www.rtr.at/TKP/aktuelles/publikationen/publikationen/Datenvisualisierung/internet-monitor-q32021-daten.de.html (in German).

Figure 68: Coverage with FTTH and FTTB by province (Q4 2021)



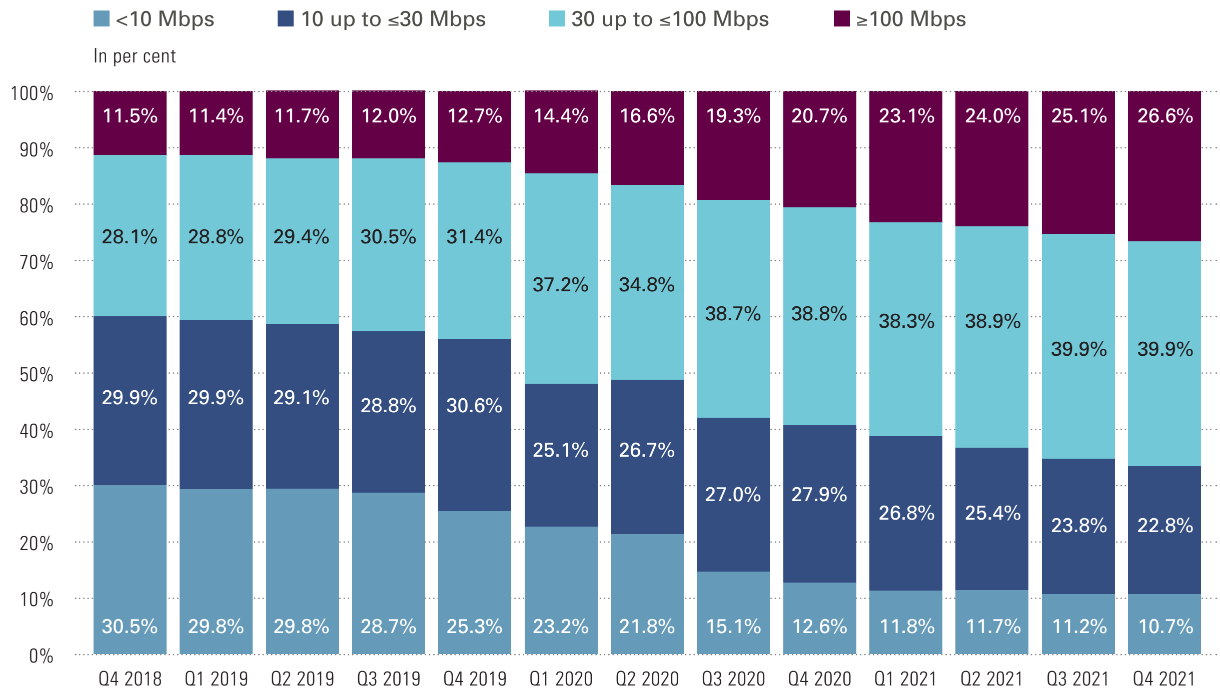
Source: RTR

The usage rate (ratio of active connections to total potential connections) of the FTTH networks is still relatively low. Between Q4 of 2020 and Q4 of 2021, the rate remained relatively constant at about 16 per cent. Here needs to be seen that some fibre networks have only been built recently, which is why take-up is still low. In some provinces (such as Salzburg and Vienna), in addition to A1's copper network, parallel cable television networks with high coverage also exist, and mobile broadband is also available practically everywhere.

Strong growth in >100 Mbps products, supply-demand gap shrinking

The demand for high fixed network bandwidth continued to rise in 2021. While the share of internet connections with a bandwidth of 30 to 100 Mbps only increased slightly from the end of 2020 to the end of 2021 (+1.1 percentage points), a clear increase of 5.9 percentage points was observed in the ≥100 Mbps segment. The share of active connections with less than 30 Mbps therefore decreased by about 7 percentage points.

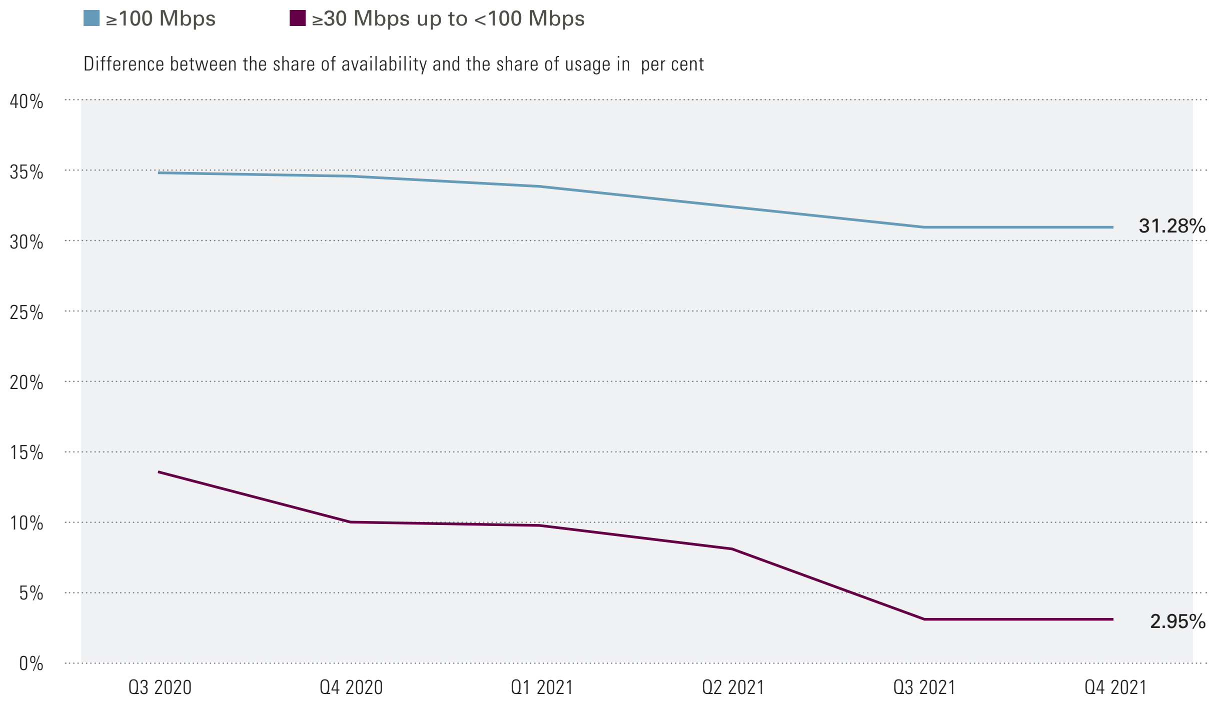
Figure 69: Fixed broadband connections – share by bandwidth category (Q4 2018 to Q4 2021)



Source: RTR

Despite this development, for the fixed network there remains a significant supply–demand gap in the high-bandwidth segments, especially ≥100 Mbps. Supply–demand gap refershere to the difference between the share of availability of a specific bandwidth and the share of actual usage. On a positive note, the supply–demand gap in the category ≥30 to 100 Mbps as well as in the category ≥100 Mbps has decreased over time (see figure 70).

Figure 70: Supply-demand gap for high bandwidths (Q3 2020 to Q4 2021)

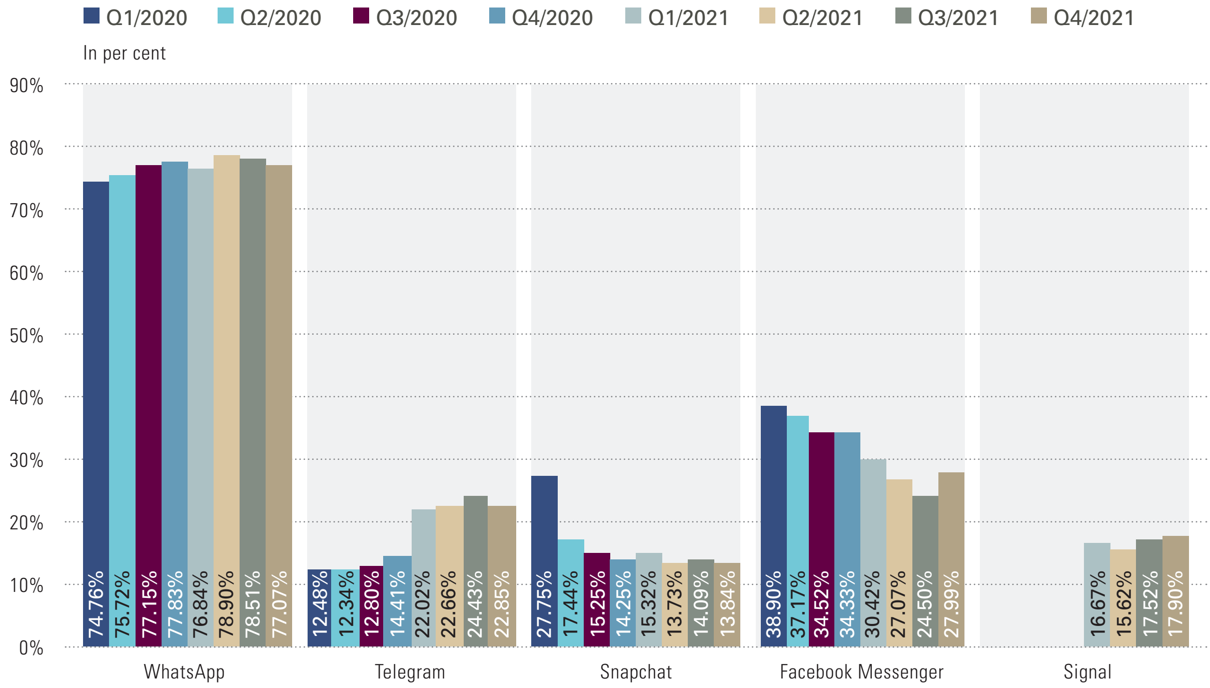


Source: RTR

Use of messaging services: WhatsApp dominates

With the increasing penetration of smartphones, instant messaging services have been supplanting SMS and MMS for years now.RTR has been able to draw on data provided by Reppublika detailing the average monthly reach per quarter of the leading instant messaging platforms (see figure 71). The market leader, WhatsApp, had a reach of nearly 80 per cent in the Austrian online population in 2021. Telegram gained reach compared with 2020, while a declining trend can be observed for Facebook Messenger. For Signal, these data first became available in 2021.

Figure 71: Reach[67] of instant messenger services in Austria (Q1 2020 to Q4 2021)

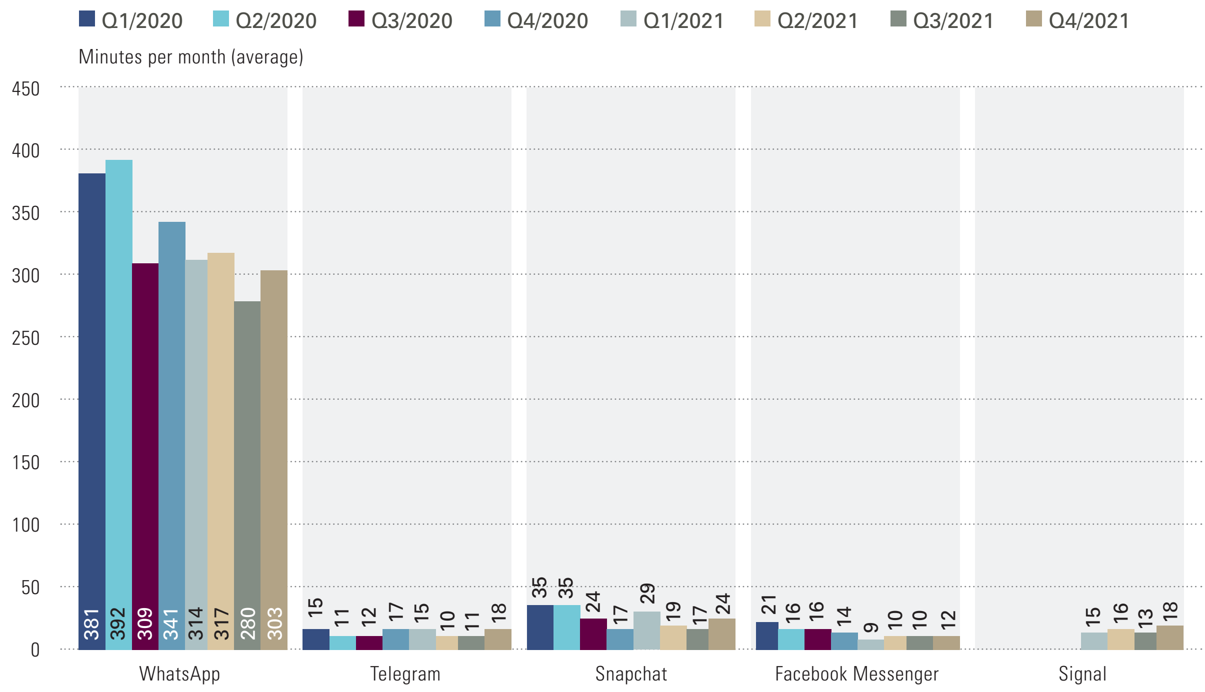


Source: Reppublika Digital Ratings

With respect to average usage time, market leader WhatsApp was dominant again in 2021. The Austrian online population used WhatsApp an average of 300 minutes per month in 2021. The usage times for other instant messenger apps are significantly lower. Signal, for example, had an average usage time in 2021 of about 15 minutes per month.

[67] Average monthly reach per quarter of selected instant messenger services in the Austrian online population, representative

Figure 72: Usage time[68] of instant messaging services among the Austrian online population (Q1 2020 to Q4 2021)



Source: Reppublika Digital Ratings

A survey by RTR at the end of 2021 shows that users' choice of a messaging app is largely influenced by network effects (i.e. how many of my contacts can I reach using a messaging app?) and familiarity effects.[69] This naturally favours the largest provider, WhatsApp. However, almost 80 per cent of users practice multi-homing, in other words they use more than one messaging service, at least occasionally.

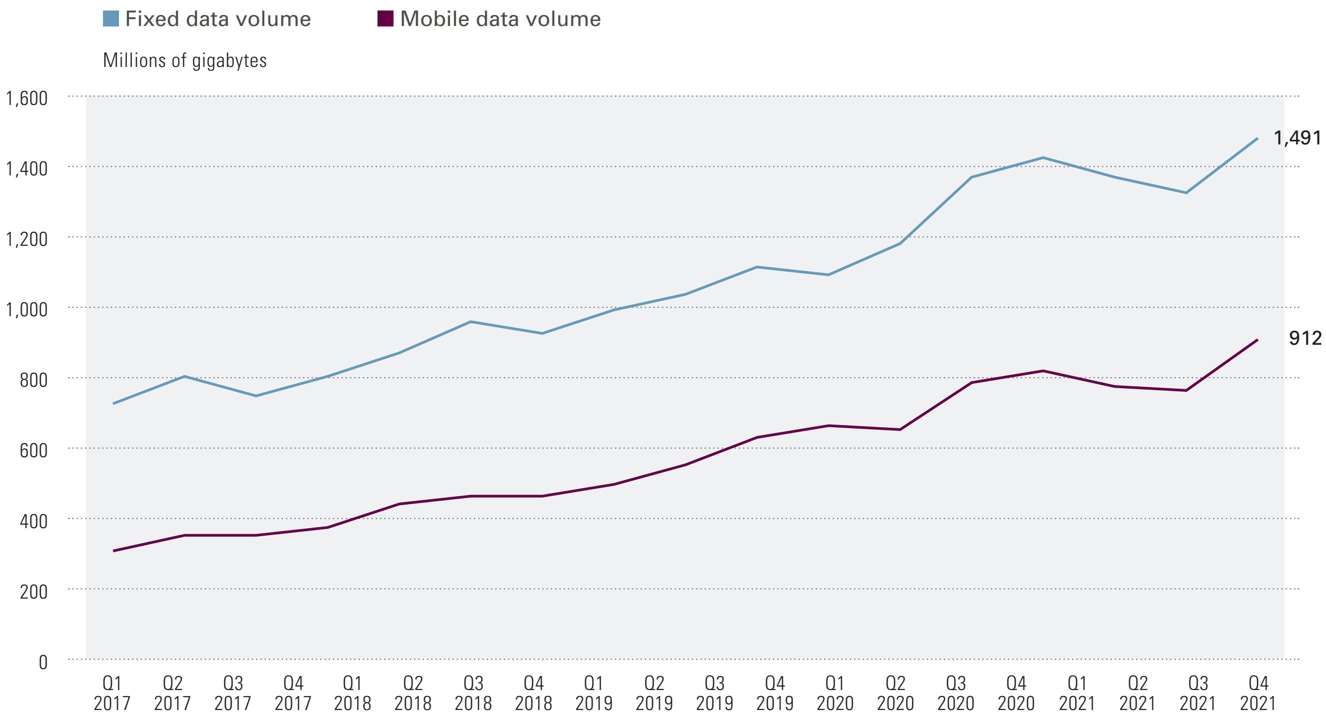
Significant rise in consumed data volume

Once again in 2021, the volumes of data consumed via fixed and mobile internet connections rose considerably (see figure 73). Overall, from Q4 of 2020 to Q4 of 2021, a rise of 11.1 per cent was observed, with a significantly greater rise in the data volume in mobile networks, at +16.1 per cent, than in the fixed network (+8.2%). The share of mobile data volume in the total volume therefore rose during the same period from about 36 to 38 per cent.

68 Average monthly usage time in minutes of selected instant messaging services in the Austrian online population, representative

69 See https://www.rtr.at/TKP/aktuelles/publikationen/publikationen/switching_barriers.en.html

Figure 73: Fixed and mobile data volume (Q4 2017 to Q4 2021)



Quelle: RTR

Fixed network telephone lines: 2021 more VoB than conventional connections

As mobile phones took over, conventional fixed lines for voice telephony began to show a steady decline in importance. In 2021, only 6.2 per cent of all call minutes were carried out over the fixed network, and this does not even take into account calls via the internet (e.g. WhatsApp or Skype).

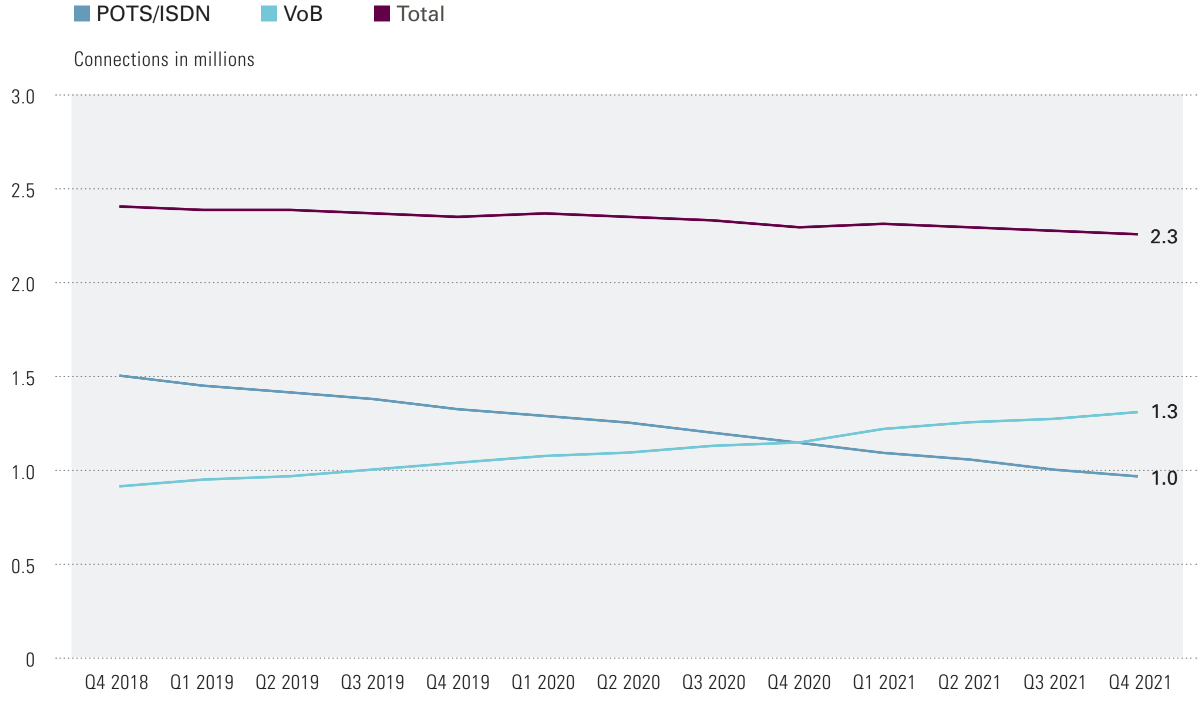
Nevertheless, there is still a large number of fixed voice lines. At the end of 2021, roughly 2.25 million connections existed, with a majority of these (about 2 million) involving private customer products. The number of connections has been declining for years, but not markedly. The reason could be that fixed voice lines are frequently offered along with a fixed internet connection for no additional set fee, sometimes as a bundle.

A trend away from analogue 'POTS'[70] connections and ISDN connections[71] and toward the use of broadband technology to provide voice telephone service has been apparent for years now. The latter is also known as Voice over Broadband (VoB). In contrast to Voice over Internet, such as when placing a call via WhatsApp or Skype, VoB providers are also responsible for the connection to customers and therefore have control over quality.

The number of VoB connections clearly increased in 2021 and amounted at the end of 2021 to about 1.3 million, far ahead of POTS and ISDN connections (about 960,000, see figure 74). At the end of 2021, the share of VoB connections in the private customer segment was about 60 per cent, significantly higher than in the business customer segment (about 40 per cent).

[70] 'Plain Old Telephony Service' (POTS): an analogue telephone connection
[71] ISDN stands for Integrated Services Digital Network.

Figure 74: POTS/ISDN vs. VoB (Q4 2018 to Q4 2021)



Source: RTR

Broadband wholesale services: virtual unbundling already accounts for over 75 per cent

At wholesale level, A1 has undertaken to provide access to its fixed network so that alternative network operators may offer broadband connection, fixed voice telephony or IPTV services to retail consumers. Until mid-2019, this access was driven by demand for physical unbundling (also known as 'unbundled local loop', ULL), in which the alternative network operator connects the copper local loop directly to their network (see figure 75).

Rolling out next generation access (NGA) involves installing optical fibre in closer proximity to end users, and deploying advanced technologies such as VDSL vectoring and G.fast. To meet regulatory rollout requirements, A1 has been obliged to offer 'virtual unbundling' as a wholesale service for a number of years.[72] In contrast to physical unbundling, virtual unbundling involves a handover to an Ethernet-based service. Traffic transfer can occur at A1's main distribution frame or in the nine provincial capitals, or even, as in Vienna, at just a single handover point. Under certain conditions, A1 can also migrate physically unbundled lines to a virtually unbundled service.

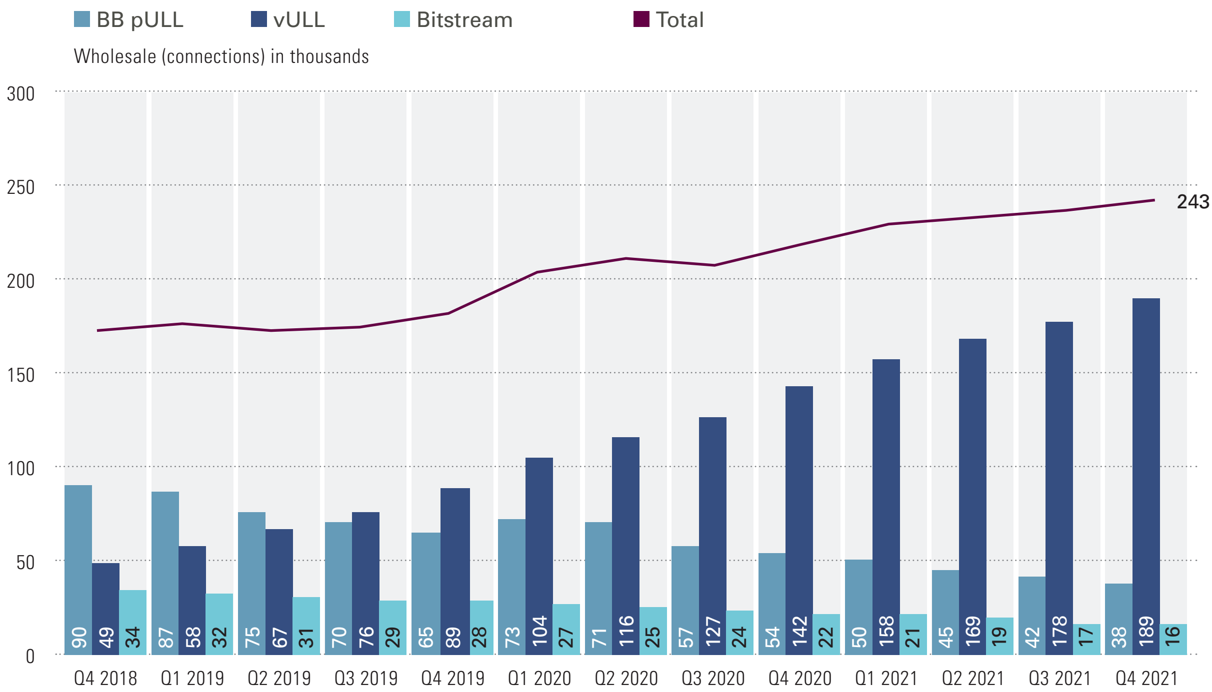
The restructuring of the A1 access network in recent years has led to virtual unbundling gradually supplanting physical unbundling. At the end of 2019, broadband connections based on virtual unbundling exceeded those based on physical unbundling for the first time. This trend was seen to continue in and 2021 2020. By the

[72] See the TKK decisions issued in July 2017, available at https://www.rtr.at/de/tk/M_1_5_15 and https://www.rtr.at/de/tk/M1_6_15 (in German).

fourth quarter of 2021, more than 189,000 virtually unbundled connections were in use, with only some 38,000 broadband connections still using physically unbundled lines.

The number of bitstream connections also declined slightly to about 16,000 by the end of 2021. The total number of wholesale broadband connections purchased from A1 rose in 2021 from about 218,000 to 243,000. The share of virtual unbundling at the end of 2021 was about 78 per cent.

Figure 75: Wholesale broadband from A1 (Q4 2018 to Q4 2021)



Source: RTR

BB pULL: Broadband connections using physical unbundling; vULL: virtual unbundling

Termination: Eurorates implemented, previous regulations lifted

Termination services are provided reciprocally between telecommunication network operators (i.e. at wholesale level). When a caller places a call from network A to network B, network operator A pays network operator B a fee, known as the termination fee, in order to connect this call. As network operator B is the only one who can connect the call, and therefore enjoys a de facto 'termination monopoly', very high fees could be demanded in an unregulated market. Accordingly, the TKK has long been tasked with setting the maximum fees for call termination in fixed and mobile networks in Austria. Corresponding fee schedules have also been drawn up by the other regulatory authorities within EU Member States. While the methods used are similar, in some cases there has been considerable variation in the results obtained to date.

Responding to these differences in termination fees, the European Commission recently adopted a uniform termination fee schedule that is now binding on all Member States. The European Commission's Commission Implementing Regulation[73] was published on 18 December 2020 and established the new fees as being 0.2 euro cents for mobile termination and 0.07 euro cents for fixed network termination ('Eurorates').

These fees entered into effect in Austria and the other countries of the European Union as of 1 July 2021.[74] For Austrian providers, this meant a decrease from the previously applicable fees (0.8049 euro cents in mobile networks and 0.137/0.085 euro cents peak/off-peak in the fixed network).

As this eliminates one of the most significant competition problems in these markets, specifically overinflated prices, and because all providers are still subject to an interconnection obligation (Art. 105 TKG 2021), the TKK decided to deregulate these markets in Q2 of 2022.

8.3 Developments in the Austrian postal market

To monitor developments in the Austrian postal market, RTR has been collecting quarterly data since 2013 in accordance with the Postal Services Survey Ordinance (PEV). Meanwhile, the revised provisions set out in the PEV 2019 amendment to the ordinance have been applied since Q1 2019. Current changes in the postal market as revealed by the survey data are presented quarterly in the RTR Post Monitor.[75]

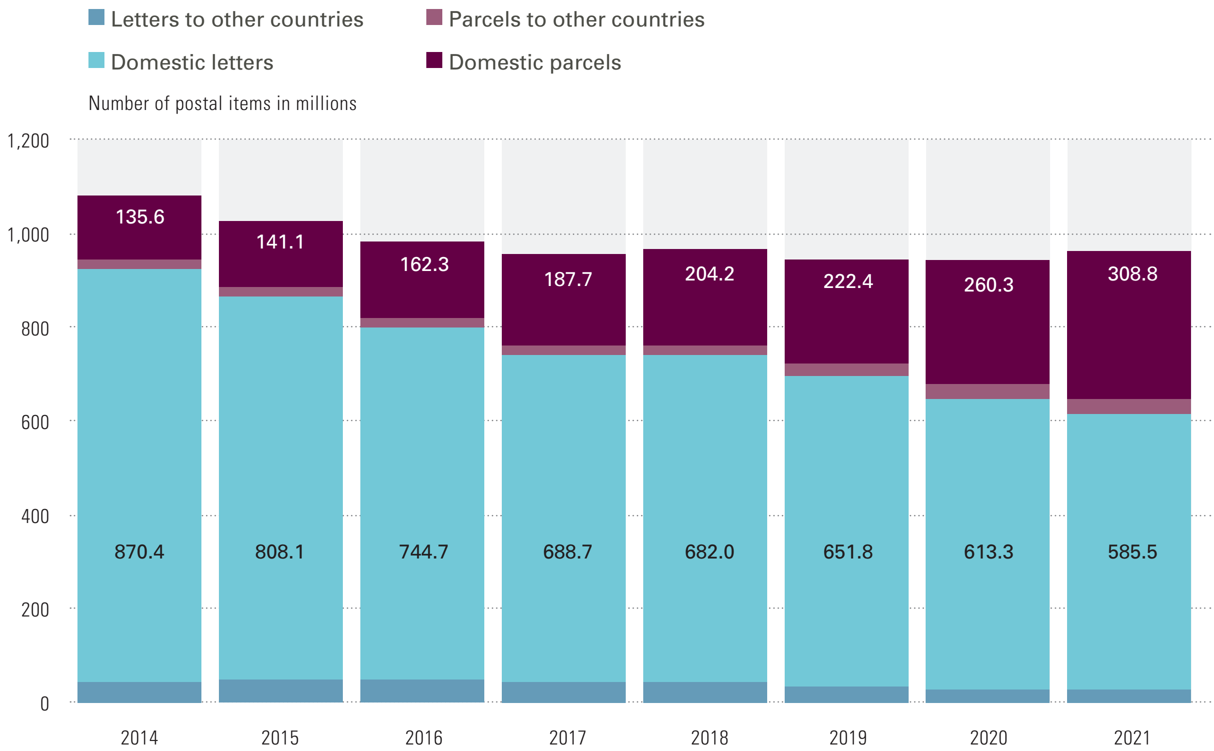
Back in 2020, the coronavirus pandemic had precipitated challenges for postal service providers that largely continued into 2021, reinforcing existing trends toward shrinking letter volumes and growing parcel quantities. Besides tackling these issues, postal service providers looked to the future and refined their business strategies. In the postal sector, pursuing sustainability goals is increasingly becoming a natural agenda, and several providers are in fact making exemplary efforts at moving forward with this. New solutions are also being developed, including delivery via parcel box.

The long-term trend toward shrinking letter volumes continued throughout 2021 as well. The number of letters delivered within Austria declined by 4.5 per cent, while the letter volume to foreign destinations remained largely stable. By contrast, parcel quantities delivered to recipients in Austria continued to see considerable growth. In 2021, roughly 18.6 per cent more parcels were delivered to points in Austria than in the year before. Parcel shipments to other countries dropped slightly compared with 2020, by 1.4 per cent. Yet the total number of parcels destined for abroad was much higher than in 2019.

The chart below shows total mail volumes beginning in 2014, disaggregated according to letters destined for other countries, letters delivered within Austria (domestic and in-bound letters), parcels destined for other countries and parcels delivered within Austria.

73 Refer to https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=72433
74 For the termination fees in the fixed network, an 'intermediate step' of 0.089 euro cents was also established until the end of 2021.
75 https://www.rtr.at/TKP/aktuelles/publikationen/Uebersichtseite.de.html#l=de&q=&t=category%3Dpostmonitor

Figure 76: Total letter and parcel volumes in millions, 2014–2021

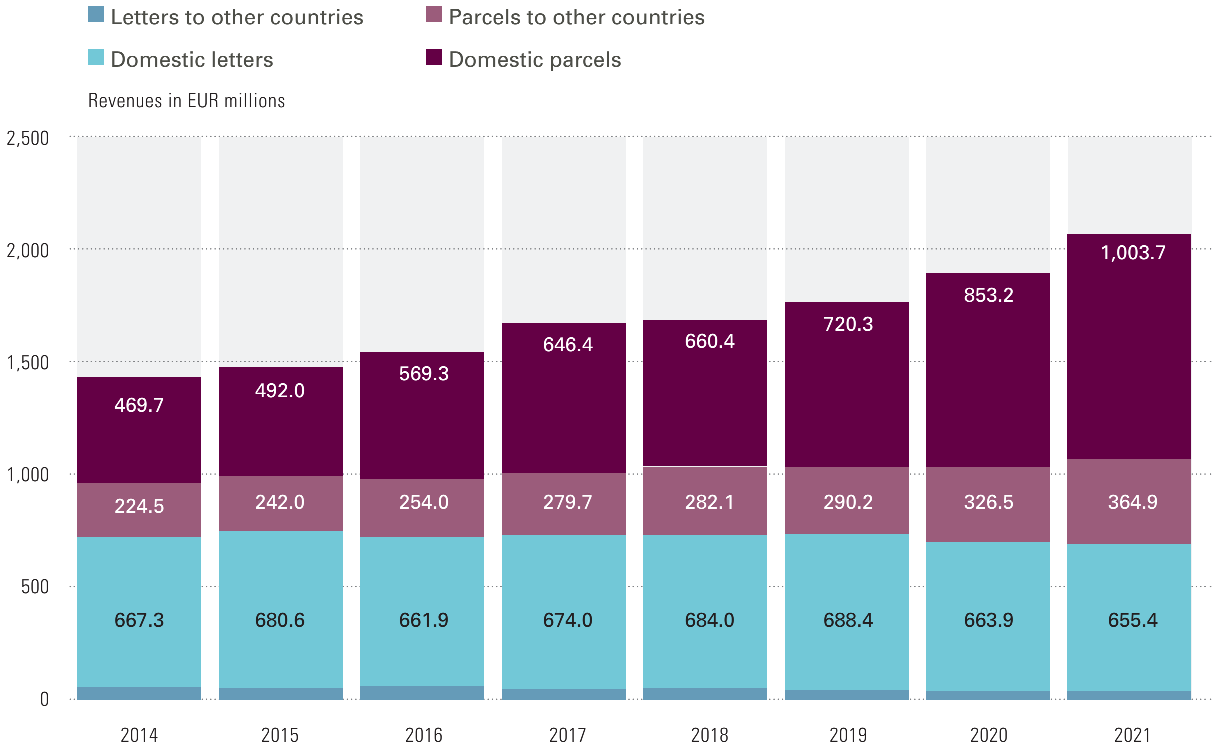


Source: RTR

Revenues accordingly reflected the decrease in letters delivered in 2021, dropping from the previous year by 1.3 per cent and 0.5 per cent for domestic and foreign deliveries respectively. With parcel handling, considerable revenue increases were seen both for domestic deliveries (+17.6%) and for parcels sent to points abroad (+11.7%).

The chart below shows revenues beginning in 2014, disaggregated according to letters destined for other countries, letters delivered within Austria (domestic and in-bound letters), parcels destined for other countries and parcels delivered within Austria. As can be seen from the chart, total revenues increased substantially within the categories shown, resulting in overall revenue growth of 9.5 per cent.

Figure 77: Total letter and parcel revenues in EUR millions, 2014–2021

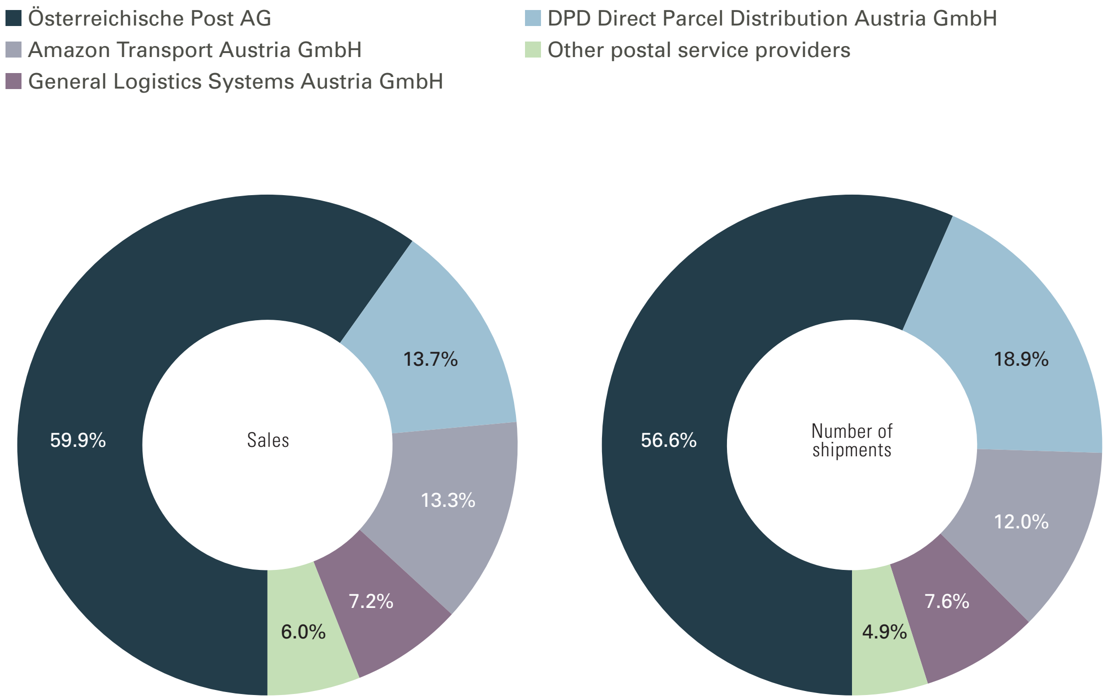


Source: RTR

The various postal service providers differ strongly with respect to their power in the markets for domestic deliveries and for parcels destined for other countries. Austrian Post AG claims 56.6 per cent of the domestic delivery market based on volume and 59.9 per cent based on revenue, and thus lies far ahead of its closest competitors (DPD at 13.7%/18.9% and Amazon at 13.3%/12.0%). Yet a completely different pattern is seen for foreign parcel deliveries. When measured based on revenues, UPS holds the largest share at 28.5 per cent, followed in ranking by Post AG at 23.2 per cent, GLS with 15.0 per cent and DHL Express with 14.5 per cent. Seen in terms of the number of parcels handled, GLS holds the largest market share at 28.2 per cent, followed by Post AG at 26.0 per cent, DPD with 20.7 per cent and UPS with 13.4 per cent. The differences in market share based on volume and on revenues clearly reveal how providers' service profiles target varying customer groups.

The chart below depicts shares of postal service providers in the market for parcels delivered to domestic destinations, based on revenues and volumes.

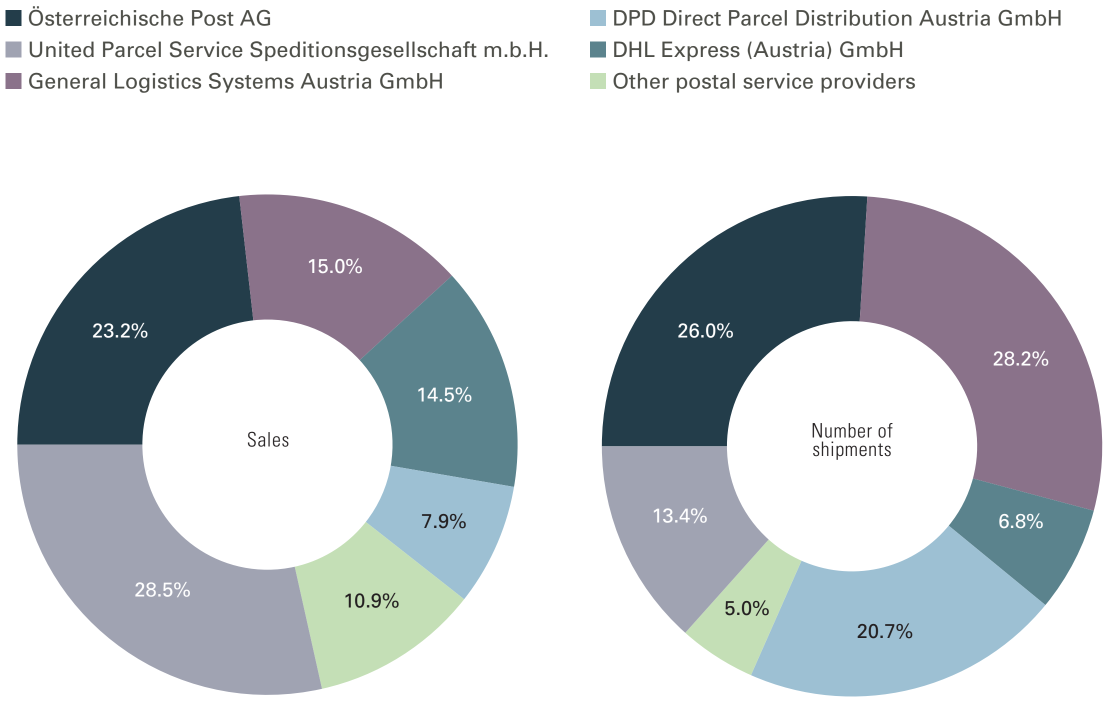
Figure 78: Market shares of postal service providers – parcels delivered in Austria in 2021 (percentages)



Source: RTR

The chart below presents shares of postal service providers in the market for parcels sent to other countries, based on revenues and volumes.

Figure 79: Market shares of postal service providers – parcels destined for other countries in 2021 (percentages)



Source: RTR

The RTR Post Monitor describes the Austrian postal market in detail, including quarterly evaluations. It is available (in German) from the RTR website at https://www.rtr.at/TKP/aktuelles/publikationen/Uebersichtseite.de.html#l=de&q=&t=category%3Dpostmonitor.

Appendix

Tables

Table 01:	RTR staff size 2019–2021	11
Table 02:	Profit and loss account for the 2021 business year (1 January to 31 December 2021)	15
Table 03:	RTR's income and expenses by division	16
Table 04:	Balance sheet as at 31 December 2021 – assets	17
Table 05:	Balance sheet as at 31 December 2021 – liabilities	18
Table 06:	Licenses issued in 2021, by licence holder and licence area	23
Table 07:	Number of international broadcasting frequency coordination procedures in 2021	38
Table 08:	Approved DVB-T/T2 transmitters (as of 31 December 2021)	39
Table 09:	Approved DAB+ transmitters (as of 31 December 2021)	39
Table 10:	Press subsidies – grant amounts, applications and approval rates, 2017–2021	44
Table 11:	Total press subsidies 2021 by funding areas	44
Table 12:	Journalism subsidies – grant amounts, applications and approval rates, 2017–2021	45
Table 13:	Press Council – number of cases handled and cost contributions, 2017–2021	46
Table 14:	Complaints procedures initiated from March to December 2021	132
Table 15:	Digitisation Fund – excerpt from the 2021 annual accounts	137
Table 16:	Austrian Television Fund – gender statistics for funded projects	140
Table 17:	Austrian Television Fund – excerpt from the 2021 annual accounts	141
Table 18:	Non-Commercial Broadcasting Fund – excerpt from the 2021 annual accounts	143
Table 19:	Subjects funded in 2019	145
Table 20:	Subjects funded in 2020	145
Table 21:	Subjects funded in 2021	146
Table 22:	Subjects funded in 2022	147
Table 23:	Private Broadcasting Fund – excerpt from the 2021 annual accounts	148
Table 24:	Locations to be operated per company from 31 December 2020	157
Table 25:	Conciliation procedures involving third-party services, 2019–2021	167
Table 26:	Notified active services 2017–2021	167
Table 27:	Decisions on telephone number requests, 2017–2021	169
Table 28:	Postal service points operated by Post AG and by third parties, 2018 to 2021	183
Table 29:	Volume of enquiries, 2019–2021	194

Figures

Figure 01:	Service departments, media division, and telecommunications and postal services division, average FTEs in 2021	11
Figure 02:	Planned increase for the ProSieben Austria channel according to action plan	65
Figure 03:	Planned increase for the SAT.1 Österreich channel according to action plan	67
Figure 04:	Planned increase for the PULS 4 and PULS 24 channels according to action plan	68
Figure 05:	Planned increase for the ATV and ATV2 channels according to action plan	70
Figure 06:	Planned increase for the Sky Sport Austria and Blue Movie channels according to action plan	71
Figure 07:	Planned increase for the A1 Xplore TV channel according to action plan	73
Figure 08:	Planned increase for the Magenta On Demand channel according to action plan	74

Figure 09:	Planned increase for the Servus TV and Servus TV Deutschland channels according to action plan	76
Figure 10:	Planned increase for the ViktoriaSarina YouTube channel according to action plan	77
Figure 11:	Planned increase for the Mediashop Meine Einkaufswelt channel according to action plan	79
Figure 12:	Planned increase for the Melodie Express channel according to action plan	80
Figure 13:	Planned increase in subtitling across all ORF channels, according to action plan	82
Figure 14:	Planned increase in audio descriptions across all ORF channels, according to action plan	83
Figure 15:	Accessible and non-accessible content in the ORF TVthek in the 2020 reference year	84
Figure 16:	Planned increase for the FLIMMIT platform according to action plan	84
Figure 17:	Proportion of accessible content by category in the ORF TVthek in 2021	85
Figure 18:	Proportion of accessible content by category on the channels ORF 1, ORF 2, ORF III and ORF Sport+ in 2021, as annual percentages	87
Figure 19:	Number of television channels within specified daily reach ranges among viewers 12+ in 2021	93
Figure 20:	Number of television channels within specified market share ranges among viewers 12+ in 2021	94
Figure 21:	Number of users (subscribers or individual customers) of on-demand services in 2021 within specified ranges	95
Figure 22:	Number of service requests in 2021 within specified ranges	96
Figure 23:	Number of radio stations within specified daily reach ranges among listeners 10+ in 2021	97
Figure 24:	Number of radio stations within market share ranges among listeners 10+ in 2021	98
Figure 25:	Number of cable networks within subscription ranges in 2021	98
Figure 26:	Top 10 nationwide television channels by daily reach as a percentage of of viewers 12+ in 2021	99
Figure 27:	Top 10 on-demand services/non-linear audiovisual media services broken down by the number of users (subscribers or individual customers) in 2021	99
Figure 28:	Top 10 on-demand services/non-linear audiovisual media services broken down by service requests in 2021	100
Figure 29:	Ratio of number of users (subscribers or individual customers) of the top 10 on-demand services/non-linear audiovisual media services as a percentage of the number of users (subscribers or individual customers) of other on-demand services/non-linear audiovisual media services in 2021	100
Figure 30:	Ratio of service requests for the top 10 on-demand services/non-linear audiovisual media services as a percentage of requests for other on-demand services/non-linear audiovisual media services in 2021	101
Figure 31:	Distribution of reception modes among Austrian television households 2006–2021	103
Figure 32:	ÖWR Decisions in 2021	118
Figure 33:	Grounds for complaints in 2021	118
Figure 34:	Expectations placed on the ÖWR	119
Figure 35:	Acceptance drivers and annoying aspects of advertising	120
Figure 36:	The online complaints form (in german)	127
Figure 37:	Accessibility portal teaser with heading	128
Figure 38:	Screenshot from accessibility portal with an overview of accessible audiovisual media products and services, and video explaining the complaints procedure.	129
Figure 39:	Overview of the Projects page of the Media Literacy Atlas (in german)	130
Figure 40:	Overview of the Events page of the Media Literacy Atlas and links to further information (in german)	131
Figure 41:	Austrian Television Fund – grants approved in 2021	138

Figure 42:	Austrian Television Fund – share contributed to projects funded in 2021	139
Figure 43:	Share of financing for funded television film projects in 2021	139
Figure 44:	Conciliation procedures involving telecoms, media and postal services, 2019–2021	165
Figure 45:	Reports of scam calls (incl. one-ring calls) and scam texts, 2018–2021	166
Figure 46:	Conciliation procedures for postal services, 2011–2021	185
Figure 47:	Conciliation procedures for postal services by category, 2019–2021	186
Figure 48:	Subjects of postal service recipient complaints (multiple answers) in 2021	187
Figure 49:	Gross advertising expenditure for conventional media including online and cinema advertising, from 2017	198
Figure 50:	Gross advertising expenditure in Austria by category in 2020 and 2021	199
Figure 51:	Per-category share of total volume of gross advertising income in 2021 (2020)	202
Figure 52:	Gross advertising expenditure in Germany by category in 2021 and 2020	203
Figure 53:	Gross advertising expenditure – share per media category in 2021, Germany vs. Austria	205
Figure 54:	Market shares of Austrian and non-Austrian TV channels among individuals aged 12+, 2018–2021	208
Figure 55:	Market share of Austrian television channels, 2020 and 2021	210
Figure 56:	Daily viewing of video broadcasts and online video, individuals aged 14+ and 14 to 29-year-olds, 2021	212
Figure 57:	Shares of the national radio market among the 14–49 target group, 2018–2021	216
Figure 58:	Radio market shares in Vienna among the 14–49 target group, 2018–2021	218
Figure 59:	Private radio shares in the Vienna market among the 14–49 target group, 2018–2021	219
Figure 60:	Sources and devices for daily radio listening in 2021, individuals 10+ and 14–29	221
Figure 61:	Retail revenues from mobile, fixed broadband, fixed voice and leased line services 2019–2021	223
Figure 62:	Market shares of the mobile telecoms providers in Austria (used SIM cards, excluding M2M)	224
Figure 63:	5G coverage (Q4 2021)	225
Figure 64:	Median download speeds in 3G, 4G and 5G measurements (Q1 to Q4 2021)	226
Figure 65:	Broadband connections by technology (Q1 2017 to Q4 2021)	227
Figure 66:	Per cent coverage with ≥100 Mbps and ≥1 Gbps (Q4 2020 to Q4 2021)	228
Figure 67:	FTTB/H coverage in households and businesses (Q4 2020 to Q4 2021)	229
Figure 68:	Coverage with FTTH and FTTB by province (Q4 2021)	230
Figure 69:	Fixed broadband connections – share by bandwidth category (Q4 2018 to Q4 2021)	231
Figure 70:	Supply–demand gap for high bandwidths (Q3 2020 to Q4 2021)	232
Figure 71:	Reach of instant messenger services in Austria (Q1 2020 to Q4 2021)	233
Figure 72:	Usage time of instant messaging services among the Austrian online population (Q1 2020 to Q4 2021)	234
Figure 73:	Fixed and mobile data volume (Q4 2017 to Q4 2021)	235
Figure 74:	POTS/ISDN vs. VoB (Q4 2018 to Q4 2021)	236
Figure 75:	Wholesale broadband from A1 (Q4 2018 to Q4 2021)	237
Figure 76:	Total letter and parcel volumes in millions, 2014–2021	239
Figure 77:	Total letter and parcel revenues in EUR millions, 2014–2021	240
Figure 78:	Market shares of postal service providers – parcels delivered in Austria in 2021	241
Figure 79:	Market shares of postal service providers – parcels destined for other countries in 2021	242

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