RTR

COMMUNICATIONS REPORT
2018

www.rtr.at

2018

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Preface

Dear readers,

The digital transformation implies challenges and opportunities for all facets of life, especially the economy and public administration. It requires us to critically evaluate and modify many established processes, adapting them with a view to the options offered by changing technologies.

Institutions having a remit as regulatory authorities are obviously not exempted from digitalisation. In the past 18 months, we as an organisation have correspondingly focused on transforming as many administrative processes as possible, restructuring them based on modern digital technology, with the aim of ensuring a sound competition environment for all our stakeholders – market participants and private customers – through an even more efficient and targeted use of public resources.

With our teams, we are consistently building regulatory and other specialised expertise, enabling us to serve as Austria's leading pool of experts on digitalisation and to take decisions that will continue to be valid in the long term. We stand for stable conditions. We intend to shape change. We are helping to ensure Austria's position as a front runner among information societies.

This Communications Report documents our contribution to the process of digital transformation in 2018. While meeting all statutory reporting requirements set out in the KommAustria Act (KOG) and the Telecommunications Act 2003 (TKG 2003), the report provides details of our regulatory activities in 2018, as well as our efforts in the capacity of a competence centre. The final section summarises developments and trends in the communications markets.

In the hope that this report will enhance the transparency of our work, we wish you interesting reading.

Michael Ogris

Chairperson
KommAustria
Austrian Communications Authority

Nikolaus Schaller

Chairperson
Telekom-Control-Kommission and
Post-Control-Kommission

Oliver Stribl

Managing Director
Media Division
RTR

Johannes Gungl

Managing Director
Telecommunications and Postal Services Division
RTR

Vienna
June 2019

5G:
don't forget the broadcasters!

Following the successful auctioning-off of the first 5G pioneer band to mobile operators in March 2019, the next step is the major multiband auction of 5G spectrum, which involves the award of the 700 MHz, 1.5 GHz and 2.1 GHz bands. Our colleagues in the Telecommunications and Postal Services Division are doing their utmost to ensure that the auction will take place as planned in the first quarter of 2020. Thanks to the efforts of a large number of participants, including policymakers, regulators and broadcasters, the auction will also include the spectrum referred to as the 700 MHz band, previously used for television. This also proves how digitisation contributes to economic efficiency. The same effect was seen with the 800 MHz band, when it was transferred to mobile telecommunications back in 2013.

Collectively known as the 'digital dividend', the 700 MHz and the 800 MHz bands now have their place in the history of broadcasting and international frequency coordination. In this country, the switch from the former, analogue mode of terrestrial television transmission to digital technology, initially based on the DVB-T standard and later on DVB-T2, began in 2006 and had an enormous impact. Unlike the old days, we in Austria now use a simple rooftop or indoor antenna to receive around 40 television programmes instead of just three, and while utilising a mere fraction of the spectrum previously needed for broadcasting. The frequencies that have been freed up form the 'digital dividend', which was then transferred to mobile providers to allow them to roll out their networks and in particular to expand their traffic capacities for mobile broadband internet. The digital dividend is therefore a success story that benefits everyone. In fact, the story has been so very successful that it is now a source of worry for television broadcasters.

In a world where mobility plays an ever greater role, it is not surprising that radio and television broadcasters are reminding mobile telecoms providers of their interests and those of their audiences, and appealing to them to use the vast transmission capacities offered by 5G technology to make Austrian programmes available to viewers and listeners using mobile devices. In this era of globalised media, influential US providers could be involved in this effort, which would face only negligible (financial) barriers thanks to the use of 5G.

Another concern shared by television broadcasters is perhaps even more serious. There is a growing fear of an automatic mechanism taking hold, a sort of law of custom, whereby an increasing amount of broadcasting spectrum is made available or transferred to mobile telecommunications. This is particularly relevant considering the seemingly universal obsession with online reality and streaming in particular. The word 'broadcasting' sounds antiquated by comparison. Yet television is far from becoming obsolete. As shown by our Video Survey (Bewegtbildstudie), jointly published each year with the Teletest working group, Austrians continue to spend over three quarters of their daily video viewing time watching television programmes that are broadcast via conventional modes of transmission. At the same time, the study we presented in December 2018 on "Children, teenagers and young adults in the age of VOD" points to a continually growing need for mobile use of media content, while even very young persons experience conventional, established television and radio stations as trusted guides who help their audiences navigate through the overgrowth of highly diverse sources of information. Broadcasting via 5G could play an important role here in future. 5G is commonly considered a 'mobile telecommunications technology'. That is a

misconception: rather like DVB-T2, 5G is a transmission technology that potentially supports a very broad range of applications. One of these is FeMBMS. The acronym, which stands for 'Further evolved Multimedia Broadcast Multicast Service', refers to a 5G-based broadcasting transmission standard that will potentially allow wide-area broadcasting of media content to 5G receivers such as mobile phones and tablets. In many use cases, the technology would be far more economical and efficient in its use of spectrum than the typical point-to-point streaming in current use, and thus has the potential to relieve mobile networks of significant amounts of traffic.

For television, and even more so for radio, transmission via 5G could be the solution, allowing broadcasters to share in user mobility while providing a means of reaching audiences that is consistent and cost-effective at both ends. Worldwide spectrum use is to be reviewed at the 2023 World Radiocommunication Conference. The issue of reallocating additional broadcasting frequencies for mobile use may well be raised there. We ought to know where we stand on the issue by then. Clearly, we need to think increasingly in convergent terms, and be aware that broadcasting and mobile telecommunications have been growing ever closer for some time. Still, a well-defined line separating mobile telecoms and the broadcasting industry can be recognised to this day. As an old Austrian saying goes: "Talk brings people together". And, we add, can also lead to business models.

Oliver Stribl

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

5G
good to go!

What hasn't been promised in the name of 5G? Self-driving cars, remote operations via telesurgery, holographic television, augmented reality to enrich real-world experience, billions of sensors and actuators connected within the Internet of Things, processes seamlessly linked across the entire value chain, and much more. All that we seemed to be missing for this technological bliss was to specify a new standard, produce suitable equipment and supply the required spectrum.

Now that the individual pieces are gradually falling into place, it will be interesting to see whether what is emerging will meet the lofty expectations. First, in early 2018, the 3GPP standardisation body announced the finalisation of part one of the new 5G New Radio standard for the option referred to as non-standalone mode. This made it possible to set up 5G networks based on 4G core infrastructures. It then took about six months to agree on specifications for the standalone mode, enabling full 5G access and a 5G core network. As a result, manufacturers who had previously been working on parallel development of new 5G chipsets were then able to start producing 5G equipment. Correspondingly, 5G was at the centre of interest when the industry met in Barcelona for the Mobile World Congress 2019, where 5G components for networks and devices were featured.

From the domestic perspective, the auctioning-off of the first 5G pioneer band, comprising 3.4–3.8 GHz, in March 2019 can be taken as the starting gun for the launch of 5G in Austria. Particularly positive here, from the standpoint of those safeguarding competition, is that the three established mobile operators succeeded in acquiring licences to use 100 to 140 MHz of contiguous nationwide spectrum, and that the auction design helped to further strengthen competition in the telecommunications sector. One provider previously active as an MVNO, for example, secured licences for Lower Austria and Burgenland. At the same time, three regional broadband providers were awarded licences in Upper Austria, Salzburg and Styria.

Even during the 3.4–3.8 GHz award procedure (now completed), RTR was beginning preparations for the next major step, the multiband auction of 5G spectrum in the 700 MHz, 1.5 GHz and 2.1 GHz bands. Launched via a public consultation on product and auction design, the award process again relies strongly on intense stakeholder and industry involvement and is being pushed forward at a rapid pace. A consultation on the tender conditions for the multiband auction has been planned for mid-2019, with the auction itself slated for the first quarter of 2020.

Managing its responsibilities as chair of the Body of European Regulators for Electronic Communications (BEREC) dominated RTR's international activities in 2018. Johannes Gungl, serving as BEREC chair in 2018, intentionally defined 5G as a focus topic within the BEREC Work Programme for the past year. The goal here was to identify and overcome any impediments to a speedy 5G rollout in Europe. Among other things, a study on the potential impact of 5G on future business models was presented, while a report on "practices on spectrum authorization, award procedures and coverage obligations with a view to considering their suitability to 5G" was published, and an "opinion on mobile infrastructure sharing" was put to public consultation.

The abundance of activities should nonetheless not give the impression that it will be plain sailing all the way to 5G. Before being able to realise the full capacity of 5G, a number of challenges need to be met and issues resolved, including: How long will it take to fibre-connect base stations throughout the country? When can adequate wide area 5G coverage be expected? Can substantial consolidation of networks be anticipated in the coming years through the use of small cells? Are the future scenarios listed at the outset actually the promising usage scenarios that will justify the costly investments required to roll out 5G? And will the introduction of 5G potentially entail disruptions in the provider landscape and the value chain?

It is certain that 5G will continue to be a permanent fixture in the everyday activities of businesses, manufacturers and public authorities in Austria and other countries in the coming years. And, when the individual pieces have finally fallen into place and the big picture is complete, 5G and its abundance of potential applications will soon be available to those for whom the new technology is actually intended: all businesses and consumers. And then 5G will indeed be "good to go"!

Johannes Gungl

Managing Director
Telecommunications and Postal Services Division
RTR

01

RTR
and the regulatory authorities

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 as well as to achieve the goals set out in the KommAustria Act and the Telecommunications Act. RTR is headed by two managing directors and 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). With the funds under its administration, RTR supports projects in the broadcasting and media sectors. The two specialist divisions within RTR also offer alternative dispute resolution services, which are provided via its officially recognised consumer arbitration centres.

In the 2018 reporting year, Oliver Stribl headed the Media Division and Johannes Gungl 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 diligence that state-owned and state-affiliated businesses – as owners of state property – owe 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/en/rtr/Ueberuns.

we stand for competition and media diversity

RTR staff members: experts in broadcasting, telecommunications and postal markets

The chart below shows the relative share of staff assigned to the two specialist divisions and the service areas.

FIGURE 01:   SERVICE AREAS, MEDIA DIVISION AND TELECOMMUNICATIONS
AND POSTAL SERVICES DIVISION AS OF 31 DECEMBER 2018

52.77%
Telecommunications and
Postal Services

Operational support for TKK
Operational support for PCK
Consumer affairs
Electronic signatures
Numbering

16.21%
Service areas

Public relations
Financial contribution
IT
Controlling
HR management
General administration

31.02%
Media

Operational support for KommAustria
Frequency management
Austrian Digitisation Fund
Austrian Television Fund
Non-Commercial Broadcasting Fund
Private Broadcasting Fund
Press and journalism subsidies
Act on Transparency in Media Cooperation
and Funding

As shown in the table below, staff size in 2018 remained virtually the same compared with the previous year.

TABLE 01:   STAFF SIZE 2016 – 2018

STAFF AS OF 31 DECEMBER (IN FTEs)	2016	2017	2018
Telecommunications and Postal Services Division	54,495	52,825	53,075
Media Division	29,185	30,175	31,200
Service	18,520	17,800	16,300
TOTAL RTR	**102,200**	**100,800**	**100,575**

Source: RTR

Knowledge management: ensuring and enhancing our efficient, high-quality performance

RTR knowledge management was introduced in 2018, with the objective of analysing the knowledge management processes within RTR in order to further develop and align them with the organisational objectives.

Continued training: we support our staff in continued professional development

At RTR, we place an especially high value on education and training, since our employees' expertise stands as the hallmark of the quality of our work. A total of 421 days were invested in training and education in the reporting year, which amounts to 3.5 days per person.

The communicate! 2.0 training initiative launched in 2016 was continued in 2018. The goal of this workshop series is to allow the bulk of the staff to familiarise themselves with the issue of communication and to become acquainted with tools for improving communications. By the end of the year under review, over 90% of the staff had participated in this communication training series.

Getting a glimpse of RTR's work: internships during university holidays

RTR wants to provide interested young people with insights into the regulatory authority's areas of activity, which is why we offer internships during university holidays. A total of five young people took advantage of such an opportunity in 2018.

Workplace health promotion initiative: focusing on display screen equipment

In 2018 as part of the workplace health promotion initiative, attention was focused on the special requirements of working with display screen equipment. A lecture and a workshop on "Working with display screen equipment without eye problems" provided information and exercises for eye health, while the presentation "Display screen equipment workstation ergonomics" included practical tips for the optimal workstation set-up. RTR also organised special courses promoting healthy back postures.

Back in 2017, a catalogue of measures was drawn up based on an assessment of the level of psychological stress at work, which had been carried out pursuant to the requirements of the Workers Protection Act (ASchG). During the 2018 reporting year, more measures derived from the assessment were undertaken in order to further improve and optimise working conditions at RTR.

In 2018 the staff had the opportunity to receive training to become qualified occupational first-aid providers. Eight people took advantage of the programme. Additionally, refresher courses for those already trained as first-aid providers also took place as part of the regular two-year cycle. Nine people participated in those courses.

IT: always state-of-the-art

Following a comprehensive evaluation, RTR's e-government portal (eRTR) underwent a technical update, with all applications optimised in detail. This has allowed RTR to ensure consistency with Austria's e-government strategy by enabling administrative transactions to be handled digitally.

The RTR IT team make every effort to maintain a state-of-the-art digital infrastructure for both the staff as well as for external stakeholders. Replacing the client infrastructure was on the 2018 agenda. Additionally, the existing communications infrastructure in the meeting rooms was upgraded through modern presentation tools and enhanced video conferencing options.

Current company site: renovations

Another area given priority during the 2018 reporting year was the office renovation work. For the first time since 2001, the carpeting was replaced on every floor, the offices were given a fresh coat of paint, and the ventilation and heating system received a thorough cleaning.

Equality – a matter of course at RTR

RTR has had an equal opportunities officer since 2015. The position was re-advertised in 2018 as stipulated in the relevant works agreement, and the employee who had previously been entrusted with the role was reappointed for another three years.

The equal opportunities officer consistently brought into focus various aspects of equal opportunity activities as a means of raising RTR staff awareness. For instance, in 2018 an equal opportunities breakfast was held for the second time to mark International Women's Day in March, with an accompanying programme providing information and food for thought on the way to achieving gender equality for women. In addition to assisting in several of the organisation's projects by providing equal opportunity advise, a gender mainstreaming workshop was offered in Q4. The participants had the opportunity to grapple with this set of issues for a whole day, discussing the use of gender-neutral, non-discriminatory language, and identifying potential areas within RTR where equal opportunity efforts may be needed.

In 2019 further efforts will be underway to revise the equality and family support plan, which will incorporate items including the results from the workshop. The current version of the equality and family support plan is available (in German) on the RTR website: www.rtr.at/de/rtr/Gleichstellung/Gleichstellungsplan_RTR_2017.pdf.

1.2 RTR's financial statements for 2018

The external auditors at Deloitte Audit Wirtschaftsprüfungs GmbH have issued an unqualified audit certificate confirming the financial statements of the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) for the 2018 business year (1 January to 31 December 2018). They were prepared in accordance with the Austrian Commercial Code (UGB) as amended. RTR closed the 2018 business year (1 January to 31 December 2018) with a balanced result.

Funding for RTR

As set out in Art. 34 et seq. of the KommAustria Act (KOG), RTR receives funding through financial contributions from the respective sector as well as from funds made available by the Republic of Austria, which is required to contribute towards the regulatory authority's annual expenses. In 2018 the federal government and the companies active in this sector paid the following sums to fund RTR:

TABLE 02:   FUNDING FOR RTR (IN EUR MILLIONS)

2018 business year	Federal funds	Sector-specific financial contributions	Total
Media regulation	1.633	2.513	4.146
Telecommunications regulation	2.802	4.398	7.200
Postal service regulation	0.221	0.357	0.578
Trust services [1]	0.188		0.188
Total	4.844	7.268	12.112

Source: RTR

The financial contribution is calculated using the planned revenues of each company in relation to the total revenues of the sector. To simplify administration, companies that fall below a certain revenue limit, referred to as the threshold, are not required to pay financial contributions.

Detailed information on how the financial contribution is calculated is available at www.rtr.at/en/rtr/RTRFinanzierung.

The funds (Digitisation Fund, Austrian Television Fund, Private Broadcasting Fund, Non-Commercial Broadcasting Fund) are publicly funded. The necessary administrative expenses are covered by the respective fund budget.

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

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[1] This includes the funding that the supervisory body for signatures requires to fulfil its responsibilities based on the Signatures Act.

TABLE 03:   PROFIT AND LOSS ACCOUNT FOR THE 2018 BUSINESS YEAR
(1 JANUARY TO 31 DECEMBER 2018)

		2018 in EUR		**2017** in EUR thousands	
1.	**Net income**		13,456,772.40		13,185
2.	**Other operating income**				
	a) Income from the disposal of fixed assets (excluding financial assets)	13,552.62		1	
	b) Income from the release of provisions	27,814.90		19	
	c) Other	1,139,941.37	1,181,308.89	1,180	1,200
3.	**Personnel expenses**				
	a) Salaries	-7,416,769.93		-7,195	
	b) Social expenses				
	ba) Pension insurance expenses	-245,903.81		-243	
	bb) Severance pay expenses and contributions to staff provision funds	-113,905.53		-105	
	bc) Statutory social insurance contributions as well as payroll-related fees and mandatory contributions	-1,844,397.28		-1,794	
	bd) Other	-106,702.02	-9,727,678.57	-105	-9,442
4.	**Amortisation and write-downs of intangible assets, depreciation and write-downs of tangible assets**				
	a) Depreciation, amortisation and write-downs	-372,869.79		-300	
	b) Release of investment grants	74,696.01	-298,173.78	58	-242
5.	**Other operating expenses**				
	a) Other	-4,664,026.22		-300	
	b) expense subsidy	45,365.64	-4,618,660.58	-4,718	
6.	**Subtotal of Items 1 to 5**		-6,431.64		-17
7.	**Income from other securities held as long-term investments**		20,162.50		49
8.	**Other interest and similar income**		1,710.81		1
9.	**Income from the disposal of and additions to financial assets**		8,940.00		0
10.	**Expenses for financial assets** Impairment		-705.00		-10
11.	**Subtotal of Items 7 to 10**		30,108.31		40
12.	**Result before taxes**		23,676.67		22
13.	**Taxes on income**		-9,965.77		-23
14.	**Result after taxes / net annual income**		13,710.90		-1
15.	**Release of profit reserves**		0.00		1
16.	**Appropriation to profit reserves** Appropriation to free reserves		-13,710.90		0
17.	**Profit carried forward**		0.00		0
18.	**Net result**		0.00		0

Sector-specific expenses in RTR's specialist divisions

In the annual financial statements submitted by RTR, funding use is not reported by division. For this reason, table 04 provides a breakdown of the main items listed in RTR's profit and loss accounts for the Telecommunications and Postal Services Division and the Media Division (as specified in Art. 19 Par. 3 no. 3 KOG).

TABLE 04:   RTR INCOME AND EXPENSES BY DIVISION

In EUR thousands	Telecommunications and Postal Services	Media	Total
Net income	7,910	5,547	13,457
Other operating income	437	744	1,181
Other operating income	-6,234	-3,494	-9,728
Depreciation, amortisation and write-downs	-209	-89	-298
Other operating expenses	-1,902	-2,716	-4,618
Operating result	2	-8	-6
Financial result	18	12	30
Result before taxes	20	4	24
Taxes on income	-6	-4	-10
Result after taxes / net annual income	14	0	14
Release of profit reserves	-14	0	-14
Profit carried forward	0	0	0
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 2018 as adopted by the general assembly. The individual areas within the Telecommunications and Postal Services Division are: telecoms regulation, electronic signatures and postal services regulation; and the areas within the Media Division are: media regulation, Austrian Digitisation Fund, Austrian Television Fund and broadcasting funds
(refer to www.rtr.at).

TABLE 05:   BALANCE SHEET AS AT 31 DECEMBER 2018 – ASSETS

	2018-12-31 in EUR		2017-12-31 in EUR thousands	
A. Fixed assets				
I. Intangible assets				
1. Industrial property and similar rights	417,929.46		440	
2. Prepayments	0.00	417,929.46	5	445
II. Tangible assets				
1. Buildings on third-party land	365,602.74		48	
2. Other equipment, operating and office equipment	290,026.79		89	
3. Equipment under construction	0.00	655,629.53	23	160
III. Financial assets				
Long-term securities		2,935,163.16		2,927
		4,008,722.15		3,532
B. Current assets				
I. Receivables and other assets				
1. Trade receivables (Thereof with a maturity >1 year EUR 0 thousand; previous year: EUR 0 thousand)	1,301,318.86		412	
2. Other receivables and assets (Thereof with a maturity >1 year EUR 153,559.24; previous year: EUR 152 thousand)	701,163.46	2,002,482.32	660	1,072
II. Cash at bank and in hand		1,629,198.42		3,210
		3,631,680.74		4,282
C. Prepaid expenses		124,039.22		84
D. Trustee accounts – funds		17,119,648.30		21,462
		24,884,090.41		**29,360**

TABLE 06:   BALANCE SHEET AS AT 31 DECEMBER 2018 – LIABILITIES

	2018-12-31 in EUR		2017-12-31 in EUR thousands	
A. Equity capital				
I. Called-up and paid-in nominal capital	3,633,641.71		3,634	
II. Capital reserves				
Appropriated	1,924.59		2	
III. Profit reserves				
Other reserves / free reserves	32,554.90		19	
IV. Net result	0.00		0	
Thereof profit carried forward (previous year: EUR 0 thousand)	0.00	3,668,121.20	0	3,655
B. Special item: investment grant		349,618.24		176
C. Provisions				
1. Provisions for severance pay	135,600.00		123	
2. Other provisions	1,345,275.00	1,480,875.00	1,306	1,429
D. Liabilities				
1. Trade payables (Thereof with a maturity <1 year EUR 733,185.15; previous year: EUR 821 thousand; thereof with a maturity >1 year EUR 0 thousand; previous year: EUR 0 thousand)	733,185.15		821	
2. Other liabilities (Thereof with a maturity <1 year EUR 1,442,933.41; previous year: EUR 1,530 thousand; thereof with a maturity >1 year EUR 0 thousand; previous year: EUR 0 thousand; thereof from taxes EUR 424,862.15; previous year: EUR 345 thousand; thereof from social security obligations EUR 178,304.52; previous year: EUR 177 thousand)	1,442,933.41	2,176,118.56	1,530	2,351
E. Deferred income		0.00		157
F. Trustee obligations – funds		17,209,357.41		21,592
		24,884,090.41		**29,360**

1.3   The 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 RTR Media Division provides support for all of the functions performed by KommAustria, Austria's regulatory authority for electronic audio media and electronic audiovisual media. The authority 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 held the role of chair for KommAustria during the reporting year and Susanne Lackner served as deputy chair.

More information, including the KommAustria Rules of Procedure, is available at www.rtr.at/en/rtr/OrganeKommAustria.

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

The independent Telekom-Control-Kommission, or TKK, is responsible for regulating the telecommunications market in Austria, while the Post-Control-Kommission, or PCK, handles the regulation of the postal services market. The two regulatory authorities receive assistance from the experts at RTR's Telecommunications and Postal Services Division.

Both the TKK and the PCK are comprised of three main members and three substitute members who are independent in the performance of their duties and not bound by instructions from any other authority. 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.

More detailed information is available on the RTR website at www.rtr.at/en/rtr/OrganeTKK and www.rtr.at/en/rtr/PostControlKommission.

02

Regulatory activities
of KommAustria

02 Regulatory activities
of KommAustria

The Austrian Communications Authority (KommAustria) is responsible for performing administrative and regulatory duties in the field of electronic audio media and electronic audiovisual media. Its mandate entails a broad spectrum, including the regulation of market access for content services, general and specific monitoring of compliance with statutory provisions, infrastructure regulation, and press and journalism subsidies. It is responsible both for providers under private law (broadcasters, media service providers and communications network operators) and the Austrian Broadcasting Corporation (ORF) and its subsidiaries.

2.1 Access to media markets

KommAustria regulates access to the media market by assigning broadcasting frequencies, issuing licences for broadcasting, 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.

2.1.1 Private radio broadcasting licences

The licensing procedures conducted by KommAustria during the period under review involved processing applications for creating new or expanding existing coverage areas, as well as officially tendering licences after expiry at the end of the legal term. Furthermore, numerous licences were also granted for radio event broadcasting and educational broadcasting.

Nationwide radio broadcasting

Since December 2014, KRONEHIT Radio BetriebsgmbH. has consistently held a licence, limited to ten years, authorising private terrestrial broadcasting throughout Austria. The station broadcasts KRONEHIT, an adult contemporary radio format, in vast parts of the country.

In 2018 the licensee was assigned a total of five frequencies to expand its coverage throughout Austria, with the licence terms modified accordingly. As a result, KRONEHIT Radio BetriebsgmbH was again able to increase its coverage level in 2018. KRONEHIT Radio BetriebsgmbH had consequently been assigned a total of 168 frequencies by the end of the current reporting period, after relinquishing one licence. Also during the reporting period, KRONEHIT Radio BetriebsgmbH requested seven changes to radio equipment, which KommAustria subsequently approved.

The authority also dealt with two sets of procedures involving applications to create a new nationwide licence. In one of the cases, the applications submitted by Antenne "Österreich" und Medieninnovationen GmbH were rejected, as less than the minimum

60% of the Austrian population would have fallen within the coverage area. The other procedure was pending at the end of the period under review.

Regional and local radio broadcasting

In the local and regional terrestrial broadcasting sector, a total of 26 procedures were carried out in 2018, 17 of which were still pending at the end of the reporting period. One licence procedure related to an expired licence that had to be put to tender again and re-awarded as part of official duties. In that case, the licence for the coverage area 'Spittal an der Drau und Raum Lienz' was re-awarded to the previous licensee, Radio Maria Österreich – Der Sender mit Sendung.

Six other licensing procedures were conducted at parties' requests, resulting in the issuing of a licence for the newly created coverage area of 'Stadt Salzburg 107.9 MHz' to Radio Maria Österreich – Der Sender mit Sendung. Five other licence applications, submitted by parties seeking to create new coverage areas, were pending as at the end of the period under review.

Another procedure, subsequently completed, was conducted with the goal of pooling existing radio licences. The existing licences for programmes (differing according to region) under the name of 'Radio Arabella' in Vienna and Lower Austria have now been combined to form a licence for Radio Arabella GmbH, authorising it to produce a uniform programme in the coverage area of 'Wien und Teile Niederösterreichs'. The programme broadcast by Radio Arabella Oberösterreich GmbH & Co KG continues to be independent.

In a number of other instances, the parties' applications were aimed at expanding existing coverage areas or improving coverage in existing areas. In these cases, frequencies as listed below were assigned through a total of six decisions:

- 'WINDISCHGARSTEN 2 (Wurbauerkogel) 107.7 MHz' and 'MOLLN (Silo) 107.9 MHz' to Freies Radio B138, Verein zur Förderung freier, nichtkommerzieller Radioprojekte im Kremstal
- 'PAISSLBERG (Paisslberg 8) 94.5 MHz' and 'KITZBUEHEL 4 (Ried am Horn) 107.9 MHz' to Radio Maria Österreich – Der Sender mit Sendung
- 'EHRWALD 4 (Wettersteinlift Bergstation) 105.8 MHz' to Regionalradio Tirol GmbH
- 'MITTERBACH ERL 2 (Gemeindealpe) 106.8 MHz' to Radio Eins Privatradio GmbH
- 'HORNSBURG 101.4 MHz' and 'MISTELBACH (Silo) 107.9 MHz' to Radio Arabella GmbH

Twelve such procedures were still pending at the end of the period under review.

Event and educational radio licences

Event radio refers to radio broadcasting licences granted for a maximum of three months which are used locally during and around the time of an independent public event in the surrounding area. A total of ten event radio licences were issued in 2018, which were used to provide radio coverage for events in Vienna, Lower Austria, Salzburg and Carinthia.

Educational radio licences refer to licences granted to an institution of education or training, authorising it to locally broadcast radio programmes having a functional relationship to its duties. Such licences can be granted for a maximum of one year. Seven different educational radio licences were granted in 2018, to the following institutions for the stations as listed:

- 'RADIUS 106.6' (Bildung aktiv – institution with separate legal personality at the BG/BRG Freistadt secondary school)
- FHW Fachhochschul-Studiengänge Betriebs- und Forschungseinrichtungen der Wiener Wirtschaft GmbH
- 'Campus Radio St. Pölten' (Campus Radio St. Pölten association)
- 'Radio Gymnasium' (Radio Gymnasium association)
- 'NJOY' (SL Multimedia GmbH & Co KG)
- 'Radio Sol' Bad Vöslau (Radio SOL, GmbH & Co KG)
- 'Radio Sol' Vösendorf (Radio SOL, GmbH & Co KG)

Procedures under telecommunications law

To simplify administration, the Telecommunications Act 2003 (TKG 2003) empowers KommAustria 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. 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. Such 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 addition to the procedures described above relating to KRONEHIT's nationwide radio broadcasting licence, KommAustria approved twelve changes to radio equipment in 2018, as well as six applications by private radio broadcasters requesting permission for test transmissions. One application to relocate radio equipment was refused, as the relocation would have resulted in a significantly smaller coverage area than that originally approved. One request involving changes to radio equipment and four relating to test transmissions were still open at the end of the period under review. Tunnel radio systems for broadcasting were approved for one private radio broadcaster, while in another case a foreign radio broadcaster was issued an Austrian radio equipment permit. In addition, KommAustria approved 29 requests for permission to operate, for non-broadcasting purposes, radio equipment within broadcasting frequency bands (for example to cover drive-in cinemas, conferences and similar events).

Radio broadcasting frequency assignments to the ORF

As part of its responsibility for assigning radio broadcasting spectra and for issuing corresponding permits under telecommunications law, KommAustria is also active where radio transmission systems used by the ORF are involved.

A total of four related procedures were carried out in 2018, involving either re-approvals of radio systems previously used by the ORF or permits for ORF tunnel radio systems.

Additional information has been published (in German) on the RTR website at www.rtr.at/de/m/EntscheidungenGesamtRF.

2.1.2 Approvals and notifications relating to audio-visual media services and multiplex platforms

Nationwide television

A total of eleven changes to telecommunications licences for the nationwide multiplex platforms A and B, and for the multiplexes D, E and F were approved during the reporting period. One change to a programme line-up was also approved.

Preparations began in 2018 for freeing up the 700 MHz band, planned for mobile use (5G broadband service) starting in 2020.

Regional and local television

The licences listed below were issued in the period under review, permitting operation of new regional multiplex platforms (MUX C):

- MUX C – greater Linz, channel 44
- MUX C – Außerfern region, channel 23
- MUX C – 'Tiroler Oberland' region, channel 34
- MUX C – 'Oberes Ennstal' region, channel 48
- MUX C – Bad Ischl, Wolfgangsee and Bad Goisern, channels 30 and 34
- MUX C – 'Steyr und Mostviertel' region, channel 34
- MUX C – Carinthia, channels 34 and 43
- MUX C – 'Mur- und Mürztal' region, channel 21
- MUX C – Western Styria, channel 31

As of the end of the period under review, 15 licences to operate local multiplex platforms were valid, allowing service to roughly 60% of the Austrian population.

One licence for digital terrestrial television was also issued during the reporting period. A total of 18 changes to programme allocations and programme line-ups were also approved.

Satellite television licences

KommAustria issued satellite licences for four television programmes in 2018 (Blue Movie Info, Blue Movie 1, Blue Movie 2 and Blue Movie 3).

Media services subject to notification requirements

A total of eight cable television channels, 14 (linear) television channels broadcast over the internet and 64 on-demand media services were notified to KommAustria in the 2018 reporting period.

2.1.3   Approvals and notifications of new ORF services

During the 2018 reporting year, the ORF notified KommAustria of several technical changes to its online service TVthek.orf.at. The ORF planned to add a login feature to allow users to personalise the TVthek media library. The reported changes were not prohibited by KommAustria, in accordance with Art. 5a Par. 2 of the ORF Act (ORF-G).

The ORF also reported minor changes to several online services (affecting oe3.orf.at, news.orf.at, sport.orf.at, kundendienst.orf.at, der.orf.at and themenschwerpunkt.orf.at); these changes were of a scope not requiring notification to KommAustria. No official action was subsequently necessary in these cases.

In the 2018 reporting year, two requests submitted by the ORF were rejected by issuing decisions after a prior evaluation procedure; one request concerned the modification of online services relating to social media, and the other was for a new, public on-demand service to provide films and series. The ORF lodged a complaint against the KommAustria decision refusing to approve a new YouTube channel as a public on demand-service, meaning the decision is not final.

In another case, the procedure initiated against the ORF in 2017 to investigate a possible breach resulting from the new feature called Mein Bundesland (My Province), offered under news.orf.at, was dropped. It was determined that the change represented only a 'minor change' as defined in Art. 5a Par. 2 ORF-G.

2.2 Legal supervision

In addition to monitoring compliance with regulations on commercial communication, KommAustria is also responsible for the legal supervision of private broadcasters and media service providers (as well as multiplex operators) under the provisions of the Private Radio Act (PrR-G) and Audiovisual Media Services Act (AMD-G). By virtue of the ORF-G, KommAustria also serves as the legal supervisory authority for the ORF and its subsidiaries.

Breaches of those laws may occur through programming (in addition to advertising infringements, these may include breaches of fundamental programming principles such as youth protection) or through other conduct on the part of broadcasters and media service providers (such as breaches of notification requirements or imposed requirements). A total of 36 procedures relating to breaches of law and 28 administrative penal procedures were conducted against media service providers in 2018, due to failing to meet the requirement to update information on an annual basis.

In principle, KommAustria can initiate procedures in response to a complaint (based on certain conditions defined in law), a petition (in the case of the ORF) or as part of official duties (ex officio). Such procedures may result in an official decision identifying a breach of law and, in the case of repeated or severe infringements, the licence may ultimately be revoked, thereby prohibiting radio broadcasting activity or provision of the media service (the latter option does not apply to the ORF). In addition, when certain rules are breached, KommAustria has the duty to conduct administrative penal procedures, potentially resulting in fines.

In the course of issuing a private broadcasting licence, an official decision is always issued in approval of the submitted programming plan: as a rule, the programming plan is a key consideration in choosing to assign available frequencies to one of a number of qualified applicants. Consequently, a licensee can later make fundamental changes to the programming format only after a special procedure and after meeting certain requirements. A broadcaster's license may be revoked in the event of any unapproved fundamental modification of the programming format.

In addition, KommAustria has specific powers relating to the legal supervision of the ORF and its subsidiaries, especially with regard to the business purpose of the corporation, its legal mandate and the supervision of its business activities.

2.2.1 Commercial communication

Audiovisual media services and radio stations were regularly subject to ex officio evaluations during the period under review.

Monitoring activities were carried out for ORF broadcasts as follows in 2018: the regional radio stations Radio Tirol and Radio Salzburg (once), the nationwide radio stations Ö3 (twice), Ö1 and FM4 (once each), as well as the nationwide television channels ORF eins and ORF 2 (once each), and ORF III (twice).

In the case of private radio broadcasters, monitoring activities were carried out or recordings were requested for programmes by: Freier Rundfunk Freistadt GmbH, Verein Medien- und Kommunikationszentrum nördliches Niederösterreich, Freies Radio Innsbruck – FREIRAD, Verein zur Förderung der Medienvielfalt und der Freiheit der Meinungsäußerung, Verein zur Förderung freier, nichtkommerzieller Radioprojekte im Salzkammergut (FRS), Life Radio GmbH & Co KG, Freies Radio Wien, Freier Rundfunk Oberösterreich GmbH, Verein Radio Gymnasium, RTG Radio Technikum GmbH, Campus Radio St. Pölten and CULTURZENTRUM WOLKENSTEIN. In this connection, KommAustria identified one breach of advertising rules, this decision not yet being final.

From among private television broadcasters, programmes provided by the following were sampled: PULS 4 TV GmbH & Co KG, Dorf TV GmbH, Community TV Salzburg Gemeinnützige BetriebsgesmbH, RTS Regionalfernsehen GmbH, PROSiebenSat1 PULS 4 GmbH, ATV Privat TV GmbH & Co KG, M4TV GmbH and Community TV-GmbH. Breaches of advertising rules were identified in one case. One procedure has not yet been completed.

Programmes offered by the following on-demand audiovisual media service providers were evaluated or corresponding recordings requested: A.Digital Errichtungs- und Beteiligungs GmbH (twice), Vice Austria GmbH, Red Bull Media House GmbH, Sportradar Media Services GmbH (formerly LAOLA1 Multimedia GmbH), Sky Österreich Fernsehen GmbH, ATV Privat TV GmbH & Co KG, FK Austria Wien AG and Die Meinungsmacher GmbH; three procedures are pending.

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 freely form public opinion 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.

During the period under review, twelve complaints were filed against the ORF involving alleged breaches of programming principles. The complaints objected in particular to breaches of the principles of objectivity and impartiality in reporting. In two cases, KommAustria only agreed with the complaints in part. In two complaint procedures, KommAustria found that the ORF had not breached the principle of objectivity and accordingly dismissed the complaint. In two other complaint procedures, KommAustria identified a breach of the principle of objectivity. One complaint, lodged after the deadline, was refused, and two further complaints were withdrawn. Three complaint procedures are still pending before KommAustria.

Within the scope of legal supervision of private broadcasters, two complaints were submitted to KommAustria during the reporting period, alleging that programming principles had been breached. While one complaint was rejected as unfounded,

the other is still pending before KommAustria. A complaint was also submitted requesting an ex officio review of an on-demand media service, to examine the general requirements applying to such a service. Another complaint was filed against a provider of an on-demand media service, alleging a breach of Art. 31 AMD-G. The two procedures are still pending before KommAustria.

2.2.3   Conciliation procedures – media

The RTR Media Division acts as a conciliation body for complaints that relate 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 an amicable solution or informs the participants of its position on the case in question.

The conciliation body received 68 complaints in the period under review. Details about conciliation cases are available in the annual conciliation report (Schlichtungsbericht), published annually in German (www.rtr.at/de/inf/STR_Bericht2018).

2.2.4   Specific supervision of the ORF and its subsidiaries

Purpose of business, public mandate and bodies

During the reporting year, KommAustria rejected a complaint filed by several private television broadcasters, who had claimed that the ORF did not normally offer a selection of quality programmes during evening prime time, as required by Art. 4 Par. 3 ORF-G. The complaint was rejected on the grounds that the second sentence of Art. 4 Par. 3 ORF-G does not refer exclusively to the two television channels able to be received throughout Austria but to all four TV channels broadcast by the ORF. The appeal filed by the complainants against the ruling is still pending before the Federal Administrative Court (BVwG).

Also during the reporting period, a complaint lodged against the ORF relating to the information campaign on HD migration was rejected on grounds of lacking legitimacy. The appeal filed against that decision was later dismissed by the BVwG.

In the 2018 reporting year, KommAustria reviewed the ORF online programme referred to as 'Fakt oder Fake' as part of official duties. The authority found that, by making the programme available, the ORF had breached several provisions of Art. 4e and Art. 5a ORF-G, while also failing to comply with Art. 6 of that act by not carrying out a prior evaluation procedure. The ORF brought appeals before the BVwG against these decisions. The administrative penal procedure KommAustria had additionally initiated in this matter was still to be completed in the reporting year.

Finally, during the reporting period, the ORF submitted several changes to plans to KommAustria for review, relating to the online services TVthek.orf.at, kundendienst.orf.at, news.orf.at, oe3.orf.at and sport.orf.at. The authority either did not prohibit the changes or identified them as minor.

KommAustria also handed down decisions following two prior evaluation procedures during the 2018 reporting year:

- The ORF's request for approval of changes to online services related to social media was rejected in accordance with Art. 6b in conjunction with Art. 2 Par. 4 ORF-G, with the decision now final.

- After the ORF's request for approval of a public on-demand service with a focus on fiction content (films and series) was rejected based on Art. 6b in conjunction with Art. 4f ORF-G, the ORF filed a complaint with the BVwG against the decision, which is still pending.

Also in the reporting period, the procedure for defining and revising the quality assurance system under Art. 4a ORF-G was completed for the years 2015–2016. The ORF was found to have complied with the quality assurance procedures.

Also during the 2018 reporting year, KommAustria initiated procedures for skimming off revenues as set out in Art. 38a Par. 1 no. 1 ORF-G. The action was in response to a second-instance ruling by the BVwG, finding the sub-service that the ORF had made available online in connection with the alpine skiing World Cup during the 2013–2014 season as not having comprised merely daily or event-related coverage. In doing so, the ORF had exceeded the scope of its service plan for sport.orf.at and breached provisions of Articles 4e, 4f and 5a of the ORF-G. This activity incurred expenses, which had been paid out of the programme fee and equivalent funds. These costs were determined through an assessment of the full gross costs incurred during the reporting year. The decision advising of the skimmed-off revenues was issued in January 2019.

Supervision of business activities

As part of supervising the ORF's business activities, KommAustria audited the consolidated financial statements and the individual financial statements as at 31 December 2017 during the 2018 reporting year. In this case, and based on the service agreement, the KommAustria audit commission issued audit reports with unqualified audit certificates for the ORF and its subsidiaries.

Another key part of the supervision of ORF business activities is to perform a business audit to ascertain whether ORF management is complying with the principles of economy, efficiency and expediency. In the 2018 reporting year, the business audit for the 2016 business year was materially concluded with the submission of the audit report by the audit committee. The audit reports for 2017 were also submitted to KommAustria, with the authority identifying no grounds in the reports for initiating any further procedures.

A further area of economic oversight during the reporting period concerned verifying compliance of the restructuring of one ORF subsidiary with the separation provisions set out in the ORF-G.

Finally, two complaint procedures involving the ORF were pending on account of breaches of the requirement to conform with market practices, specifically by acquiring broadcasting rights at inflated prices. One complaint was withdrawn, while the other procedure is still pending.

During the reporting period, KommAustria also carried out three procedures, based on Art. 38b ORF-G, to skim off revenues from the economic advantage the ORF achieved by breaching advertising provisions; one of the cases was able to be completed with final effect in 2018. Here KommAustria had skimmed off EUR 20,927.11 generated through illegally broadcast commercial communications (the figure is not final).

2.2.5 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 in this case is to ensure that providers continue to fulfil the legal prerequisites for broadcasting or for providing a media service even after a licence is issued or a service notified. These prerequisites include professional, financial and organisational qualifications, absence of grounds for disqualification, and safeguarding of a diversity of opinions (avoidance of excessively high media concentration). Any breach of or failure to meet these (licensing) prerequisites constitutes grounds for revoking the broadcasting licence or for prohibiting broadcasts.

In order to enable the regulatory authority to monitor compliance by broadcasters with these legal prerequisites, the PrR-G and the AMD-G require any and all (direct or indirect) changes in ownership or membership shares to be reported to the regulatory authority. Since 1 August 2015 it is has been sufficient for channels or stations subject to notification requirements to report any changes in ownership amounting to less than 50% of shares merely as part of meeting the requirement to update. In a total of 14 cases in the 2018 reporting year, KommAustria carried out procedures to identify infringements involving failure to notify changes in ownership. In an additional three cases, administrative penal procedures were carried out due to failure to notify changes in ownership. Moreover, in those cases where new partners acquire more than 50% of the shares in a radio broadcaster, prior to the transfer of shares, an official decision must be obtained from KommAustria to determine whether the relevant legal prerequisites for radio broadcasting will continue to be met under the new conditions. To determine whether the legal prerequisites were still being met after a transfer of more than 50% of ownership, a total of three procedures pursuant to the PrR-G were completed with final effect during the 2018 reporting period.

Another area of activity under the legal supervision of KommAustria is the option for radio broadcasters to request an official 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 a consideration of 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. However, if KommAustria determines that a planned change does in fact constitute a fundamental change in programming, the broadcaster is required to obtain official approval.

Under the AMD-G, holders of broadcasting licences for satellite and digital terrestrial television channels also have the option of applying for approval of major changes to their satellite or digital television programmes. As these licences are not issued by

way of a competitive selection procedure, broader options for programme changes are available. Eight related procedures were conducted and completed during the reporting year.

Holders of licences for multiplex platforms similarly have the option of making changes to the programme line-up being broadcast via their platforms and 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. In the 2018 reporting year, KommAustria carried out a total of twelve such procedures and completed ten of them. During the 2018 reporting year, KommAustria also conducted three procedures to identify breaches of provisions, one due to delayed notification of operation of recently approved radio transmission equipment, another in response to suspected broadcasting without a licence, and the third due to failure to submit requested recordings of a radio programme.

2.3 Public communications networks and services

Operators and providers must notify to KommAustria any planned operation of a public communications network or provision of a public communications service used to transmit broadcasts (radio and television programmes) or provide additional broadcasting services, as well as any changes to or discontinuation of such services. This notification requirement applies to all operators of such communications networks and all providers of such services in Austria, regardless of their domicile. After receiving a complete notification report, KommAustria issues confirmation (general authorisation) pursuant to Art. 15 Par. 3 in conjunction with Art. 120 of the Telecommunications Act 2003 (TKG 2003).

In practice, this notification requirement is especially important in the case of broadcasting activities by cable network operators. 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 programming package that comprises of radio and television programmes and that is distributed via satellite or cable in return for a fee.

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

Additional information can be found on the RTR website at
www.rtr.at/en/m/RFAGGVerzeichnis.

Pursuant to the TKG 2003, 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 2018 reporting year, KommAustria also reviewed ORS' adherence with imposed obligations relating to the wholesale market for FM radio in 2017, 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   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 relevant provisions of the Constitution and other laws specify as being subject to business auditing by the Court of Audit. As the independent recipient of the reports, KommAustria has the duty to verify compliance with reporting requirements.

To achieve the objective of 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. These lists – referred to as Ampellisten or 'watch lists' – can be viewed (in German) at www.rtr.at/de/m/veroeffentl_medkftg_ampel.

The second measure is publication, here again on a quarterly basis, of 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 particular (legal) persons who received media funding. This information can be viewed (in German) at www.rtr.at/de/m/veroeffentl_medkftg_daten.

Reports have been submitted for a total of 26 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 became stable at a high level in 2018. Over the year on average, more than 99% of the legal entities required to report had complied. Some four penal procedures were initiated on average each quarter as a result of failure to report. In addition, one administrative penal procedure was initiated in Q1 2018 in response to an obviously inaccurate or incomplete report.

An analysis of recent quarters also revealed that about 80% 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 5,400 legal entities currently required to file.

2.5 Administration and coordination of broadcasting frequencies

After 2017, when broadcasting frequency planning concentrated on defining a Europe-wide television frequency plan excluding the 700 MHz band, attention in 2018 was focused on how to implement the new frequency plan. An analysis of the new DVB-T2 frequency plan revealed roughly 80 Austrian radio transmitters still requiring technical modifications as a prerequisite for freeing up the 700 MHz band by mid-2020. The countries neighbouring Austria have also presented strategies and national timetables for freeing up the 700 MHz band. Questions requiring clarification here included: How can we migrate TV channels so as to affect viewers as little as possible? How can we minimise the expense involved? Are we able to provide compensation payments? How should we deal with licences valid beyond 30 June 2020?

The conversion from DVB-T to DVB-T2, already completed in Austria, still awaits resolution in neighbouring countries. The Czech Republic's move to take TV channels 30 and 47 out of service ahead of schedule was important for Austria, as it allowed these channels to be used in Vienna prior to 30 June 2020 as defined in the new frequency plan.

Switzerland illustrates how much the situation in relation to terrestrial television can vary among the various European countries. That country decided to shut down terrestrial digital television completely in 2019, after reducing the power output of some DVB-T transmitters in recent years.

Regarding the T-DAB+ standard, a multilateral working group has, after several years' effort, finalised frequency coordination between Switzerland, Liechtenstein and Germany. For the first time in December 2018, a three-day meeting was held in Vienna with representatives from the Czech Republic, Hungary and Slovakia – neighbours playing a role in coordination efforts in eastern Austria – in order to discuss in detail how to implement the 2006 Geneva frequency allotment plan based on an assignment plan that allows use of the existing 'high-power high-tower' broadcasting networks for at least a specified number of nationwide multiplexes.

When the allotment plan was laid down at the Geneva Conference in 2006, it was assumed that any future T-DAB+ broadcasting network would be implemented in a way similar to mobile networks – obviously an erroneous assumption. In reality, countries such as Germany and Switzerland that already operate a relatively high number of T-DAB+ broadcasting networks use the existing network structure based on 'high-power high-tower' broadcasting networks.

2.5.1 Collaboration in licensing and assignment procedures

Radio

Numerous technical evaluation reports were required before KommAustria was able to issue permits in 2018 for radio under telecommunications law. Those reports related to the technical assessment of applications to create new coverage areas, to expand and deepen coverage within existing FM coverage areas, and to have existing licences renewed.

An application for a nationwide FM licence was submitted in early 2018. In accordance with the terms of the report commissioned by KommAustria, various models were used to calculate the coverage range.

In response to an application by Radio Arabella GmbH to combine twelve frequencies in Vienna and Lower Austria, a technical frequency report was prepared to evaluate a potential combined licence, as referred to in Articles 28e et seq. of the PrR-G, for Vienna and Lower Austria.

Two new FM frequencies for Salzburg were able to be coordinated with other countries; the frequencies were assigned to Radio Maria in the reporting year.

Ten event-related radio stations launched services in the year in question, with most broadcasting in Vienna as in previous years. Evaluation reports were prepared pending approval for four educational radio stations. Numerous evaluations involved verifying the compatibility of audio description systems, which are used at events throughout Austria.

The ORF expanded coverage to additional road tunnels in Salzburg and Tyrol. Antenne Vorarlberg also expanded radio coverage in road tunnels.

Many radio broadcasters were assigned new FM frequencies, in addition to modifying technical parameters at existing transmitter locations to improve coverage. Several transmitter locations that could not be realised as originally planned had to be relocated.

Available FM frequencies for broadcasting analogue terrestrial radio have become a scarce commodity. With a view to alleviating the scarcity, Antenne Österreich tested analogue single-frequency broadcasting under real conditions at Wiener Neustadt in October 2018. Under challenging frequency and topography conditions, a synchronisation system was used that digitises the entire multiplex signal in the studio and adds a time stamp. The system still does not allow regions referred to as 'interference areas' to be completely avoided, but these are minimised thanks to improved guard intervals. The tested frequency was assigned to Antenne Österreich in the reporting year.

A procedure was conducted in the reporting year to renew the licence for East Tyrol and Upper Carinthia.

Digital television

Only minor changes to the coverage provided on the basis of the five nationwide DVB-T2 multiplex licences were seen during the 2018 reporting period. One channel had to be migrated at several locations as a result of freeing up the 700 MHz band. Converting to a code rate of 2/3 entailed some effort. This was done specifically for multiplexes B, D, E and F.

A total of nine local or regional multiplex licences (MUX C) were renewed in 2018, with technical evaluation reports being prepared simultaneously. Approvals for over 20 broadcasting systems were renewed, in some cases due to only minor technical changes and, in others, because of channel migration to free up the 700 MHz band. In frequent cases systems were converted to the new DVB-T2 transmission standard. The various multiplex licences comprise between one and six broadcasting locations.

A multi-party procedure was carried out as part of renewing the licence for the MUX C platform in the geographic area of Graz. This resulted in the implicit need for additional frequencies – a tall order in this area. Thanks to cooperation from administrations in neighbouring countries, it was possible to re-coordinate channel 24.

Digital radio

International talks for coordinating the broadcasting systems to support the first nationwide DAB+ multiplex (MUX I) continued to prove challenging in the 2018 reporting year. After the technical frequency plans for MUX I were revised several times, international coordination efforts finally yielded a satisfactory interim agreement.

Collaboration with Italian frequency administration authorities deserves favourable mention here. Not only was it possible to coordinate MUX I coverage nationwide with Italy, but all available spectrum in broadcasting band III was divided up on even terms between Austria and its neighbour to the south. The bilateral frequency agreement was signed in Rome in October 2018. The agreement highly facilitates international frequency coordination with Italy in the event of future tenders.

Through international coordination, those of Austria's neighbours who 'intensively' use T-DAB+, including Germany and Switzerland, have further consolidated their existing broadcasting networks. This factor is also reflected in the number of coordination procedures with those countries. Numerous coordination procedures relating to T-DAB+ broadcasting networks also involved Hungary. However, the coordination plans had to be recognised as unrealistic in their present form.

2.5.2 Frequency coordination procedures and frequency usage

The following table lists the number of frequency coordination procedures for radio, initiated at international level, with Austrian involvement in 2018.

TABLE 07:   FREQUENCY COORDINATION PROCEDURES FOR RADIO IN 2018

Country	Analogue radio	Digital radio	Digital television	Analogue AM
Austria	64	18	38	0
Bosnia	1	0	0	0
Germany	15	49	2	0
Italy	0	0	0	9
Croatia	2	0	0	0
Poland	9	0	0	0
Switzerland	4	83	22	0
Slovakia	5	0	1	0
Slovenia	13	4	0	0
Czech Republic	26	12	9	0
Hungary	1	90	19	0
Total	**140**	**256**	**91**	**9**

Working group meetings

A working group meeting with telecoms administration representatives from the Czech Republic, Hungary and Slovakia was held in Vienna from 11 to 13 December 2018. The focus of the meeting was the replanning of band III, the VHF range between 174 and 230 MHz, to allow T-DAB+ broadcasting networks to be operated at least to some extent using high-power high-tower transmitters.

Initial steps were taken to detail planning guidelines. The representatives exchanged new, updated data relating to possible broadcasting networks. The goal is to specify a coordinated frequency plan that most closely meets all national requirements.

2.5.3 Measurement projects

In the context of licensing and coordination procedures, measurements were taken to examine the propagation characteristics of broadcasting transmitters under real conditions. RTR's measurement bus completed over 30 tours in the reporting year. A total of nine measurement tours were conducted using test transmissions, one of which involved analogue single frequency broadcasting and another to examine the implications of adjacent block usage for T-DAB+ services.

As part of the bilateral frequency negotiations with Italy, detailed VHF/UHF measurements were necessary in the Villach area; these involved the transmitters Villach 3, Wolfsberg 1, Bleiburg 2 and the one located at Tarvisio, Italy.

The other measurement tours were related either to international coordination procedures or to frequency planning, in the latter case to investigate potential mutual interference of radio frequencies.

2.5.4 Frequency register

The frequency register and transmitter map currently list over 1,350 radio transmitters in the FM band, with power output ranging from less than 1 W to 100 kW.

The ORF accounts for about 850 frequencies, while the other roughly 500 frequencies are used by private broadcasters.

Within the 470–790 MHz television band, spectrum was divided up among the currently approved DVB-T/T2 transmitters as shown below at the end of 2018.

TABLE 08: APPROVED DVB-T/T2 TRANSMITTERS (AS OF 31 DECEMBER 2018)

DVB-T2 multiplex A (ORS multiplex)	316 transmitter
DVB-T2 multiplex B (ORS multiplex)	43 transmitter
DVB-T2 multiplex C (regional/local multiplex platforms)	16 transmitter
DVB-T multiplex C (regional/local multiplex platforms)	17 transmitter
DVB-T2 multiplex D (ORScomm multiplex)	43 transmitter
DVB-T2 multiplex E (ORScomm multiplex)	43 transmitter
DVB-T2 multiplex F (ORScomm multiplex)	43 transmitter

In the VHF band III, which is assigned to T-DAB+ services, the T-DAB+ multiplexes listed below were approved as at the end of 2018.

TABLE 09:   APPROVED DAB+ TRANSMITTERS (AS OF 31 DECEMBER 2018)

DAB+ multiplex I (ORS comm)	14 transmitter
DAB+ multiplex II (RTG Radio Technikum GmbH)	1 transmitter

Data on approved broadcasting transmitters are available to the public on the RTR website (www.rtr.at) in the form of a transmitter map as well as tables.

2.5.5   Contributions to working groups under international organisations

Participation in ITU study group 6

Study group 6 of the International Telecommunications Union (ITU) met on two occasions in Geneva; the ITU is responsible for global standardisation of broadcasting systems. One of the main topics was technical interference to broadcasting services that might result from new radio services other than broadcasting.

Participation in the EU RSPG working group: Good Offices

As of the end of 2017, the EU Member States had successfully met the goals defined by the Radio Spectrum Policy Group (RSPG) in connection with freeing up the 700 MHz band. In the reporting year, the working group devoted itself to a formal review of the steps taken at national level to free up the 700 MHz band. To do this, the previously used questionnaire was slightly revised and sent out to all EU Member States as well as to neighbouring countries. As the individual Member States have varying migration scenarios, it is not yet certain whether the 700 MHz band will in fact be freed up in several areas as of 30 June 2020. Even so, it currently appears that migration will have been completed almost everywhere in Europe by that date.

2.6 International activities

2.6.1 KommAustria and ERGA

The European Regulators Group for Audiovisual Media Services (ERGA) was created as an association of leading or high-level representatives from the independent national European regulatory authorities in the field of audiovisual media services, and tasked with advising the European Commission in the implementation of the Audiovisual Media Services (AVMS) Directive.

ERGA objectives include:
- ensuring the consistent implementation of the AVMS Directive;
- facilitating cooperation between regulators within the EU;
- enabling sharing of information about good practices.

Activities in 2018 focused on: sharing knowledge about internal and external plurality; sharing experience and good practice examples from regulators' areas of responsibility, with the aim of broadening the legal framework as part of the planned amendment to the AVMS Directive; and, building on the achievements of the working group in 2017, continued analysis of the existing legal framework applying to co-regulation and self-regulation. The ERGA's activities in various working groups yielded several reports.

At a meeting attended by EU Commissioner for Digital Economy and Society Mariya Gabriel, one of the discussion topics was the role of women in media. The EU Commissioner underscored the importance of women in media, while emphasising ERGA's key role in the discussion of media clichés relating to role models. The focus at the next meeting was the role of women in advertising, as shown by case studies.

The ERGA Academy, a project launched in 2017, held a conference to discuss disinformation in online media and the use of algorithms. Besides a keynote speech by Prof. Oreste Pollicino of Bocconi University, case studies from Italy, Slovakia, Sweden and the UK were presented, with a discussion of the various approaches then taking place. Afterwards, Judith Möller of the University of Amsterdam presented insights into the role of algorithmic systems in proposing news stories.

Under the ERGA Academy, a follow-up workshop focusing on youth protection was held in October 2018, with several case studies – some relating to errors Member States – being presented.

2.6.2   KommAustria and EPRA

The European Platform of Regulatory Authorities (EPRA), which currently counts 52 European regulatory authorities as members, held two meetings to discuss the annual work programme. Here the focus of the EPRA in 2018 was an analysis of the effects of digital disruption as well as the changing role of media. Attention was also given to the implications for democratic society as well as to technical and economic aspects of the changes. Expanding on these topics, individual meetings featured expert discussions and presentations of good practice relating to these topics: the future of public broadcasting in a digital age; regulation of political communication in the age of social media; commercial communication 2.0; and approaches to achieving greater broadcasting diversity.

2.6.3   Cooperation of consumer protection authorities

Based on Regulation (EC) No. 2006/2004 on cooperation in the area of official assistance between national authorities responsible for the enforcement of consumer protection laws, KommAustria exercises its role as the competent authority in the area of commercial audiovisual communications.

As part of related activities in 2018, KommAustria was involved in the implementation of the recast Regulation (EU) 2017/2394 of 12 December 2017, which had resulted from revising an earlier Regulation.

03

Report on digitalisation progress
(Art. 19 KOG)

03 Report on digitalisation progress
(Art. 19 KOG)

3.1 Digital radio – usage and developments

3.1.1 Digital linear television

As of the end of 2018, 7.501 million Austrians aged twelve and over were residing in 3.822[2] million television households. This represents an increase of 27,000 TV households and 30,000 individuals compared with the figures at the end of 2017. Between 2016 and 2017, the number of TV households in Austria had risen by 101,000, while the number of residents aged twelve and above living in those households had climbed by 169,000.

Stable pattern of usage for the three conventional TV reception modes

The relative shares of satellite, cable and terrestrial as TV reception platforms – all of which have been exclusively digital since late 2017 – remained unchanged for the second consecutive year. In detail, as of December 2018, 54% of TV households watched television via satellite and 40% by means of a cable connection, while 6% received TV broadcasts via a (terrestrial) house or room antenna.

FIGURE 02: DISTRIBUTION OF RECEPTION MODES AMONG AUSTRIAN TELEVISION HOUSEHOLDS
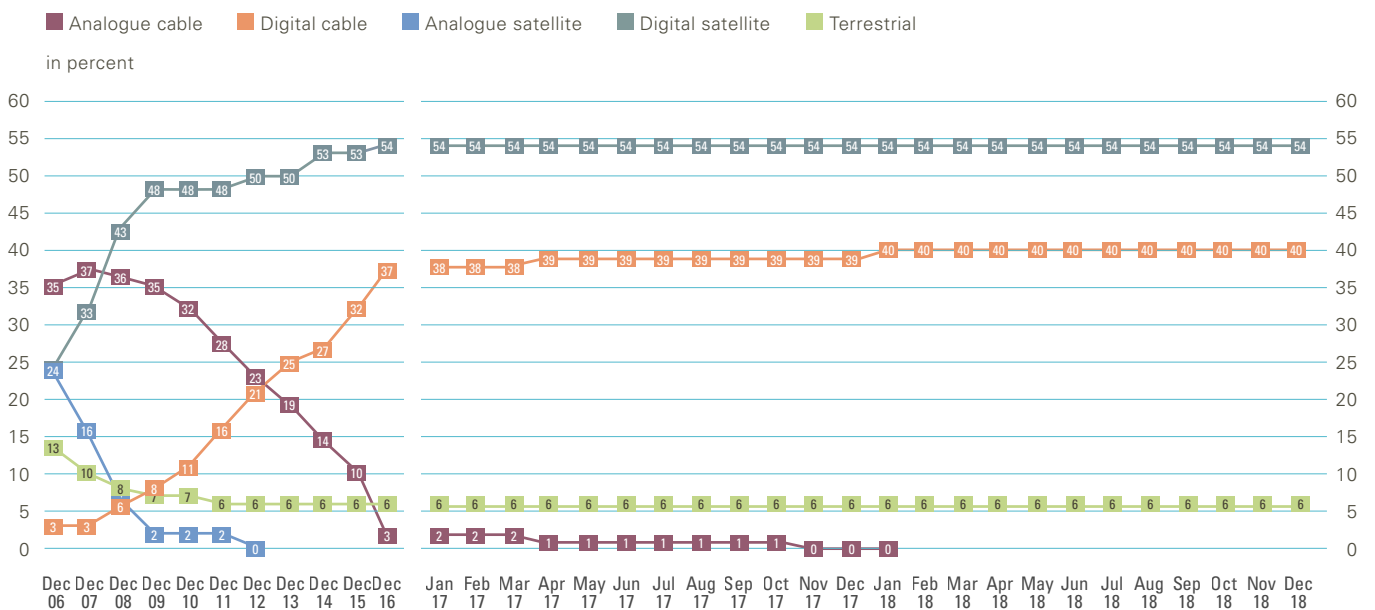
* Terrestrial includes around 20,000 cable households with basic coverage (reception of roughly eight TV channels). Source: AGTT/GfK Austria.

2 Unless otherwise specified, all data originate from the TELETEST Working Group/GfK Austria (2018).

Growth only among cable households

It is worth noting that all of the additional 27,000 TV households in 2018 selected cable as the reception mode. This contrasts with satellite as a reception platform, which, after gaining another 8,000 households by May 2018, fell back to the level of December 2017 (2.049 million) by the end of the year. Losing 2,000 households over the year, terrestrial reception claimed 226,000 households as of December 2018. The number of cable households, on the other hand, rose to 1.547 million by the end of 2018, an increase of 28,000.

Back in 2017, the increase in Austrian television households, by 101,000, had been more or less equally distributed among the three TV reception platforms.

3.1.1.1   Satellite

While the percentage of satellite households in TV households overall remained unchanged at 54% in 2018, the absolute figure, 2.049 million, was also unaltered from the previous year. Yet there was a considerable drop in the number of persons aged twelve and over residing in satellite households. Declining by 110,000 compared with 2017, this category now numbers only 4.235 million individuals. The percentage of the viewing population living in satellite television households dropped by a corresponding 2 percentage points to 56%.

3.1.1.2   Cable including IPTV

As of the end of 2018, Austria had 1.547 million cable television households (2017: 1.519 million). This continues to translate to 40% of all television households. In contrast, the percentage of television viewers aged twelve and above who live in cable households climbed by 2 percentage points over the previous year to 39%. In absolute terms, viewer numbers jumped to 2.885 million, an increase of 115,000 compared with December 2017.

IPTV households are included in the 'digital cable' reception mode. Growth in this category in 2018 was even stronger than among cable households overall, with IPTV households numbering over 308,000[3] by the end of 2018 (2017: 291,000) and representing roughly 19.9% of digital cable households (2017: 19.4%; 2016: 20%; 2015: 22.7%). In absolute figures, the number of IPTV households rose by 17,000 households compared with the previous year (2017: +12,000); this group is made up almost entirely of subscribers to A1 TV from A1 Telekom Austria AG.

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[3] Unless otherwise specified, all data originate from the TELETEST Working Group/GfK Austria (2018).: "Results for the first nine months and third quarter 2018", Oct 2018

3.1.1.3 Terrestrial

At year-end 2018, 226,000 Austrian television households were using digital terrestrial television as their primary or sole form of television reception. This is a decrease of 2,000 households compared with 2017. At the same time, the number of viewers aged twelve and over living in these households decreased more sharply, from 392,000 to 380,000 (360,000 in addition to roughly 20,000 living in households with 'basic cable service')[4]. The varying rates at which DVB-T2 households and the number of individuals living in such households are decreasing indicates a continuously growing share of one-person households among terrestrial-only television households.

Decline in the use of digital terrestrial television for second sets

In addition to the 6% of TV households where digital terrestrial television is the only form of reception, DVB-T2 is also used in satellite/cable television households as an additional reception platform for second TV sets. Yet, compared with previous years, watching TV via antenna had already become a less significant factor in 2017. This trend continued in 2018.

In addition to the roughly 360,000 viewers aged twelve and over who live in terrestrial-only television households, the overall figure includes another 155,000 persons in satellite households with secondary terrestrial usage (2017: 169,000). Added to this are another 35,000 individuals living in cable households with supplementary terrestrial reception (2017: 27,000). In all, some 540,000 persons – or 7.6% of the viewing population aged twelve and over – live in households with terrestrial TV reception. The same figure at the end of 2017 had been 587,000 or 8% of the viewing population; and at year-end 2016 as many as 867,000 individuals or 12% of all TV viewers had access to terrestrial reception in their own homes.

The decrease in the number of individuals living in terrestrial reception households in 2017 was solely due to a decline in satellite and cable households using terrestrial receivers as second sets. This contrasts with 2018, when cable households were the only category with additional DVB-T2 usage to grow, showing a slight increase of 8,000 individuals. Yet the number of persons living in satellite households using DVB-T2 with additional sets decreased by 14,000 in 2018 from the previous year, while 12,000 fewer individuals than in 2017 were living in terrestrial-only households, which only account for a small share.

Technical range of terrestrial multiplexes in 2018

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

The percentage of the population also living in the multiplex C reception area, with programming varying from region to region, likewise remains unchanged at 64%.

3.1.1.4 Digital terrestrial television – spectrum refarming (second digital dividend)

It has been agreed across Europe to free up the 'second digital dividend' – that is, the television spectrum above channel 48 (700 MHz band – by June 2020, primarily for subsequent use by mobile broadband services. In 2018 KommAustria took this target

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[4] Households without a cable plan in residential buildings with cable access; number of channels comparable to free DVB-T2 service

into account when putting to tender expiring licences for regional and local terrestrial television transmissions (multiplex C). Of the ten multiplex C broadcasting systems still operating above channel 48 in 2017, only three remained as of year-end 2018.

The number of national multiplex broadcasting systems still operating in the 700 MHz band did not change in 2018. Here, the focus in 2018 was on identifying a legislative solution to compensate for the conversion expenses of broadcasting system operators holding licences with extended validity. The legislature passed an amendment to the KommAustria Act (KOG) effective as of 1 December 2018, with Art. 33a–33c specifying a compensation procedure and entrusting the RTR media division with administrating this task.

Nine multiplex A broadcasting systems were still operating in the 700 MHz band as of the end of 2018. Broadcasting systems belonging to the nationwide multiplexes B and D no longer operate above channel 48. In the nationwide multiplexes E and F, a total of 35 broadcasting systems still need to be migrated from the 700 MHz band to the UHF band below it (470 MHz to 694 MHz). Of those, eleven belong to multiplex E and 24 to multiplex F.

3.1.2 Digital radio

3.1.2.1 DAB+ in the Vienna area

Following a three-year test phase, the first set of digital radio programmes began broadcasting on a regular basis in Vienna on 4 April 2018. A total of 14 stations broadcast locally based on the DAB+ transmission standard (as of December 2018). KommAustria had issued the corresponding regional licence to RTG Radio Technikum GmbH back in mid-December 2017. The licence applies to the broadcasting region of 'Großraum Wien und Teile des Wiener Umlandes' (greater Vienna and parts of its neighbouring areas), with a technical range covering about 2.25 million people.

3.1.2.2 Licence for nationwide DAB+ digital radio

On 2 August 2018 KommAustria issued the first licence for a nationwide multiplex platform to broadcast digital terrestrial radio using the DAB+ standard. The broadcasting rights for a ten-year period as of 4 April 2019, as requested in the application, were awarded to applicant ORS comm GmbH & Co KG, based in Vienna.

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.

Radio stations can also be received in digital terrestrial mode via the DVB-T2 multiplexes primarily used for terrestrial television. ORF radio stations Ö1, Ö3 and FM4, for example, are broadcast without encryption via multiplex A, which achieves the highest technical range of coverage among the population (98%). Private radio stations Oe24, Radio Maria and KRONEHIT are broadcast by way of multiplex F, which is also nationwide and has a technical range of 92% of the population. KRONEHIT, the only station broadcast using basic encryption, can also be received free of charge but only following registration for the freeview television channels offered by simpliTV.

Management of funds
and grants

04 **Management of funds**
and grants

4.1 Digitisation Fund

In 2018, the Digitisation Fund received an endowment of EUR 0.5 million. 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 those broadcasting fees which, while collected jointly with ORF programme fees, are primarily allocated to the federal budget.

One of the key points of focus for the Digitisation Fund in 2018 was funding the rollout of regular DAB+ service. The guidelines for the awarding of grants from the Digitisation Fund to support the introduction of regular DAB+ service were completed, with publication on 27 February 2018.

The project involves the introduction of a regular service for the digital broadcasting of radio stations using the DAB+ standard. The funding provided covers the expense of planning, procuring and setting up the technical infrastructure (technical broadcasting costs) or the prescribed portion of the fees paid by broadcasters to cover the technical costs of broadcasting DAB+ radio programmes. These costs refer to the technical expenses that the multiplex operators charge to the broadcasters of digital terrestrial radio stations for broadcasting the radio programmes.

During the year, a total of eleven radio station broadcasters applied for a grant in accordance with the guidelines, namely: ARBÖ, ERF GmbH, max digital GmbH, Mein Kinderradio Ltd., Radio Arabella GmbH, Radio Maria Österreich, RTG GmbH, Sout Al Khaleej Radio GmbH, Mega Radio GmbH, Radio Eins Privatradio GmbH and Rock Antenne GmbH. The Digitisation Fund supported these projects with grants that met 50% of the project costs eligible for funding. The findings based on regular service are scheduled to be compiled into a report at the end of the funded project term and submitted to RTR for publication, in accordance with reporting requirements for the Digitisation Fund.

In 2018 ORS comm GmbH & Co KG (ORS) submitted its final report on the project, launched in 2015, for conducting technical trials of the digital broadcasting of existing and new radio stations using the DAB+ standard, as well as trials of radio station-related developments in digital radio. This project had two aims: first, to present radio station broadcasters and data service providers with findings to help them prepare tenders and business models for digital radio; and second, to provide the regulatory authority with insights to aid in further development of the Digitisation Plan for the digital radio sector.

The Digitisation Fund was also intensively concerned in early 2018 with the funding strategy for the years to follow. The anticipated funding targets until 2020 have been set out in the plan for awarding grants from the RTR Digitisation Fund.

4.1.1 Notes on the 2018 annual accounts

Based on the statement for the trustee account as at 31 December 2017, and considering the credits and debits as well as the grants already approved but not yet disbursed, about EUR 3.250 million was available in the fund as at 31 December 2018 (see the table below for details).

TABLE 10:   DIGITISATION FUND – EXCERPT FROM THE 2018 ANNUAL ACCOUNTS

Income and expenditure statement	Euro	
Trustee account balance as at 31 December 2017	3,256,721.59	
Credits		
Revenues received in 2018	500,000.00	
Repayment of administrative expenses from 2017	10,999.66	
Interest	1,936.96	512,936.62
Debits		
Administrative expenses and RTR participation in projects in 2018	-87,780.00	
Grant disbursements in 2018	-344,809.82	-432,589.82
Trustee account balance as at 31 December 2018 Balance resulting from initial amount, credits and debits in 2018		**3,337,068.39**
Outstanding administrative expenses in 2018 and RTR participation in projects in 2018, for repayment in 2019	-14,815.69	14,815.69
Balance of trustee obligations as at 31 December 2018		**3,351,884.08**
Approved grants pending disbursement		-101,740.50
Funds available in 2019		3,250,143.58

Source: RTR

4.2 Austrian Television Fund

The Austrian Television Fund (FERNSEHFONDS AUSTRIA) was set up in 2004 by the Austrian federal government to provide support to the Austrian film industry and promote Austria as a media sector location. The fund supports the production and commercial exploitation of television films, series and documentaries. RTR manages the fund, for which it is allocated EUR 13.5 million annually from the Austrian public purse. Grants awarded from this fund are subject to guidelines that, together with Articles 26 to 28 and Articles 23 to 25 of the KommAustria Act (KOG), constitute the legal basis for the activities of the Austrian Television Fund.

One of the aims of the Austrian Television Fund is to provide financial backing to independent Austrian producers, in this way stimulating the productivity of the domestic production sector. Funding the production of film projects leads to long-term job creation, while contributing to the diversity of the Austrian cultural landscape by improving the quality of TV productions. Grants from the fund also strengthen the audiovisual sector in Europe as a whole. Key criteria considered by the grant award process include value creation and spending in Austria.

New grant guidelines as of 1 December 2018

Following the entry into force of the last amended guidelines in December 2015, market developments already considered in them continued apace – namely an increased focus on exploitation in the pay TV, VoD (video on demand) and streaming segments. To account for this trend, by acting to strengthen the hand of the production industry, restrictions on television broadcasters acquiring rights for these forms of exploitation have been tightened in the new guidelines, which entered into force on 1 December 2018.

One of the most significant changes affects the acquisition of pay TV rights, which television broadcasters can now acquire only for half of the licence period.

Recent experience has shown that linking the purchase of rights to financial participation by television broadcasters is an effective practical strategy: accordingly, the opportunity to acquire pay TV VoD rights by television broadcasters has now also been linked to the level of their financial participation. The aim is for these types of exploitation to provide long-term financial assistance for the benefit of producers. Moreover, the special arrangements governing broadcaster-affiliated distribution have been harmonised: the 'corridor rule' applying to productions with fictional content now applies in principle to all companies affiliated with television broadcasters.

The guidelines have been more clearly structured, and the content and language has been simplified.

Support for television films in 2018

Production grants

As was the case in 2017, the available grant money was exhausted early on after the second submission deadline in 2018. This was due to the increase in the number of applications – with 72 projects being submitted for production funding – as well as the total value of grant monies requested. It was the first time in the fund's history that production funding applications exceeded as early as by the first deadline the annual amount available to the fund.

Grants totalling EUR 12,782,000 were ultimately approved for 55 projects.

The planned total production costs for the projects receiving grants amounted to roughly EUR 70.6 million. About EUR 41.6 million is expected to be spent in Austria for the production of these films. The latter figure represents 3.3 times the total amount of grants awarded by the Austrian Television Fund.

Details of production grants

The 55 grants approved provided support to eleven television films, two series and 42 documentaries. The figure below gives details on how the funding was proportionally distributed:

FIGURE 03:   AUSTRIAN TELEVISION FUND – GRANTS APPROVED IN 2018
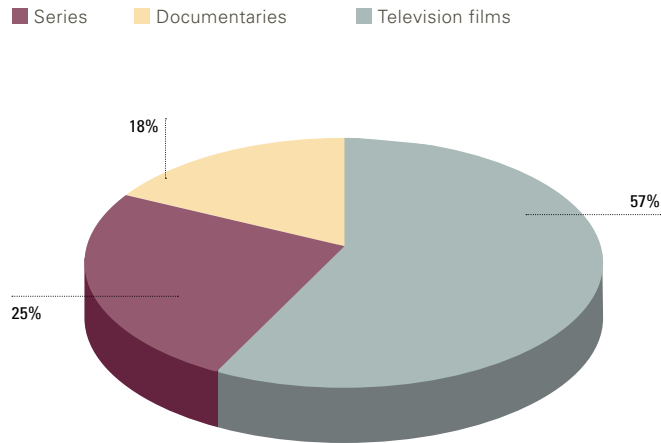
Source: RTR

The proportion of funding awarded to the television film segment rose from 40% to 57% compared with the previous year. The overall grant share for series fell, from 37% to 25%, as was the case for grants approved for documentaries, which decreased from 23% to 18%.

FIGURE 04:   AUSTRIAN TELEVISION FUND – SHARE CONTRIBUTED TO PROJECTS
FUNDED IN 2018

- grants
- own funds/sponsoring
- distribution (agreements)
- television broadcasters

9%   6%

27%

58%
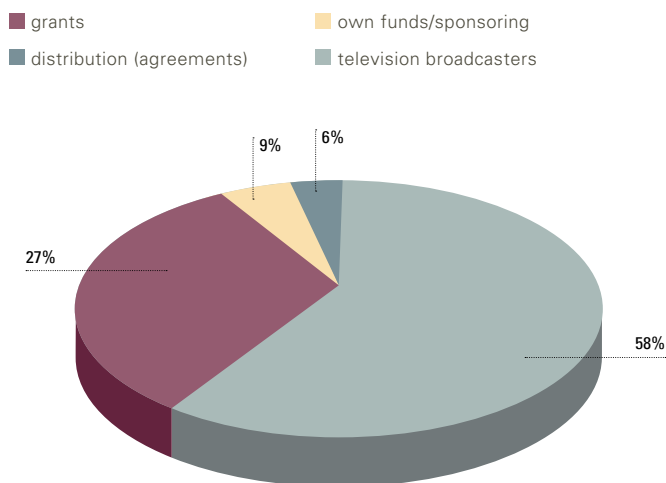
Source: RTR

For the approved productions, the shares of financing provided by the various sources – grants, television broadcasters, distribution and own funds/sponsors – remained roughly the same compared with the previous year.

The supported projects received 58% of their funding from television broadcasters, 27% from grants, 9% from own funds and sponsoring, and 6% through distribution agreements.

One significant change is that the proportion of financing obtained via distribution agreements has doubled year-on-year from 3% to 6%, while contributions from public funds have declined from 31% to 27%.

It should also be noted that the percentage proportion of co-financing from funding bodies other than the Austrian Television Fund also declined from 13% to 9%. Of a total of 55 film productions supported, only five of these projects received grants from European funding bodies. Financial support for the remaining 50 projects was provided solely by funding bodies based in Austria.

RTR

The figure below gives a breakdown of the funding in detail:

FIGURE 05:   FINANCING SHARES FOR TELEVISION FILM PROJECTS FUNDED IN
                   2018 (X-AXIS IN EUR)
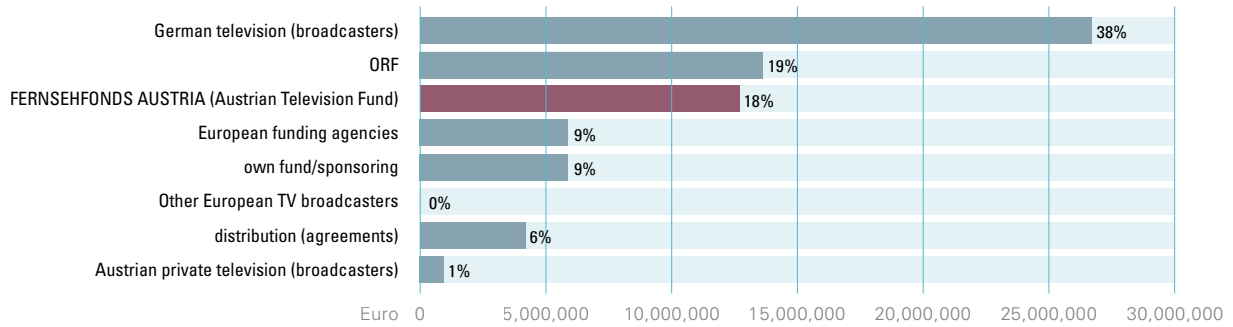
Source: RTR

Participation by television broadcasters

Of the 55 projects funded, 48 television productions were co-financed by the ORF. Compared with the previous year, participation by Austrian private television broadcasters declined from seven projects to five. Two projects were produced solely with support from foreign television broadcasters.

German television broadcasters contributed to a total of 28 projects. While twelve projects had benefited from financial contributions by an international broadcaster in 2017, this figure halved in 2018: European television broadcasters from Belgium, the Czech Republic, France, Italy, Poland and Switzerland were involved in the production of only six productions (figure excludes Germany).

And every one of those six productions was a documentary. In the film and series segments, Germany was the only European country with broadcaster involvement.

From an international perspective (beyond Europe), no foreign television broadcaster was involved in any production in 2018, although there had been three such projects in 2017.

Women's share in the funded projects

A positive trend can be reported in terms of appointments to senior management positions (direction, screenplay and production). Compared with the previous year, the proportion of female executive producers rose by four percent. The percentage of women working as directors or screenwriters also rose from 32% to 40%. Of the eleven television films supported, a total of four productions were directed by women.

TABLE 11:   AUSTRIAN TELEVISION FUND – GENDER STATISTICS FOR FUNDED PROJECTS

	Female Number	**Female** in %	**Male** Number	**Male** in %
Executive producers	6	11%	49	89%
Directors	34	40%	51	60%
Screenwriters	42	44%	53	56%

Exploitation grants

Grants totalling EUR 182,397 were approved in 17 cases in 2018. To support the distribution of their film projects, producers received Austrian Television Fund grants to produce versions for viewers with hearing and visual impairments, versions in other languages and for participation in film festivals.

Full details of the projects supported and the grant award guidelines are published on the Austrian Television Fund's website (www.fernsehfonds.at) and in the film library (www.rtr.at/en/ffat/filmarchiv).

Notes on the 2018 annual accounts

Based on the statement for the trustee account as at 31 December 2018, and considering the credits and debits as well as the grants already approved but not yet disbursed, about EUR 2018 3,439,149.55 was available in the fund as at 31 December 2018; see the table below for details.

TABLE 12:   AUSTRIAN TELEVISION FUND – EXCERPT FROM THE 2018
              ANNUAL ACCOUNTS

FERNSEHFONDS AUSTRIA	Euro	
Trustee account balance as at 31 December 2017		**4,821,166.56**
Credits		
Revenues received in 2018	13,500,000.00	
Repayment of administrative expenses from 2017	60,091.54	
Grant repayments	6,579.07	13,566,670.61
Debits		
Administrative expenses in 2018	-744,540.00	
Interest/fees	-1,786.72	
Grant disbursements in 2018	-14,253,292.51	-14,999,619.23
Trustee account balance as at 31 December 2018		**3,388,217.94**
Administrative expenses from 2018 to be repaid to the fund in 2019	50,931.61	50,931.61
Balance of trustee obligations as at 31 December 2018		**3,439,149.55**
Approved grants pending disbursement		
Committed funds from 2014	-4,000.00	
Committed funds from 2016	-91,292.33	
Committed funds from 2017	-407,018.77	
Committed funds from 2018	-2,785,207.18	
Committed funds from exploitation grants in 2015	-27,167.00	-3,314,685.28
Funds available in 2018		124,464.27

Source: RTR

4.3   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 through an amendment to the KommAustria Act (KOG). The two funds were originally allocated a total of EUR 6 million. Funding was then steadily increased and reached EUR 18 million in 2013. Since then the figure has remained unchanged.

The funds serve to promote the Austrian broadcasting system and help broadcasters deliver a diverse portfolio of high-quality programming. Broadcasters are eligible to apply for grants if their programmes require a licence or notification as defined in the Audiovisual Media Services Act (AMD-G) or Private Radio Act (PrR-G).

Funding is awarded on the basis of relevant legislation and approved guidelines.

4.3.1   Non-Commercial Broadcasting Fund

4.3.1.1   Application dates in 2018

In 2018 a total of EUR 3 million was available in the Non-Commercial Broadcasting Fund.

In the first round of applications (due by 31 October 2017), the fund awarded grants to 14 non-commercial radio stations, three community television stations, and two educational institutions in radio broadcasting.

In total, EUR 2,745,419 was awarded. Of the funding, 32.38% (EUR 888,878) went to television, 64.55% (EUR 1,772,293) went to radio and 3.07% (EUR 84,248) was allocated to educational institutions.

In this round, grants of EUR 2,453,948 were awarded for content creation, EUR 285,971 for educational measures and EUR 5,500 to support studies.

The second round of applications closed on 15 May 2018. The remaining funds available, amounting to EUR 112,020 were awarded. In total, 77.68% (EUR 87,020) was allocated to radio broadcasting. Grants were awarded for content and training offered by ten radio stations. In total, 22.32% (EUR 25,000) was allocated to the three television stations supported.

More detailed information on the grant decisions can be found on the RTR website at www.rtr.at/de/foe/EntscheidungenNKRF (in German).

4.3.2   Private Broadcasting Fund

4.3.2.1   Application dates in 2018

In 2018 a total of EUR 15 million was available in the Private Broadcasting Fund.

In the first round of applications (due by 31 October 2017), a total of EUR 14,280,978 was awarded to 50 private television broadcasters, 45 private radio broadcasters and two educational institutions. Of these funds, EUR 9,804,002 (68.65%) went to television broadcasters, EUR 4,201,426 (29.42%) to radio broadcasters and EUR 275,550 (1.93%) to the educational institutions Privatsenderpraxis and Forum Journalismus TV Radio.

A breakdown of grants according to the three grant categories reveals that 93.64% of the total awarded in the first round of applications went to supporting content, 5.41% to education and training, and 0.95% to reach surveys and quality studies.

 In the second round of applications (due by 15 May 2018), the remaining funds available, amounting to EUR 1,585,771 were awarded to 22 private television broadcasters and 28 private radio broadcasters. Of this total, EUR 1,156,932 (72.96%) went to television broadcasters and EUR 428,839 (27.04%) to radio broadcasters.

A breakdown of the grants according to the three grant categories reveals that 77.77% of the total awarded in the second round of applications went to content creation, 13.72% to education and training, and 8.51% to reach surveys and quality studies.

More detailed information on the grant decisions can be found on the RTR website at www.rtr.at/de/foe/EntscheidungenPRRF (in German).

4.3.2.2   Notes on the 2018 annual accounts

The Private Broadcasting Fund received an endowment of EUR 15 million in 2018.

Based on the statement for the trustee account as at 31 December 2017, and considering the credits and debits as well as the grants already approved but not yet disbursed, about EUR 419,290.50 was available in the fund as at 31 December 2018 (see table 14 below for details).

4.3.1.2   Notes on the 2018 annual accounts

The Non-Commercial Broadcasting Fund received an endowment of EUR 3 million in 2018.

Based on the statement for the trustee account as at 31 December 2017, and considering the credits and debits as well as the grants already approved but not yet disbursed, about EUR 58,326.26 was available in the fund as at 31 December 2018 (see table 13 below for details).

TABLE 13:   NON-COMMERCIAL BROADCASTING FUND – EXCERPT FROM THE 2018 ANNUAL ACCOUNTS

Income and expenditure statement	Euro	
Trustee account balance as at 31 December 2017		783,990.76
Credits		
Revenues received in 2018	3,000,000.00	
Grant repayments	0.00	3,000,000.00
Debits		
Administrative expenses in 2018	-149,410.00	
Administrative expenses carried over from 2017	3,598.39	
Interest	-682.49	
Grant disbursements in 2018	-2,770,697.22	
Balance resulting from initial amount, credits and grant disbursements in 2018		-2,917,191.32
= Trustee account balance as at 31 December 2018		866,799.44
Outstanding administrative expenses in 2018 for repayment in 2019	-11,355.72	11,355.72
Balance of trustee obligations as at 31 December 2018		878,155.16
Approved grants pending disbursement		
Receivables		
Committed funds from 2017	-42,188.00	
Committed funds from 2018	-777,640.90	-819,828.90
Funds available in 2019		58,326.26

Source: RTR

TABLE 14:   PRIVATE BROADCASTING FUND – EXCERPT FROM THE 2018
ANNUAL ACCOUNTS

Income and expenditure statement	Euro	
Trustee account balance as at 31 December 2017		12,346,855.76
Credits		
Revenues received in 2018	15,000,000.00	
Grant repayments	161,859.31	
Interest	2,101.00	
Administrative expenses carried over from 2017	55,291.95	15,219,252.26
Debits		
Administrative expenses in 2018	-522,090.00	
Grant disbursements in 2018	-17,743,583.83	
Balance resulting from initial amount, credits and grant disbursements in 2018		-18,265,673.83
Trustee account balance as at 31 December 2018		9,300,434.19
Repayment of erroneous transfers		
Outstanding administrative expenses in 2018 for repayment in 2019	-12,606.09	12,606.09
Balance of trustee obligations as at 31 December 2018		9,313,040.28
Approved grants pending disbursement		
Receivables		
Committed funds from 2017	-300,577.35	
Committed funds from 2018	-8,593,172.43	-8,893,749.78
Funds available in 2019		419,290.50

Source: RTR

4.4 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), and the administration of grants is 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. One exception is the subsidies allocated to the Austrian Advertising Council under the terms of Art. 33 KOG, for which no advisory body is required. RTR provides specialist technical and administrative support in these funding activities.

The legal bases for the allocation of grants are the Austrian Press Subsidies Act 2004 (PresseFG 2004), the press subsidies guidelines published each year by KommAustria, Section II of the Journalism Subsidies Act 1984 (PubFG) as well as Art. 33 KOG and the guidelines published by KommAustria on the promotion of self-regulation in commercial communication.

4.4.1 Press subsidies

In 2018 KommAustria received 110 applications for subsidies under the PresseFG 2004. KommAustria allocated funding in 108 cases, while two applications had to be rejected for not meeting the legal requirements.

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

- Publishers of daily and weekly newspapers
- Institutions for journalist training
- Research projects focused on the press sector
- Press clubs
- A self-regulation body for matters related to the press

TABLE 15: PRESS SUBSIDIES – GRANT AMOUNTS, APPLICATIONS AND APPROVAL RATES, 2014 – 2018

Year	Grant amount (EUR)	Applications	Approvals	Approval rate in %
2014	8,649,085.00	125	116	92.80
2015	8,880,406.80	115	114	99.10
2016	8,446,853.85	113	105	92.90
2017	8,912,000.00	105	104	99.05
2018	8,863,000.00	110	108	98.18

Note: Contributions to the Austrian Press Council that originate from the funds are also included.

Details of grant awards are published on the RTR website at
https://www.rtr.at/de/ppf/PFErgebnisse (in German).

Funding for self-regulation of the press

In 2018 the Austrian Press Council dealt with 302 cases. Of those cases, 296 were submitted by external parties, while in six cases the Council's senates took action on their own initiative. Of Austria's dailies, only Kronenzeitung and Heute have refused to recognise the Press Council's authority as arbitrator (as of 2018).

The Austrian Press Council requested a cost contribution of EUR 176,000 for 2018. KommAustria complied with this request in full.

TABLE 16:   PRESS COUNCIL – NUMBER OF CASES HANDLED AND COST
CONTRIBUTIONS, 2014 – 2018

Year	Cases	Cost contribution (EUR)
2014	238	164,000
2015	251	204,000
2016	306	155,000
2017	320	225,000
2018	302	176,000

Funding for self-regulation of commercial communication

In 2018 the Austrian Advertising Council was again the only applicant for a subsidy from the fund for the promotion of self-regulation in commercial communication in media, once again receiving the entire amount allocated to the fund (EUR 50,000).

As defined in Art. 33 KOG, the goals of this form of financial assistance, existing since 2009, are as follows:

• to ensure the independence of the body in question;
• to ensure that the body carries out the duties set forth in its articles of association; and
• to ensure effective enforcement of its decisions and resolutions.

Journalism subsidies – promotion of print periodicals

Section II of the 1984 Federal Act on Subsidies for Political Education and Journalism (PubFG) provides for the promotion of journalism that serves the purpose of educating citizens. These subsidies are provided for periodicals which address issues related to politics, culture and world views at a high level. Overall, the periodicals that receive funding represent a broad range 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.

KommAustria received 80 applications for journalism subsidies in 2018, complying with 74 requests while rejecting six due to failure to meet statutory funding requirements.

The amount of the grant is determined by KommAustria on a case-by-case basis, with due consideration given to the recommendation 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% and no more than 4% of the funds earmarked for this purpose under the Federal Finance Act. Funds totalling EUR 340,000 were available in 2018. The amounts of grants awarded from the fund ranged from EUR 1,360 to EUR 12,516.

TABLE 17: JOURNALISM SUBSIDIES – GRANT AMOUNTS, APPLICATIONS AND APPROVAL RATES, 2014 – 2018

Year	Grant amount (EUR)	Applications	Approvals	Approval rate in %
2014	340,000	92	76	82.60
2015	340,000	80	72	90.00
2016	340,000	83	76	91.60
2017	340,000	80	67	83.75
2018	340,000	80	74	92.50

Details of grant awards are published on the RTR website at
www.rtr.at/de/ppf/PubFErgebnisse (in German).

05

Activities
of the TKK

05 **Activities**
of the TKK

The independent Telekom-Control-Kommission (TKK) has been responsible for regulating the telecommunications market in Austria since 1997. Its tasks and responsibilities are specified in detail by law. Amongst other things it is responsible for the regulation of competition, frequency award procedures and the approval of general terms of business as well as the fees charged by telecommunications operators. It is additionally empowered to serve as the supervisory body pursuant to the Signatures Act (SigG). What follows is an overview of the main areas of regulatory activity in 2018.

5.1 Measures to ensure competition

The regulatory authority has a number of measures at its disposal to ensure competition in the Austrian telecommunications markets.

Market analysis

The regulatory authority has the remit to carry out market analysis procedures at regular intervals. Such procedures serve the purpose of identifying relevant markets subject to regulation and of determining whether any one or more undertakings possess significant market power; they also serve to identify any difficulties there may be in maintaining competition or whether effective competition exists in such markets. If effective competition is not present in the market, appropriate obligations will need to be imposed on the company with significant market power.

In 2018, the procedure for market analysis of the market for high-quality access at a fixed location (previously referred to as 'leased line') was finalised. This market is becoming highly significant due to various internal developments as well as in view of the pending 5G rollout. Following the commissioning of additional evaluation reports in 2017, also focusing in particular on the pricing and market situation for dark fibre, which will constitute a necessary backbone resource for 5G connections, the TKK issued a corresponding decision on 11 June 2018 following EU-wide consultation and coordination. Apart from ascertaining the significant market power of A1 Telekom Austria AG in certain market and broadband segments, obligations in relation to access, fee control and equal treatment as well as other necessary obligations were imposed on A1 Telekom.

Interconnection orders

Network access refers to the provision of facilities and/or services to another company for the purpose of providing electronic communications services. This includes access to network components such as the local loop, for example. The obligation to provide network access can affect companies deemed by the regulatory authority to have significant market power. Beyond that, a general interconnection obligation also applies that requires each operator of a public communications network to make an interconnection offer to other operators of such networks on request. If no network access or interconnection agreement based on private law is reached, each participant

involved has the option of applying to the regulatory authority for a decision in lieu of such an agreement.

In 2018, the TKK handled several petitions requesting the definition of interconnection conditions. In a decision dated 12 November 2018 concerning a petition from atms Telefon- und Marketing Services GmbH filed against T-Mobile Austria GmbH, the TKK issued an interconnection order concerning the reciprocal termination of text messages. In light of the fact that the provision of text message termination services is not assigned, for purposes of sectoral-specific regulation, to any relevant market and no company holds significant market power within the meaning of telecommunications legislation, the fees that were the subject of the matter in dispute were to be set at an 'appropriate' level. One of the criteria used to assess the appropriateness of the fees defined concerned the actual underlying costs. The reciprocal fee defined in the decision was 1.2 euro cents.

Another case concerned the details of conditions – particularly in relation to fees – for access to the indirect access network of A1 Telekom Austria AG. Since A1 Telekom Austria AG is no longer subject to a specific obligation to guarantee access in terms of fixed network origination, the company is not obliged "to grant access to its communications network […] in order to enable operator selection and operator pre-selection." The TKK's powers as an arbitrator (Art. 50 TKG 2003) apply to various obligations that are incumbent on all operators (such as interconnection) as well as to specific obligations imposed on specific operators. Since A1 Telekom Austria AG is not (i.e. no longer) obliged to guarantee access to the indirect access network, the TKK has no powers to act as an arbitrator and stipulate conditions for a specific obligation (that no longer applies). The relevant petitions from the parties to the case were therefore rejected.

In other cases, the regulatory authority arbitrated successfully to achieve amicable solutions between the parties to the case, as a result of which the petitions initiating the case were accordingly withdrawn. Accordingly, no formal decision from the regulatory authority was required.

Market oversight

Where the regulatory authority receives any indication from within its scope of responsibility that a company is in breach of telecommunications law, the authority has a duty to conduct a supervisory procedure. If a request to submit a statement on the matter is ignored and corrective action is not implemented within a reasonable period, the regulatory authority is obliged to order any suitable, necessary measures to ensure compliance with the violated provision.

In a decision dated 2 May 2018, the TKK found that A1 Telekom Austria AG was in breach of its obligations in a contractual relationship with one customer in terms of ensuring that customers are not subjected to margin squeeze as a result of the wholesale fees charged for virtual unbundling. This breach was remedied.

The Telekom-Control-Kommission also conducted procedures intended to guarantee compliance with the provisions of international roaming and net neutrality. Details can be found in the respective sections.

5.2   Infrastructure rights

When expanding communications networks, operators are often required to route their infrastructure across private and public property. Operators can claim wayleave rights in these circumstances. However, another option is joint use of existing infrastructure (masts, ducts, manholes or lines) owned by other companies, thus reducing the costs of expanding fixed and mobile networks.

If the parties involved cannot agree on such usage, they may then petition TKK for a decision. Prior to any TKK decision, RTR attempts to arbitrate a conciliation agreement (mediation).

In the reporting period, 21 requests were made to the TKK for wayleave or joint use rights. Fifteen requests were for wayleave rights, while the remaining six requests involved joint use of existing infrastructure. The vast majority of these procedures (16) were completed during the preceding conciliation procedure. The TKK issued a decision to conclude one case and four procedures were still ongoing at the end of the reporting period.

Decisions published by the TKK can be viewed (in German) at www.rtr.at/de/tk/EntscheidungenGesamt.

New legal framework

On 1 December 2018, an amendment to the TKG 2003 entered into force that also introduced key changes to legislation related to infrastructure rights, such as a new wayleave right for compact antennas.

5.3   Safeguarding legally compliant contractual conditions

One important task of the TKK is to ensure that the terms of business of operators of telecommunications services and networks are in conformity with the law. These may include general terms of business, service specifications and fee provisions.

Operators must draw up contract terms and notify them to the TKK for review. In 2018, 362 procedures were carried out, compared with 391 procedures in 2017.

FIGURE 06:   SETS OF CONTRACT TERMS NOTIFIED TO THE TKK

Year	Value
2018	362
2017	391
2016	333
2015	221
2014	228
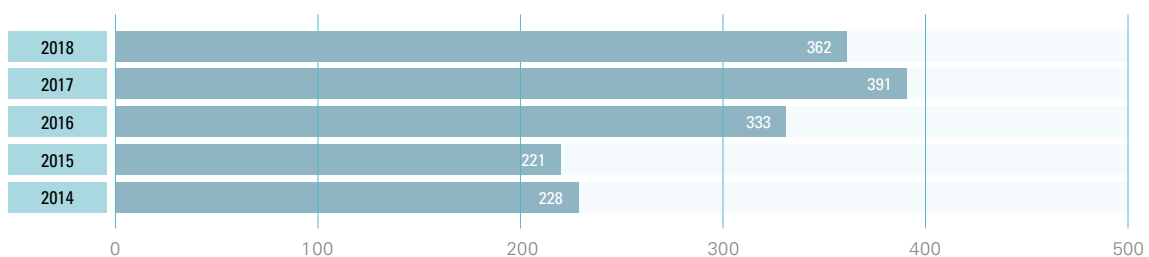
Source: RTR

When checking the details, the Telekom-Control-Kommission examines not only compliance with telecommunications law but also with any relevant provisions of civil and consumer protection law. This is an area where EU Regulations are now becoming increasingly significant. In this context, 'minimum content' provisions pursuant to Art. 4 of Regulation (EU) 2015/2120 (TSM Regulation) apply. These are now (since the amendment through Federal Law Gazette I No. 78/2018) being expressly referred to as minimum content for contract conditions. The implementation of these provisions in the contractual terms for internet access services must therefore also be reviewed.

This reduces the customer's risk of having to take private court action to clarify the legal validity of individual clauses later, after conclusion of a contract. This does not apply to contractual clauses agreed individually with the customer at contract conclusion, however. The TKK has no authority over these kinds of agreements: a review of agreements of this kind is solely possible in subsequent procedures – such as a conciliation procedure, for example.

The TKK makes every effort to ensure that operators and providers make the required changes to the contracts during the procedure itself: in this way, legal compliance is assured at the earliest possible stage. In 2018, the TKK achieved this goal in all of its procedures and therefore did not need to issue a single 'objection decision' (a decision prohibiting further use of the contested clauses).

5.4 Roaming

5.4.1 Roaming at domestic prices ('Roam Like at Home')

Since 15 June 2017, mobile network operators have no longer been permitted to ask more than the domestic price for roaming services (calls, texts and data services) from their customers in the EU and EEA. Mobile network operators can make use of the 'fair use policy', to avoid customers misusing or inappropriately using domestically priced roaming services in such a way that could negatively affect the domestic market and consequently force such operators to offer roaming as a permanent loss-maker.

This encompasses
• the principle of a habitual place of residence and a 'stable link';
• volume restrictions for data roaming services in exceptional cases; and
• the use of control mechanisms to monitor the 'fair use policy'.

Full details of the 'fair use policy' have been published on the RTR website at
www.rtr.at/de/tk/TKKS_RoamingEU/Roaming_EU_im_Detail_Fassung_2019.pdf
(in German).

In 2018 providers were allowed to levy the maximum surcharges listed below in addition to the domestic retail price if fair use was exceeded:

• 3.84 eurocents per minute for outgoing calls
• 1.2 eurocents per text message sent; no surcharge may be levied for message receipt
• EUR 7.2 per GB
• 1.092 eurocents per minute for incoming calls[5].

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[5]   The price for incoming calls is set each year through a Commission Implementing Regulation.

Caps as listed below nonetheless applied to the domestic retail price plus surcharge (including VAT):

- 22.8 eurocents per minute for outgoing calls
- 7.2 eurocents per text message
- 24 eurocents per MB
- 1.092 eurocents per minute for incoming calls

Another measure available to an operator is to limit the volume of data consumed at domestic prices. The operator may then levy a surcharge for data usage that exceeds this limit. Over the next few years, the following rates will be applicable:

Date	EUR per GB (incl. VAT)
from 1 January 2019	EUR 5.40
from 1 January 2020	EUR 4.20
from 1 January 2021	EUR 3.60
from 1 January 2022	EUR 3.00

5.4.2   Supervisory measures according to the Roaming Regulation

Sustainability of eliminating roaming surcharges

Under certain exceptional circumstances, providers can apply to the regulatory authority for authorisation to levy an additional roaming surcharge to ensure the sustainability of their domestic rate models for consumers. In 2018 two operators submitted an application of this kind to RTR. Both applications were approved, with the TKK decisions dated 11 June 2018 (for S 29/18 and MTel Austria GmbH) and 17 September 2018 (Mass Response Service GmbH) respectively, since each met the preconditions as stipulated by the Roaming Regulation.

Collection of a surcharge for data roaming services by T-Mobile (R 6/17)

In its decision dated 3 April 2018, the TKK prohibited T-Mobile Austria GmbH from collecting a surcharge in addition to the domestic retail fee for the use of data roaming services within its MyNet2Go tariff plan.

Collection of a surcharge for roaming by Lycamobile Austria Limited (R 6/18)

In its decision dated 14 May 2018, the TKK instructed Lycamobile Austria Limited to change its fee model so as to ensure that no surcharges would be billed for roaming in contravention of Art. 6a of the Roaming Regulation. To this end, Lycamobile Austria Limited was instructed to discontinue the option of combining tariff plans including roaming with those not including roaming.

5.4.3 RTR's national and international commitments in the area of international roaming

At an international level, RTR was involved in this area as a result of its participation in the BEREC Roaming and Mobile working group. In addition, RTR's participation in the BEREC working group also involved contributing to an input for the Commission Implementing Regulation setting out the weighted average of maximum mobile termination rates across the Union[6], which specifies the maximum possible surcharge to be billed for incoming telephone calls in a roaming situation.

In addition, BEREC created benchmark reports as well as the 'Transparency and Comparability of Roaming Tariffs Report', which looks at the transposition of the 'roam like at home' transparency provisions from the Roaming Regulation into national law by Member States. The state of play was assessed in terms of the presence of roaming tariff plans and their clarity, as well as the need to set further requirements to improve transparency. Other key points of focus included the comparability of roaming tariff plans for end users and the extent to which end customers could identify the tariff plan most suitable for their needs given the information provided to them.

At national level, RTR stepped up activities to monitor the implementation of roaming rules and to support consumer information. Procedures were also conducted before the TKK to address infringements of the Roaming Regulation based on the supervisory powers introduced by the Roaming Regulation.

5.5 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 and services. This allows the internet to support freedom of expression, economic growth and innovation.

To protect net neutrality, the Telecoms Single Market (TSM) Regulation has been in force since November 2015 at European level. The BEREC guidelines on the Regulation were adopted in August 2016 to ensure uniform implementation of the Regulation across Europe. Another positive outcome was the entry into force of the long-awaited amendment to TKG 2003 at the end of 2018, which not only clarified the national responsibility of the regulatory authorities but transposed the penalty provisions mandated by the TSM Regulation into national law.

Other national procedures completed or initiated

The TSM Regulation mandates national regulatory authorities with tasks including monitoring compliance with the provisions of the Regulation. Of the supervisory procedures initiated against operators in October 2016, one procedure was still ongoing in the 2018 reporting period, since the implementation of the technical measures promised by the operator had been delayed. Another of these procedures and a

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[6] Commission Implementing Regulation (EU) 2018/2311 of 13 December 2018, setting out the weighted average of maximum mobile termination rates across the Union.

procedure to prohibit traffic shaping, both of which concluded with the issuing of a decision, were the subject of appeal proceedings before the Federal Administrative Court throughout the reporting year. In terms of supervisory procedures, there was a particular focus in 2018 on the topic of 'network blocks' due to copyright infringements (see section 4 for further details).

A total of 16 request-for-information procedures were also initiated against other internet service providers (ISPs) so as to audit compliance with obligations pursuant to the TSM Regulation. The focus of these procedures was again the (non-)assignment of public IPv4 addresses, as well as routine disconnections and blocked ports. It is also gratifying to note that no supervisory procedure was required in many cases in 2018, since the affected providers made the required technical modifications and changes to their products voluntarily. At the close of the 2018 reporting year, five of these procedures had been concluded in full, although voluntary implementation of the technical changes is the only outstanding matter in most of the other procedures.

Net Neutrality Report 2017–2018

The TSM Regulation additionally tasks national regulatory authorities with publishing an annual report on progress in implementing the Regulation. RTR published its second Net Neutrality Report in June 2018, describing progress in implementing net neutrality. The report presents the action taken by RTR during the reporting period (30 April 2017 to 30 April 2018) towards implementing the TSM Regulation in Austria. As in the previous year, ongoing discussions were held with operators about the respective supervisory procedure initiated and – where potential breaches had been identified – about options for remedying these in a time frame suitable for the technical implementation. Another aspect concerned conducting the appeal proceedings filed against the (first) two decisions of the TKK in December 2017.

On the whole, open internet access in Austria can be rated positively. Companies involved in serious breaches of the TSM Regulation generally identified constructive solutions, which were then approved by the regulatory authority and either implemented or scheduled for implementation.

Network blocks in the context of the TSM Regulation

To guarantee open internet access for all, the TSM Regulation stipulates that internet access service providers must not block access to certain kinds of online content – although the Regulation also allows for exceptions to this basic principle. One example is where installing an access block for certain websites may be permissible if a specific legal provision requires the ISP to take this action. In the area of copyright law, Art. 81 Par. 1a of the Copyright Act (UrhG) (in implementation of EU law) provides for situations where ISPs are obliged to block access to websites that are intentionally structured to breach copyright law. These are websites that unlawfully impinge on the protected right of copyright holders to disseminate their own materials.

In early 2018, the TKK initiated a total of seven supervisory procedures against ISPs who were suspected of denying access to particular websites.

While copyright claims must be decided in an ordinary court of law, the national regulatory authority is required to ensure compliance with open internet rules as set out in the TSM Regulation. In the TKK's supervisory procedure, the decision as to

whether the network blocks installed were legal therefore also depended on whether the copyright claim was admissible. In cases where the access blocks installed are based on court decisions (including injunctions) and the blocking measure adopted (such as a DNS block) represents the least severe measure available, this does not violate the terms of the TSM Regulation. Cases where the network blocks were installed as a result of legal or private settlements, or warnings from the rights holder, do not represent a violation if the copyright claim is admissible and the least severe blocking measure has been adopted. In the latter cases mentioned, the regulatory authority was required to assess the copyright claim itself in order to be able to decide whether the access block was reconcilable with the TSM Regulation.

At the end of 2018, the Telekom-Control-Kommission dropped all seven supervisory procedures, since no breach of the TSM Regulation could be identified. At the start of 2019, five new procedures were initiated, which are currently at the fact-finding stage.

Uniform implementation of net neutrality rules in Europe – BEREC activities

The uniform implementation of the TSM Regulation and the BEREC guidelines in Europe was again a key activity in 2018. In addition, international dialogue between regulatory authorities (within the framework of BEREC but also bilaterally) about ongoing procedures continued, as did the joint discussion and analysis of relevant products, and BEREC's annual Net Neutrality report (BoR (18) 170) was also published.

In addition, RTR also contributed to other work performed by BEREC. According to the TSM Regulation, the European Commission will evaluate the Regulation's net neutrality provisions by 30 April 2019. For this purpose, BEREC authored an opinion on the application of the TSM Regulation and the BEREC guidelines (BoR (18) 244) in 2018. In 2019 this opinion will be used as the basis for revising the BEREC guidelines and thus contribute to further European harmonisation. The revised guidelines will be presented for consultation in autumn 2019 and are scheduled to be adopted in early 2020. In 2018 the green light was also given to develop the BEREC tool for measuring key connection parameters relevant for net neutrality, such as upload and download speeds – so as to permit verification of compliance with transparency provisions, for example. This tool can be adopted for national use by interested regulatory authorities (open source and open data). Development is scheduled to be completed in autumn 2019, giving European consumers the opportunity to ascertain whether their internet connection meets the criteria of the TSM Regulation.

BEREC will also continue to perform internal reviews of domestic cases in 2019 while coordinating procedures relating to cross-border product offerings. In addition, the European Net Neutrality report will also be published in autumn.

5.6   Spectrum – the fairest possible distribution of scarce resources

Review of coverage based on spectrum awarded in the 2013 multiband auction

Coverage requirements have been tied to the acquisition of frequencies in the 800, 900 and 1800 MHz bands (TKK multiband auction in 2013); this ensures the supply of broadband services even to regions of Austria that had or have experienced (very) poor coverage to date. The coverage requirements pertaining to the 800, 900 and 1800 MHz bands (planned primarily for providing LTE services) are currently under review by the regulatory authority, with the review procedures still ongoing at the end of the reporting period.

The coverage obligations required, among other things, proper broadband coverage for a certain number of the municipalities that had been (very) poorly supplied with broadband services at the time of the 2013 multiband auction; these communities were specified by the regulatory authority in two appendices to the assignment decision. This obligation was to be fulfilled solely using frequencies from the 800 MHz frequency range. A local community on this list was viewed as being properly supplied if the mobile network operator, using the frequencies allocated from the above-mentioned range, was able to supply 50% of the community's residents indoors and 90% of residents outdoors with a minimum bandwidth of 2 Mbps (downlink) and 0.5 Mbps (uplink).

In addition to this, a communications service needs to be set up for 95% of the population that supplies data to consumers at an outdoor rate of 1 Mbps for downloads and 250 Kbps when uploading. However, this obligation does not have to be met solely using frequencies within the 800 MHz band. Similarly, the requirement to provide 98% of residents with a communications service supporting an end-user data rate of 12.2 Kbps outdoors (for example voice telephone service) can be met using other frequency bands (such as the 2.1 GHz or 2.6 GHz ranges), with certain minimum quality criteria specified for voice services.

The licensees holding spectrum in the 800, 900 and 1800 MHz ranges (A1 Telekom, Hutchison and T-Mobile) were required to provide evidence of compliance with the coverage obligations defined in their particular case by the regulatory authority. Based on the information submitted, the TKK decided in at least some cases to take appropriate measurements to verify the reported level of coverage.

Awarding of spectrum in the 3410–3800 MHz range

In 2016 the TKK resolved to merge the award procedure for the two bands 3.4–3.6 GHz and 3.6–3.8 GHz, and to begin preparations for a joint auction. To ensure planning security for market participants, the TKK published a general roadmap for future frequency awards (Spectrum Release Plan) in December 2016. Following an initial consultation on the awarding of spectrum in the 3410–3800 MHz range in 2017, resulting in the collection of important feedback from the market and the discussion of potential approaches, the regulatory authority conducted another consultation on the draft of the Tender Document and auction rules in 2018. In this phase, participants in the consultation also had the opportunity to provide oral opinions in the course of a hearing organised by the TKK.

The TKK is focusing the award procedure on the objectives listed below: legal certainty, ensuring efficient utilisation of spectrum, ensuring and encouraging effective competition, encouraging innovation, connectivity and coverage. Maximising auction revenue is expressly ruled out as an award objective, as is actively supporting new market entrants through actions such as reserving spectrum.

The tender for the spectrum award in the 3410–3800 MHz range was published on 19 September 2018 in the Official Gazette of the Wiener Zeitung. The end of the tender submission period was set as 26 November 2018. Following a review of applications, a decision was taken as to which applicants to admit as bidders, with the approved bidders then sent the rules of procedure, including in particular details of auction organisation.

The auction was held as planned in February 2019. The 3600–3800 MHz frequency range can be used immediately following legal assignment, while the 3410–3600 MHz range can be used from 1 January 2020 (once current usage rights expire).

Preparation of the award for spectrum in the frequencies 700 MHz, 1500 MHz and 2100 MHz

To ensure planning security for the sector, the Austrian federal government decided back in 2015 to make the 700 MHz band available to the telecommunications industry as of mid-2020. The decision on the reallocation of the 700 MHz band – both at European and national levels – was taken in consideration of ever-present technological change and market developments. The timely utilisation of the second digital dividend by mobile telecommunications is associated with a host of benefits, such as a reduction in future network costs or continued improvements in the coverage of rural areas. In 2016 the regulatory authority had already made a start on the preparatory work for awarding the second digital dividend. The allocation for mobile telecommunications was implemented through an amendment made by the Federal Ministry of Transport, Innovation and Technology (BMVIT) to the Frequency Utilisation Ordinance 2013. At present, however, individual usage rights (operating permits) still exist for DVB-T2 (radio) broadcasting systems that extend beyond 30 June 2020. There are ongoing (policy-level) efforts aimed at ensuring that all locations are available for mobile telecommunications from mid-2020. A corresponding amendment to the KommAustria Act (KOG) therefore entered into force on 1 December 2018, which allows for financial compensation to Österreichische Rundfunksender GmbH & Co KG (ORS) for freeing up the 700 MHz band ahead of schedule and by 30 June 2020 at the latest. However, by the reporting date, it was not conclusively clear whether by the time of the tender the TKK will have obtained reasonable assurance regarding the entire 700 MHz band and its potential use for mobile services from mid-2020.

In relation to the 1500 MHz band, the regulatory authority is now in fact planning to award the extension bands and not only the core band as envisaged by the Spectrum Release Plan. This means that a total of 90 MHz is available. The band is reserved for downlink usage only and can therefore only be used together with another band (this usage is termed a 'supplementary downlink'). All frequency channels in the 1500 MHz band can be used immediately after legal assignment.

The 2100 MHz band is usable only from 1 January 2021, after expiry of the current usage rights. To allow for an appropriate time interval between the auctions while taking into account the expected availability of the 700 MHz band by mid-2020, the regulatory authority is planning to start the auction one year after the auction in the 3410–3800 MHz range, i.e. in Q1/2020.

The TKK is focusing the award procedure on the objectives listed below: legal certainty, ensuring efficient utilisation of spectrum, ensuring and encouraging effective competition, and encouraging coverage and innovation.

Maximising auction revenue is expressly ruled out as an award objective, as is actively supporting new market entrants through actions such as reserving spectrum. To the extent relevant and feasible, the regulatory authority will base key design decisions on the objectives listed above.

The significance of the third award objective (competition) for the design of the award procedure is underscored by the most recent amendment to the TKG 2003. The regulatory authority intends to safeguard competition on the downstream mobile telecommunications markets in the coming years by means of a suitable selection of instruments to safeguard competition. The aim here is not only to prevent an excess concentration of usage rights in the hands of a single network operator, but also to ensure that a sufficient number of effective providers (mobile network operators and MVNOs) will be active on the market after the auction.

The 700 MHz band may be the last coverage spectrum to be awarded for mobile services for some time. Therefore, and in order to take into account the ambitious 5G targets of the federal government and the European Commission, the TKK will place particular emphasis on ensuring the best possible coverage for the Austrian population and for Austrian companies. To achieve this goal, the regulatory authority plans to impose ambitious coverage obligations. On the one hand, the aim is to achieve important coverage targets derived from national and European objectives in connection with 5G. On the other hand, these requirements should ensure that the spectrum is in fact used, and not hoarded for strategy reasons.

Following the publication of a position paper on infrastructure sharing and the awarding of the 3410–3800 MHz range, the TKK sees the awarding of the 700/1500/2100 MHz spectra as making a significant additional contribution to the introduction of 5G in Austria. Through the timely and legally certain award of spectrum and a design focusing on award objectives, the regulatory authority is laying the groundwork for innovative efforts in the area of 5G.

In order to gather important feedback from the market, the first consultation on this award was started on 20 December 2018. This consultation focuses in particular on the potential auction and product design, as well as potential coverage obligations.

5.7 Electronic signatures and trust services

As set out in the Signature and Trust Services Act (SVG), the TKK is the supervisory body for trust service providers (TSPs), as defined in the eIDAS Regulation (910/2014), that are established in Austria.

5.7.1 Procedures before the TKK

An audit of a TSP that commenced in 2016, the TSP's first year of business, was not concluded until 2018, as a result of the late submission of an evaluation report requested by the TKK from a confirmation body. Four other procedures dating from 2017 were also concluded in 2018. As a result, certain trust services from three TSPs were granted qualification status, with this status subsequently entered for each TSP into the Austrian trust list (see following section: Infrastructure).

- Effective May 2018, PrimeSign GmbH may now issue qualified certificates, including those for electronic seals (previously for electronic signatures only).
- Since September 2018, e-commerce monitoring GmbH is (again) entitled to issue qualified electronic timestamps.
- The Vienna-based Swisscom IT Services Finance S.E. is a new entrant into the Austrian TSP market: the company's trust service for issuing qualified certificates for electronic signatures and electronic seals was entered into the trust list in July 2018.

A fourth procedure initiated in 2017 was conducted via confirmation bodies as part of organisational supervisory activities and was terminated in 2018.

Thirteen new procedures were initiated in 2018, nine of which were completed in the same year.

The supervisory body was notified of a security breach involving the delivery of electronic correspondence: it therefore considered whether this type of correspondence delivery constituted a trust service subject to the requirement to report any security breaches to the supervisory body, as defined in the provisions of the eIDAS Regulation. In the case in question, while the provider's advertising claims gave this impression, the claims were withdrawn in response to the procedure conducted by the supervisory body.

As a result of consumer complaints, the supervisory body was required to adjudicate on the legality of a TSP's decision to handle certain kinds of consumer enquiries exclusively via a paid support hotline. In the case in question, no regulatory breach was identified, however, since the TSP used its geographical telephone number to answer enquiries relating to the signature agreement.

The supervisory body also investigated a case in which qualified certificates had been accidentally issued to the wrong person. Since additional measures are required to prevent similar incidents in the future, it was not possible to conclude this procedure by the end of 2018.

Another procedure, which required the supervisory body to address potential vulnerabilities in PDF signatures, was also ongoing at the end of 2018.

In one procedure, the supervisory agency decided to accept an unqualified trust service for inclusion into the Austrian trust list at the request of the TSP.

Three procedures dealt with changes in qualified trust services. Two of these were ongoing at the end of 2018 because of the need to gather substantial amounts of data for the supervisory agency audit.

Five other procedures involved the management of the Austrian trust list, obligations to provide information to the European Commission and internal organisational activities.

5.7.2   Infrastructure

In supervisory operations, the TKK works through RTR, with the latter separately responsible for certain tasks. This applies especially to the infrastructure used to verify certificates, electronic signatures, electronic seals and electronic time-stamps: RTR operates this infrastructure.

These include:
- The 'trusted list' made available at www.signatur.rtr.at/currentttl.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.

06

Activities
of RTR

06 **Activities**
of RTR

In the area of telecommunications and postal services, the Regulatory Authority for Broadcasting and Telecommunications (RTR) serves as the administrative agency of the Telekom-Control-Kommission (TKK) and the Post-Control-Kommission (PCK). RTR additionally has separate responsibilities as a telecommunications authority. These include alternative dispute resolution, the administration of Austrian phone numbers and the issue of ordinances. Key focal points of work in the reporting year are presented below.

6.1 User protection: consumers are our concern

6.1.1 Activities of the conciliation body for communications services and postal services

Three conciliation bodies have been set up at RTR, to support customers of communications and postal services and to provide alternative dispute resolution for dealing with provider problems. These are:

1.   the conciliation body for telecommunications services
2.   the conciliation body for media
3.   and the conciliation body for postal services.

A total of 2,116 conciliation procedures were conducted during the reporting year. While there has been a slight decline in conciliation cases involving telecoms and media from the previous year, the growth in online sales has sparked a continued and significant rise in cases relating to postal services.

Over 94% of the 1,697 cases relating to telecommunications and 68 involving media were concluded within 90 days. A total of 351 cases relating to postal services were handled, with 90% of the procedures being concluded within 30 days.

**Complaints: volume and subject hardly surprising**

With respect to both telecommunications and media, a continued trend can be observed towards cases involving plans or subscriptions per se. This category includes complaints related to termination and the scope of services stipulated. In contrast, complaints requesting reviews of bills allegedly containing errors, while common in past years, have become increasingly rare.

Procedures involving certain subjects of dispute that had been on the rise in 2017 either remained constant (e.g. 'roaming') or even diminished ('internet access quality') in 2018. No new subjects of complaint with any relevance in terms of the issue in question and/or frequency of complaints became apparent in 2018.

Cases relating to media mostly centred on general problems with plans or contracts.

Parcel delivery issues were the most frequent reason for lodging complaints with postal conciliation, followed by 'parcel loss' and the basket category of 'other postal services' (including issues involving drop-off orders and parcel transit times). Conciliation was also frequently requested due to parcel damage.

FIGURE 07:   CONCILIATION PROCEDURES INVOLVING TELECOMS, MEDIA AND POSTAL SERVICES, 2016–2018
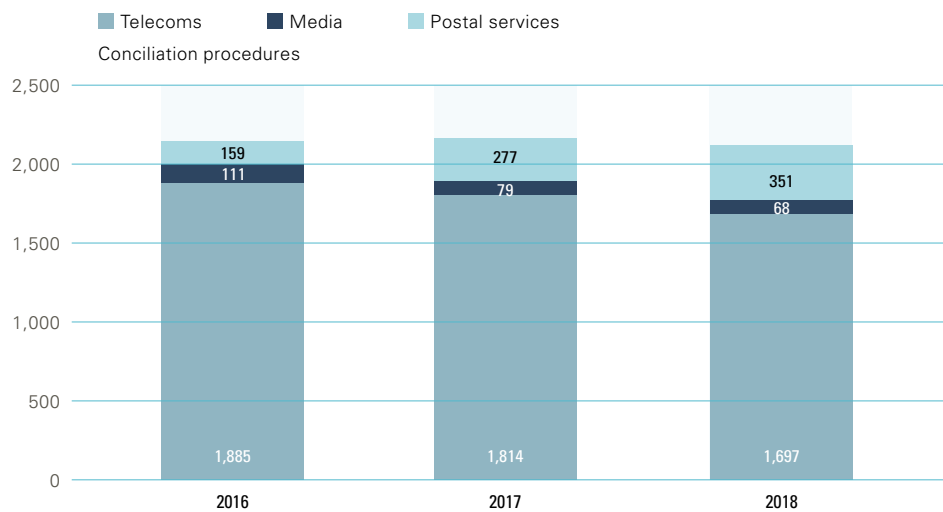
The activities of the three conciliation bodies as well as current developments relating to user protection are described in detail in the 2018 activity report of the conciliation bodies (www.rtr.at/de/inf/STR_Bericht2018; in German).

6.1.2 Contact for reporting phone number abuse

Recurrent waves of 'one-ring calls', mostly driven by fraudulent intent, moved RTR to set up a contact point in mid-April 2018 for reporting phone number abuse, under the web page www.rufnummernmissbrauch.at. The contact point is intended to gather evidence to estimate how serious the problem of one-ring calls actually is. Victims can use a complaint form to report the telephone number, the date of the call and what happened after returning it. RTR received almost 8,000 related complaints in the reporting year. The number ranges affected are immediately published at www.rufnummernmissbrauch.at.

With one-ring calls, the call is disconnected after just one ring (or 'ping') to entice the targeted user to return the call to the displayed number. The owner of the number is then paid a share of the fee charged to the user for returning the call.

One-ring call operations are carried out using automation. The large-scale one-ring scams observed by RTR in spring and December of 2018 all involved phone numbers in other countries in relatively expensive charge bands. Even if only a small percentage of the users who are 'rung up once' return the call, a considerable amount of damage is probably incurred because of the high number of parties called.

To combat phone number abuse, RTR plans to successively increase the level of information offered and to serve as a main point of contact for all issues related to phone number abuse. Collecting the data should make it clear in time whether regulation in general is required, which would be a matter to draw to legislators' attention.

6.2 Value-added services: positive trend among complaints

Art. 24 Par. 2 of the Telecommunications Act 2003 (TKG 2003) specifies the regulatory authority's duty to provide information on an annual basis regarding any unfair practices relating to value-added services and the action taken. Of particular significance in this context is the Communications Parameters, Fees and Value-Added Services Ordinance (KEM-V 2009), the provisions of which resulted in a decline in complaints regarding value-added services.

In the reporting year, 19 of the complaints handled in connection with RTR's duties as a conciliation body were related to value-added voice telephony, and four to value-added text messaging, which corresponds to 1.1% and 0.2% respectively (1.3% in total) of all conciliation procedures. The table below shows the successive drop in complaints about value-added services in 2014–2018.

TABLE 18:   VALUE-ADDED SERVICE COMPLAINTS, 2014–2018

	2014	2015	2016	2017	2018
Total number of conciliation procedures	3,879	2,409	1,996	1,893	1,766
Procedures involving value-added services	136	55	57	39	23

Source: RTR

6.3 Services subject to notification requirements

Under Art. 15 TKG 2003, the regulatory authority must be notified of the intention to operate public communications networks or provide services, and of any modification or termination of such networks or services, prior to the start of operation or to the modification or termination.[7]

TABLE 19:   NOTIFIED ACTIVE SERVICES 2015–2018

Service category	2015-12-31	2016-12-31	2017-12-31	2018-12-31
Public telephone services at fixed locations	394	326	390	391
Call shops	82	67	43	38
Internet cafés	88	76	50	48
Public internet communications services	409	415	418	421
Public communications networks	403	429	511	532
Public leased-line services	77	83	79	82
Other public communications services	10	27	30	31
TOTAL services notified	1,463	1,423	1,521	1,543

Source: RTR

As of 31 December 2018, notifications for 1,543 active services had been given by a total of 863 operators, of which 55 were operators of call shops and/or internet cafés. Under a 2011 amendment to the TKG 2003, such operators are exempt from a large number of obligations arising from the TKG 2003 that apply in general to businesses required to provide notification as defined in Art. 15 TKG 2003 (including the notification of general terms and conditions).

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[7]   For further information on notification procedures, please refer to the Communications Reports of the previous years.

6.4   Universal service

Art. 26 TKG 2003 defines universal service as the minimum set of public services to which all end users must have access through full coverage on a nationwide basis, at an affordable price and to a certain standard, regardless of end users' place of residence or work (Art. 27 TKG 2003). A1 Telekom is directly obliged to provide a public telephone service throughout the country. That obligation remained unaltered during 2018.

Major changes were, however, introduced at international level: a new universal service scheme was finalised in 2018 as part of the revision of the EU legal framework for electronic communications. The focus of universal service in future will be in providing consumers with affordable, adequate broadband internet access and voice communications services at a fixed location.

Member States can also ensure the affordability of adequate broadband internet access and voice communications services that are not provided at a fixed location, where considered necessary to ensure consumers' full social and economic participation in society.

The Member States are to define a minimum bandwidth for adequate broadband internet access, based on national conditions and the minimum bandwidth supplied to the majority of consumers in that particular country. To support this process, the Body of European Regulators for Electronic Communications (BEREC) is to prepare a best practice report. The defined bandwidth should in all cases support use of a minimum set of services. This list of services includes email, search engines, online tools for basic training and education, internet banking, use of social media, and video calls.

The legal framework also allows Member States to continue to ensure the availability and affordability of services other than broadband internet access and voice communications services, including a public telephone service, where the need for such services has been identified based on national circumstances. This item is to be reviewed by no later than 21 December 2021 and every three years thereafter.

6.5 Communications parameters: administration of the Austrian number range

6.5.1 Central reference database

Specification of a central reference database for telephone numbers, a project launched back in 2017 jointly with other major stakeholders, was completed in October. To maximise acceptance within the industry for this undertaking, RTR's team of experts engaged in ongoing discussions with all major providers and operators.

The main feature of the database is the capacity to represent how each and every Austrian phone number is used, including cases of number porting, linked with key information on the operator responsible for the particular number. RTR manages the database.

A two-tier under-limit negotiation procedure was initiated in mid-November, in preparation for purchasing the software implementation services required for setting up the central reference database. The call for tenders met with avid interest. Negotiations with the various tendering parties were scheduled for January 2019.
An amendment to the TKG 2003 that became effective as of 1 December 2018 authorises RTR to issue ordinances defining in detail how data are to be collected and made available in the context of assigning and using telephone numbers in a central database (Art. 65 Par. 9 TKG 2003).

6.5.2 Reports detailing statistics on telephone number administration

A total of 622 applications were submitted and processed and a total of 581 decisions issued in the 2018 reporting year. Applications were withdrawn in 41 cases.

The negative decisions (15) almost exclusively involved non-geographic numbers.

Assignments of geographic telephone number blocks account for the increase in decisions issued in 2018. The number of such assignments has been rising steadily since less stringent criteria for the use of geographic numbers were introduced.

	2014	2015	2016	2017	2018
Number of affirmative decisions	**630**	**562**	**585**	**558**	**566**
Geographic numbers	294	330	323	318	332
Non-geographic numbers	336	232	262	240	234
Number of negative decisions	**20**	**22**	**9**	**7**	**15**
TOTAL	**650**	**584**	**594**	**565**	**581**

In 2018 RTR issued a total of 11 affirmative decisions in the context of administrating special communications parameters, which include mobile network codes, a basic and essential addressing element for mobile networks.

6.6   Emergency calls: ongoing cooperation potentially saves lives

RTR has been involved in the handling of emergency calls for over 15 years. Originally in the context of the Plattform Notrufe event, RTR has been able to bring together the major stakeholders active in this area to participate in a regular exchange of useful expert information at various levels, including technical, operational and legal aspects. Technology is advancing at a fast pace, with ever shorter production cycles and increasing options. It is therefore critical for experts from organisations responding to emergency calls as well as from telecoms providers and authorities to interact on an ongoing basis, enabling them to rapidly respond to impending challenges and to consistently help improve the quality of the emergency call system. If one thing has become clear after a long history of jointly implementing projects, it is this: ongoing cooperation can actually save lives.

Just how complex this field actually is can be seen through the two examples briefly related below.

Prioritising emergency calls in mobile networks

Two technical categories of emergency call, each requiring a separate mechanism for prioritising calls, need to be distinguished. Category 1 previously included only emergency calls placed to the 112 emergency number. All other emergency calls fell under category 2. Assignment to these categories is currently being restructured for the emergency numbers 122, 133, 144 and 140. In the medium term, calls made to the emergency numbers 112, 122, 133, 144 and 140 are to be assigned to category 1, and calls to emergency numbers 128, 141, 142 and 147 are to be classified under category 2. It is difficult to say when this new scheme will go into effect for individual subscribers, as number assignment depends both on the end-user device and the mobile operator's network configuration. It is also conceivable that the technology implemented in legacy devices will not support the change.

Regardless of the category to which a particular call is assigned, the following applies to prioritising calls in mobile networks:

- Category 1: Emergency calls are handled with priority upon connection and routed via the strongest mobile network available. These emergency numbers can also be entered directly on a lock screen. In the event of excessive traffic in the mobile network, other calls are disconnected (if necessary) to allow an emergency call to be placed to a number such as 112. The emergency number 112 can also be reached without a SIM card.
- Category 2: Emergency calls are connected in the same way as standard calls and then subsequently prioritised within the 2G or 3G network. But this only means that such a subsequently prioritised category 2 emergency call will not be disconnected to allow a new category 1 call to be handled. While emergency calls are not subsequently prioritised in 4G networks, it can be assumed that calls to the emergency numbers 122, 133, 144 and 140 made using an end-user device signed into an LTE network will be assigned a priori to category 1.

Voice over WiFi (VoWiFi)

Voice over WiFi (VoWiFi) is another new technology that poses novel challenges for emergency call services, although it does in fact support additional features (parties can be reached in areas serviced only by a private WiFi network). A current problem is the lack of geo-location support when routing emergency calls, as all emergency calls made from WiFi networks throughout Austria are routed to a single default call handling centre for each emergency number. This problem should be resolved with the implementation of VoLTE emergency calls (as described above), provided that mobile network coverage is available, as in such cases emergency calls will be routed through the mobile network. Where only WiFi service is available, geo-location will still not be supported. The capability of reaching the default call handling centre nonetheless represents an improvement, since not even that could be managed without VoWiFi.

Stepped-up efforts towards 'next generation emergency calling'

As described above, RTR assumed the role of coordinator during the reporting period, introducing emergency calling via LTE networks and voice over WiFi. Under Plattform Notrufe, a working group focused on voice over LTE has, with RTR's involvement, defined a uniform set of procedures for introducing emergency calls via LTE networks in Austria.

In September 2018, the unit at RTR responsible for emergency calling was assigned additional personnel resources, enabling RTR to step up efforts specifically towards implementing 'next generation emergency calling'. The first step was to prepare a set of guidelines for emergency call routing, aimed at providing a complete, lucid summary of the emergency call routing system currently used in various domains, for example for routing calls in public and private networks. The document is also intended to serve as guidance for providers newly entering the Austrian market.

Another extensively discussed topic relates to user device-supported geo-location for the purpose of emergency calling. A related amendment to the TKG 2003 that became effective as of 1 December 2018 authorises RTR to issue ordinances that detail provisions regulating geo-location in emergency calling (e.g. the degree of locating precision and the type of transmission). Also falling within this scope is the use of geo-data stemming from GPS or WiFi that are supplied by end-user devices (e.g. AML).

6.7 RTR ordinances

6.7.1 Ordinance of the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) on reporting in and querying data and on consulting data maintained by RTR as Single Information Point for Infrastructure Data – ZIS-V 2019

RTR launched a consultation procedure in December 2018 to discuss several draft amendments to ordinances relating to the Single Information Point for Infrastructure Data (ZIS). These changes are required as the result of an amendment to the TKG 2003 effective as of 1 December 2018, which allows parties to consult the ZIS under additional circumstances. In particular, public authorities awarding funding for the rollout of communications infrastructure will in future be allowed to consult the ZIS as an aid in processing funding applications. The consultation procedure was still in progress at the end of the reporting period.

The 2018 amendment to the TKG provided RTR with additional powers to issue ordinances relating to the disclosure of data on broadband coverage (Single Information Point for Broadband Coverage) and to reference values for making use of wayleave rights pertaining to properties and structures. Those ordinances will need to be issued in 2019.

6.8 RTR's international commitments

For some years, RTR has been contributing its expertise to various international institutions (including ENISA, RSPG, RSC and CEPT) – this commitment benefits the entire Austrian ICT sector. The following sections present details of work with BEREC and ERGP.

6.8.1 RTR and BEREC

RTR Managing Director Johannes Gungl chaired the Body of European Regulators for Electronic Communications (BEREC) in 2018. Chairing BEREC not only entails numerous responsibilities at international level; the role is also a potential doorway for introducing Austria's interests at a high level.

2018 was a milestone year for BEREC in several ways. While a new European Electronic Communications Code (EECC) was adopted, European legislators also decided to retain BEREC's current structure, and BEREC completed a highly ambitious work programme of previously set priorities. The focus of the 2018 work programme was to implement the legal framework in a harmonised manner and to reinforce consumers' positions. Various other tasks were devoted to building a basis for making consistent 5G service available quickly in Europe.

Negotiations over the EECC and the BEREC Regulation dominated the first half of 2018. BEREC contributed independent expertise on various aspects, including co-investment, symmetric regulation as well as the rules governing intra-EU communications services, providing advice in discussions with members of the European Parliament and in meetings of European Council working groups.

European legislators ultimately tasked BEREC with many new responsibilities that need to be met within the next two years; these include preparing guidelines and opinions on various legal instruments drafted by the European Commission. In the context of preparing guidelines to detail various articles of the new legal framework, BEREC has set its sights on contributing as much as possible in the coming years towards harmonised implementation of the EECC, while engaging even more with stakeholders.

At the same time as the EECC, the BEREC Regulation was revised. As a result, BEREC's current structure has been largely confirmed. Johannes Gungl nonetheless launched a process in late 2018 aimed at further developing BEREC to meet future needs. The goals include enhancing transparency for outside parties and improving the dialogue with providers and various organisations. A new working group to study future trends has been appointed as an additional step towards better aligning BEREC's efforts with anticipated future needs. Another change, introduced towards the end of the year, was to revise the legal structure of BEREC's working groups. The diagram below shows the various working groups and their co-chairs in 2019–2020.

FIGURE 08:   BEREC WORKING GROUPS AND THEIR CO-CHAIRS

Change	**Remedies** Annegret Gröbl, BnetzA Sławomir Olszewski, UKE	**Wireless network evolution** Blaise Soury-Lavergne, ARCEP Maja Mitic, RATEL	**Roaming** Elisabeth Dornetshumer, RTR Ioanna Choudalaki, EETT
Rename	**Open internet** Klaus Nieminen, FICORA Michiel van Dijk, ACM	**Statistics and indicators** Begoña García Mariñoso, CNMC Rita Vala, ANACOM	**Fixed network evolution** Cara Schwarz Schilling, BnetzA Wilhelm Schramm, RTR
No Change	**Market and economic ananlysis** Anaïs Le Gouguec, ARCEP Jorge Infante, CNMC	**Regulatory framework** Antonio de Tommaso, AGCOM Ervin Kajzinger, NMHH	**Enduser** Paolo Lupi, AGCOM Therese Hourigan, COMREG
New	**Planning and future trends** Bo Anderson, PTS Bert Klaasens, ACM	**BEREC**	

BEREC addressed the issue of net neutrality in 2018. Alongside regular consultations on current cases and procedures relating to net neutrality aimed at supporting harmonised implementation of the TSM Regulation, BEREC evaluated the current regulation and accompanying guidelines in December 2018. This input will be used in the revision of the guidelines, planned for late 2019.

Under the category of 5G, BEREC worked on various projects in 2018. This included publishing two common positions, one on infrastructure sharing and the other addressing the information provided to consumers on mobile coverage, as well as a report on spectrum awards.

Cooperation with other organisations within and outside the EU was another focus in 2018. Specifically, under the chairmanship of RTR, efforts were launched to put cooperation with the Radio Spectrum Policy Group (RSPG) on a formal footing. This specifically concerns future peer-review procedures, to which BEREC will provide input on aspects of competition relating to spectrum awards.

Johannes Gungl also signed cooperation agreements with non-EU regulatory authorities. Specifically, agreements were reached with regulators in India and Canada to collaborate on regulatory matters, especially in the area of net neutrality. BEREC is also supporting regulatory authorities in the Western Balkan countries as they implement the Digital Agenda. Cooperation here focuses on international roaming, termination fees, and on contributing knowledge and developing competencies in regulatory issues.

While chairing BEREC in 2019, RTR will continue to be heavily involved in day-to-day business, especially in preparing the guidelines with which the recast EECC tasks BEREC, and in shaping the European legal framework so as to accommodate the interests of both Austrian industry and consumers. Additional information on international relations can be found on the RTR website at www.rtr.at/en/tk/Internationales.

6.8.2 RTR and ERGP

In 2010 the European Commission adopted a decision to establish the European Regulators Group for Postal Services (ERGP).[8] The body engages in international coordination, collaboration and the mutual exchange of information, with the aim of advising and supporting the European Commission with expert practical knowledge concerning national postal markets. Members of the ERGP include representatives of the postal regulatory authorities of the 28 EU Member States, along with representatives of the postal regulatory authorities in EEA countries.[9] Representatives of Switzerland as well as of the postal regulators of all EU candidate countries also participate in the body, albeit as observers.

Five expert working groups under the ERGP discuss the input provided by the various experts from the postal NRAs participating in the particular group. From the very beginnings of the ERGP, RTR has participated in these working groups by delegating experts. RTR's commitment has always involved the long-standing and continuous contribution of experience, expertise and practical knowledge concerning Austria's postal markets. International statistics and benchmarks are made available to be used for comparison, to allow better early recognition of multi-year trends as well as conclusions about changes and developments in international postal markets. This in turn helps to improve identification of any need for changes or improvements in Austria's postal markets. The entire Austrian postal sector therefore stands to benefit from RTR's commitment to ERGP.

[8] http://eur-lex.europa.eu/legal-content/DE/TXT/?uri=OJ:C:2010:217:TOC
[9] http://ec.europa.eu/growth/sectors/postal-services/ergp_de

The work of ERGP in 2018 focused on these key points:

- the trend in universal service and related changes and standards and the resulting need to adapt and revise the regulatory framework;
- comparative surveys of postal service quality across Europe over recent years;
- complaint management and handling by postal service providers in the various EU member states, including comparisons of applicable consumer protection standards;
- advising the European Commission towards finalising the new regulation on cross-border parcel delivery.

New EU parcel regulation

Cross-border parcel delivery generated by e-commerce was a priority issue in the EU in 2018, with Regulation (EU) 2018/644 of the European Parliament and of the Council on cross-border parcel delivery services[10] being adopted in April 2018. The regulation aims at strengthening competition through enhanced transparency of tariff schemes. A database is to be set up of all tariffs for cross-border parcel delivery in all countries of the European Economic Area (EEA), allowing all stakeholders a better comparison of tariffs in the various weight categories. Compilation of the database is planned for the first half of 2019.

During 2018, ERGP was chaired by the Belgian regulatory authority BIPT[11] (under Jack Hamande). ANACOM,[12] the Portuguese regulatory authority, (represented by director João Cadete de Matos) was elected to serve as chair of ERGP in 2019.

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[10] https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:32018R0644&from=DE
[11] http://www.bipt.be/de
[12] https://www.anacom.pt/render.jsp?categoryId=2958&languageId=1

6.9   Security and integrity 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.

Continued low level of reported network outages

In 2018 RTR received six notifications of security violations or impairments to the integrity of electronic communications networks or services. Following a faulty configuration in March 2018, subscribers of one MVNO were prevented from placing 39 emergency calls during a period lasting over 24 hours. As a result of a similar cause, five subscribers of one mobile network were unable to make emergency calls for twelve minutes in August 2018. Technical difficulties experienced in September 2018 by one provider in another EU country limited roaming traffic in the EU. The incident affected roughly 170,000 subscribers of one Austrian mobile network operator for over 26 hours. Storms in Carinthia and East Tyrol in October 2018 led to power outages, cutting off service from base stations run by one mobile operator for about 20,000 subscribers during a 40-hour period. Also in October 2018, 247 subscribers with a particular brand of mobile phone were unable to place calls to the emergency number 112 for nine days (the other emergency numbers were not affected by the incident); the reason was work to switch over emergency call routing within the network of the mobile operator concerned. Construction work in November 2018 damaged a cable, interrupting one mobile operator's communications services to about 45,000 subscribers for more than 25 hours.

Sector risk analysis

A risk analysis of the telecoms sector, begun in 2017 under the leadership of RTR, was completed in 2018. Sector risk analyses of this kind are defined in the Austrian Cyber Security Strategy (ACSS) and the Austrian Programme for Critical Infrastructure Protection (APCIP) plan. These analyses are to be carried out through broad cooperation among representatives of public organisations, businesses, research and civic society, and updated at regular intervals. They are intended to form the basis for defining standards of protection for strategic companies, as well as to support crisis and continuity management planning at national level.

The last changes to the final report on the sector risk analysis were made in early 2018, at a meeting of the appointed committee of technical experts that was chaired by Wolfgang Czerni (Infraprotect GmbH). The steering committee was convened on two occasions in the following months to consult on the findings with the management teams of the participating organisations. One version of the final report (in German) was approved for release to the public by the participating organisations
(cf. https://www.rtr.at/de/tk/Netzsicherheit/Branchenrisikoanalyse_TK_2018-06-22.pdf).

6.10   Single Information Point for Infrastructure Data (ZIS): an information hub for telecommunications network operators

The Single Information Point for Infrastructure Data (ZIS) was established at RTR in 2016 and consists of a directory of all existing and planned infrastructure expansion that can be used for telecommunications purposes. In setting up the ZIS, the aim was to create an information hub for telecommunications network operators that permits the efficient exchange of information concerning existing infrastructure and planned construction work, and consequently to facilitate the efficient shared use and installation of infrastructure.

What kinds of data are stored in the ZIS?

All Austrian municipalities are required to provide information, as are all other public bodies that supply GIS data as part of administrative cooperation. Information must also be reported by providers of public communications networks, who are subsequently permitted to query the data collected. Funicular operators as well as companies operating physical infrastructure for oil, gas, electricity, district heating, water and transportation must also report data. The group of organisations obliged to report data is referred to as 'network providers'.

The parties subject to reporting obligations upload the electronic GIS data on supply lines and access points to the ZIS Portal, which is accessible from the RTR website, and these data are then automatically imported into a database. When reporting data on infrastructure, the type must be specified (such as ducts, manholes and optical fibre). Data providers are not obliged to generate new GIS data for networks or to digitise existing analogue planning materials (a digitalisation requirement, with a two-year transition period, was introduced through an amendment to the TKG in December 2018). Network providers are required to submit updates of any changes in data to the ZIS Portal.

Query procedures

The ZIS is not a public directory. Only providers of public communications networks are entitled to query data, since only they are entitled to shared use. An application for rights of query and access must be submitted to RTR in advance, and the persons to perform the queries on behalf of the telecommunications company must be granted authorisation to do so.

Authorised employees of companies entitled to query the directory can submit their query requests via the ZIS Portal. In doing so, they define for the query the geographic boundaries of the area relevant for a rollout project planned by their company. Once RTR has processed the query request, the requester can download a map of the area from the ZIS portal, together with the results of the query and the contact details of the network provider; the latter is also informed that the query has been performed. These documents form the basis of discussions to sound out options for shared use or shared construction.

Legal background

In late 2015, the EU Directive on reducing the costs of broadband expansion was implemented in Austria through an amendment to the Austrian Telecommunications Act (TKG 2003). In addition to assigning RTR the task of technical implementation as well as a support role for the ZIS, the TKG 2003 also authorises RTR to issue ordinances in this context.

In accordance with that authorisation, RTR drafted the ZIS-EinmeldeV and the ZIS-AbfrageV ordinances and submitted them for public consultation, with the final versions published on 6 May 2016 and 21 November 2016 respectively. Those ordinances set out all provisions applying to the reporting in and querying of data.

Major changes resulting from the 2018 amendment to the TKG

As of the amendment to the TKG, effective from 1 December 2018, 'network provider' means a provider of a public communications network or a public undertaking or body belonging to the state at federal, provincial or municipal level or to a municipal association or another self-governed body, where that entity operates physical infrastructure intended for providing production, transport or distribution services for petroleum, natural gas, electricity (including public lighting), district heating, water (including sewage treatment and disposal, and sewage systems) or transportation services (including rails, roads, ports and airports) or that operates cableway infrastructure.

All network providers as defined above are obliged to report in any existing and planned construction projects that involve infrastructures able to be used in broadband rollout. This means that, for example, a company providing transport services must report in any construction projects or existing infrastructure that is suitable for telecommunications use (ducts, for example).

Parties not providing a public communications network may query the database for construction projects planned in the context of rolling out high-speed electronic communications networks. A list of current construction projects is available to all network providers and can be downloaded from the ZIS Portal.
For the purpose of administering earmarked funding, the Federal Minister of Transport, Innovation and Technology can designate authorised parties who are entitled to consult data maintained by RTR on existing and planned infrastructures.

In early 2019, the current ordinances relating to ZIS reports and queries will be evaluated and adapted based on the amendment to the TKG.

ZIS Portal use as of 31 December 2018

Since June 2016, some 2.5 million data records have been supplied by 3,124 companies required to register the same – including 2,100 Austrian municipalities. Of the records supplied, about 2,060 were zero reports. Roughly 760 companies have not previously supplied any records.

As of 31 December 2018, 162 of the companies required to report had applied to RTR and received authorisation to query the ZIS Portal. A total of 2,035 query requests were made in 2018 by authorised telecommunications companies using the 503 user accounts authorised to access the database, with 2,001 of the requests approved.

On average, requests were processed within 2 days 19 hours and 17 minutes in 2018, this figure referring to the entire turnaround time.

More detailed information is published on the RTR website at www.rtr.at/de/tk/ZIS (in German).

www.rtr.at

Regulatory activities
in the postal sector

07 Regulatory activities
in the postal sector

The Post-Control-Kommission (PCK) and the 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, dispute resolution and arbitration in end user disputes.

A notable development in 2018 was an amendment to the Postal Market Act (PMG) passed in December 2018. The amendment was in response to an ECJ ruling of late May 2018 (C-259/16 and others), requiring a considerable broadening of the group falling under the category of postal service providers. In the reasoning of the ECJ, "an undertaking must be classified as a 'postal service provider' within the meaning of Article 2 (1a) of Directive 97/67 (Postal Services Directive) where it provides at least one of the services set out in Article 2 (1) of the Directive and the service or services thus provided relate to a postal item, while its business must not consist solely of providing transport services. It follows that haulage and freight-forwarding enterprises offering, as their principal business, a service entailing the transport of postal items and, as an ancillary activity, services entailing the clearance, sorting and distribution of postal items does not fall outside the scope of the Directive." This means, for instance, that bicycle couriers acting as postal service providers fall under the PMG in some cases. The amendments now made to the PMG broaden the group of postal service providers in a way that limits as far as possible the additional burden on the undertakings concerned (in particular, but not exclusively, courier services and bicycle couriers).

The most significant regulatory activities by the two authorities in 2018 are presented briefly below.

7.1 Procedures before the PCK

7.1.1 Closure and discontinuation of postal service points

Post AG must notify the PCK in advance of its intention to close any directly operated postal service point (PSP). A PSP operated by Österreichische Post AG (Post AG) may only be closed on condition of meeting certain prerequisites set out in the Austrian Postal Market Act (PMG). Specifically, the provision of universal service must be ensured by another PSP, for instance by a Post AG PSP already in existence or by a PSP operated by a postal service partner, in other words a third-party PSP. The PCK may prohibit the closure if the specific conditions the PMG sets out for such cases are not met. The PCK may make authorisation of the closure contingent on another specified PSP providing replacement service, or choose to discontinue the procedure and decline to prohibit the closure. More information on procedures relating to the closure of PSPs operated by Post AG can be found by referring to the communications reports for previous years. Post AG notified the regulatory authority of the planned closure of a total of 26 directly operated PSPs in 2018. Closure was not prohibited in twelve cases, since the prerequisites were met without exception. The closure of one PSP was prohibited pending service through an alternative solution. The procedures for the other 13 directly operated PSPs were pending as of the end of the period under review.

In addition to the planned closure of the directly operated PSPs, the PCK also conducts supervisory procedures to review any discontinuation of third-party operated PSPs, for instance resulting from the 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 full geographic coverage with PSPs. Under certain conditions, alternative service supply solutions such as rural delivery personnel can be implemented in such situations. In 2018 closures of third party-operated PSPs were the subject of supervisory measures by the PCK in 71 cases. The total number of PSPs in Austria fell insignificantly during the reporting year, from 1,777 (as of 31 December 2017) to 1,776 (as of 31 December 2018). As of 31 December 2018, rural delivery personnel were additionally deployed in three cases as an alternative service supply solution.

TABLE 20:   POSTAL SERVICE POINTS OPERATED BY POST AG AND BY THIRD PARTIES, 2014 TO 2018

	2014	2015	2016	2017	2018
Post AG-operated PSPs	514	499	442	430	424
Third-party operated PGSt	1,290	1,278	1,333	1,347	1,352
Total PSPs	**1,804**	**1,777**	**1,775**	**1,777**	**1,776**

Source: RTR

7.1.2 Payment orders for the financial contribution under Art. 34a KOG

The provisions of the KommAustria Act (KOG) relating to the postal sector also require the federal government to cover from its budget one portion of RTR's 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 the case of three companies, the procedures to order payment of the actual financial contributions for the years 2011 and 2012 were interrupted due to proceedings pending before the high courts. Subsequently, in January and February 2018, the PCK issued payment orders to the companies for the actual contributions for 2011 and, in March 2018, for the contributions for 2012.

All three companies filed complaints against the decisions with the Federal Administrative Court (BVwG). A ruling on the case by the BVwG was, however, still pending when this report was prepared.

In cases pertaining to planned financial contributions due for 2017, the PCK issued decisions, dated 20 August 2018, to two companies. As the companies did not take legal recourse, the decisions became final.

During 2018 the BVwG issued decisions on a total of 14 complaints that had been filed against payment orders for collecting the planned financial contributions due from the years 2013 to 2016. In all cases the BVwG rejected the filed complaints as ungrounded. No further legal remedies were sought, and those procedures were able to be terminated with final effect.

7.1.3 Issue of licences

A licence issued by the PCK is required in order to operate a business for conveying letters weighing 50 g or less. The scope of a licence previously issued to noebote GmbH was expanded in 2018. As of the end of 2018, six companies held such a licence, in addition to Post AG, the universal service provider under law: Feibra GmbH, Klaus Hammer Botendienste, Medienvertrieb OÖ GmbH, RS Zustellservice Rudolf Sommer, noebote GmbH and HPC Duale Zustellsysteme GmbH.

7.1.4 General terms of service and tariffs

With regard to services in the universal service sector, the universal service provider (Post AG) and other postal service providers are required to issue general terms and conditions specifying conditions for the services offered and their associated tariffs, and to subsequently publish them in an appropriate manner. The general terms and conditions are to be notified to the PCK on publication. Within two months, the PCK can object to any notified general terms of service that contradict certain provisions of law, including the Postal Market Act (PMG), ordinances issued based on the PMG, Art. 879 and 864a of the Austrian General Civil Code (ABGB), or Art. 6 and 9 of the Consumer Protection Act (KSchG).

Ten procedures relating to changes in the general terms of service used by Post AG, General Logistics Systems Austria GmbH and DHL Paket (Austria) GmbH were pending at the start of the 2018 reporting year, of which nine were completed during the course of that year.

7.2 Procedures before RTR

7.2.1 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 reported postal services, including the name of the postal service provider, is to be published on the internet by RTR. In 2018 an additional company reported the provision of postal services to RTR, Amazon Transport Austria GmbH. As a result, the list of postal service providers maintained by RTR comprised of a total of 24 companies at the end of 2018.

7.2.2 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 considered universal services. 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 2017 complied with the criteria listed above.

7.2.3 Complaints concerning universal service

Provincial and municipal authorities as well as interest group representatives under law are entitled to file complaints with the regulatory authority against service issues that concern either provision of universal service in general or in specific cases. RTR is obliged to review the complaints. If RTR recognises any potential impairment of universal service, it is required to forward the complaint to the PCK without unnecessary delay. The latter is expected to instigate appropriate supervisory measures.

Three complaints concerning universal service were submitted to the regulatory authority in 2018. One complaint was rejected due to the complainant's lack of eligibility to file a request. In the other two cases, RTR's initial review did not recognise any impairment of universal service.

7.2.4 Measurement of average transit times of letters and parcels

At least once a year, the regulatory authority is required to measure and verify the average transit times of letters handled by all providers, based on the method specified in the ÖNORM EN 13850 standard; the same applies to the average transit times of parcels, which are reviewed based on real-time data. The PMG requires postal service providers to meet certain transit times when providing services as part of the universal service mandate. At least once a year, postal service providers are required to publish comparable, appropriate and current information, based on the methods specified in ÖNORM EN 13850, on the quality of their services, in particular the transit times of conveyed postal items, and to provide this information to the regulatory authority on request. This implies that postal service providers are obliged to take appropriate measurements. Completed in 2018, the review of the transit times for letters and parcels conveyed as part of universal services in 2017 revealed that the transit times of the following postal service providers complied with applicable requirements:

• Österreichische Post AG
• GLS General Logistics Systems Austria GmbH
• DHL Paket (Austria) GmbH

The other postal service providers for whom the review procedure was initiated either did not provide any services falling under universal services during the period reviewed, or procedures are or were pending with the regulatory authority to determine whether the services provided are to be classified as universal services; consequently no measurements or review were required.

RTR's activities
as a competence centre

08 RTR's activities
as a competence centre

RTR is tasked with serving as a competence centre for broadcasting and tele-communications industry affairs[13] while complying with the general principles of economy, efficiency and expediency.

This competence centre role also involves completing analyses on matters relating to the activities of KommAustria, TKK and RTR, examples here including the commissioning of study reports or the preparation of expert opinions. The findings from such analysis work 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).

8.1   Media Division

8.1.1   Symposium: What do we believe? Living in a web of communications, commerce and artificial intelligence

A symposium to address the issue of "What do we believe? Living in a web of communications, commerce and artificial intelligence" was held by the RTR Media Division and media authority KommAustria in Vienna's MuseumsQuartier on 5 December 2018; the event was opened by Media Minister Gernot Blümel. The occasion was the presentation of a study entitled "Children, teenagers and young adults in the age of VOD". The report, presented by Bernhard Heinzlmaier, social researcher and chairman of the Vienna Institute for Youth Culture Research, investigates media usage behaviour among the target group of young people.

High-profile representatives from the media industry and from European regulatory institutions participated in the two panel discussions, the first session of which considered the question "Farewell to linear television? Where do we get information today? Where will we get it tomorrow?", while the second session dealt with "Freedom of expression and ensuring diversity: what can we expect of regulation in the age of algorithms?" The symposium was rounded off by a keynote presentation entitled "How algorithms influence journalism and media usage", delivered by Sophie Lecheler, professor of journalism and communication science at the University of Vienna.

Additional information on the event is available (in German) at
www.rtr.at/de/inf/vod-tagung.

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[13] RTR does not act as a competence centre for postal service regulation.

8.1.2 Studies commissioned

8.1.2.1 Study on "Children, teenagers and young adults in the age of VOD"

The study is based on a research project commissioned by the RTR Media Division and media authority KommAustria, and was carried out jointly by the Institut für Jugendkulturforschung (Institute for Youth Culture Research) and Wolfgang Tomaschitz of FH Campus Wien (University of Applied Sciences Vienna).

The media usage behaviour of children and young people under the influence of social media and on-line video platforms was analysed in May and June 2018. In an initial representative survey of the Austrian population aged 16 and over, individuals were interviewed over the phone to gather quantitative data on average media usage, especially in relation to news and videos. The analysis looked specifically at any differences related to respondents' ages.

Based on the results, five focus groups were conducted with teenagers and young adults. The questions discussed in the focus groups were aimed at analysing the participants' personal habits and perceptions of their video consumption, their access to and reception of news, and their TV viewing habits. The participants were directly queried on the advantages and disadvantages of video-on-demand services compared with linear television, and discussed this issue.

The study reveals challenges relating to media and social policy and, as a result, to regulatory policy. It has been published (in German) at www.rtr.at/de/inf/Studie_VOD-Zeitalter2018.

8.1.2.2 2018 Video Study

Commissioned by the RTR Media Division and the TELETEST Working Group (AGTT), market research institute GfK Austria carried out a representative survey of the population to investigate video usage in Austria, conducting more than 4,000 computer-assisted web interviews (CAWI) between 24 January and 21 February 2018. The result was the 2018 video study.

The subject of the study was the proportion of conventional, linear television usage in relation to alternative, online programmes. It was discovered that online programmes account for a growing share of daily video consumption among the population. The proportion of conventional, linear television viewing in relation to online programmes varies considerably depending on the age group. Conventional TV programmes continue to play the most significant role by far in all age groups. At the same time a consistent trend towards online TV and video can be seen, one that is especially strong among young people.

The results of the video study were presented to the public for the first time during the 2018 Screenforce Day. In addition to a presentation of video usage among Austrians, the study includes statistics on daily usage times for television and video broken down into seven age groups, and on the preferred reception devices for each video source. The complete version of the study has been published (in German) at www.rtr.at/de/inf/Bewegtbildstudie2018.

8.1.3 Guidelines for On-Demand Services

In tandem with KommAustria, a team of RTR experts has prepared a set of Guidelines for On-Demand Services, aimed at VOD providers, YouTubers, and users of other social networks. The guidelines can be downloaded from www.rtr.at/de/inf/vod-tagung/Guidelines_Abrufdienste_Youtube.pdf (in German).

The first section of the booklet answers questions relating to the notification requirement, the information to be included with notification and the obligations on-demand service providers are expected to meet.

The second section summarises details of the notification requirement for on-demand services, specifically the legal background and responsibilities, and legislation.

8.1.4 Research Institute for Electronic Mass Media Law (REM)

The Research Institute for Electronic Mass Media Law, abbreviated REM, was founded in 2005 and is established as a non-profit association within RTR. In 2018 REM continued to devote its efforts to the scientific study of the legal issues affecting electronic mass media.

The members of REM's management board in 2018 were: Prof. Michael Holoubek (Vienna University of Economics and Business, Austrian Constitutional Court, chair), Prof. Walter Berka (University of Salzburg), Oliver Stribl (RTR), Prof. Barbara Leitl-Staudinger (University of Linz, Austrian Constitutional Court), Prof. Hans Peter Lehofer (Austrian Administrative Court), Michael Ogris (KommAustria), Matthias Traimer (Austrian Federal Chancellery) and Alfred Grinschgl (RTR).

REM held a workshop in March to discuss the issue of "Ancillary copyright for press publishers? Reflections occasioned by Art. 11 of the proposal for a Directive on copyright in the Digital Single Market".

REM's Austrian Broadcasting Forum (Österreichisches Rundfunkforum), which facilitates an exchange of views among researchers and practitioners on issues affecting broadcasting law, was held for the fourteenth time on 18 and 19 October 2018. The topic of the event, attended by prominent guests, was "Privacy and Media", with a focus on the General Data Protection Regulation (GDPR) and the ePrivacy Regulation.

8.2 Telecommunications and Postal Services Division

8.2.1 RTR as operative arm of the KIG

Information and communication technologies (ICT) are a crucial factor for growth and employment. In response to this, the Internet Society Competence Centre (Kompetenzzentrum Internetgesellschaft or KIG) was established on 3 February 2010, with the goals of moving Austria to the forefront of ICT countries, expanding broadband use, grasping the internet as an opportunity for everyone and encouraging a coordinated ICT policy aligned with research findings. Projects and measures have been initiated and implemented through several working groups to meet these goals. The KIG has periodically published priority catalogues summarising the status and progress of projects. The RTR Telecommunications and Postal Services Division have provided operational support to the KIG.

The responsibilities of the KIG were transferred to the newly formed Digitalisation Agency (DIA) as of September 2018. Established under the Austria Research Promotion Agency (FFG), the DIA serves as a platform for consulting on and coordinating digitalisation activities. The DIA works closely with the interministerial task force of chief digital officers (CDOs), while advising the federal government and serving as a contact point for digitalisation issues, at national and international levels. The DIA is intended as a central platform for key measures related to digitalisation, allowing the challenges of digital transformation to be met through the targeted use of common resources. The results of the DIA's efforts are presented under the brand name of Digital Austria. The aim here is to move Austria forward to rate among leading digital nations, in this way sustainably ensuring and enhancing prosperity, employment and quality of living.

8.2.2 Guidelines on Wayleave Rights in Principle and Practice

The booklet entitled Guidelines on Wayleave Rights in Principle and Practice summarises the legal provisions applying to wayleave rights, a central issue in broadband rollout. The publication, while primarily intended for civic and municipal administrations, is also of interest to others. Examples from practice as well as FAQs help explain the complex legal issues involved.

The term 'broadband rollout' is defined at the outset, followed by a general summary on the subject of wayleave rights. The final section presents cases from practice and discusses FAQs, which additionally provide insights into past decisions by regulatory authorities.

The booklet is available as an e-paper and as a PDF document at www.rtr.at/de/inf/BroschuereLeitungsrechte (in German).

8.2.3   **Report: Glass fibre internet connections in Austria – current status and prospects**

When further improving the availability of high bandwidths, expanding the fixed network is just as important as the continued expansion of mobile networks. In this endeavour, glass fibre is regarded as the most efficient and future-proof medium.

When compared with other countries, Austria usually rates at the lower end in terms of internet connections via 'fibre to the home' (FTTH) and 'fibre to the building' (FTTB). Such ratings are usually based on the quarterly data collected by RTR in accordance with the Communications Survey Ordinance (KEV). In this case only the major providers in each market and segment are surveyed, however. Nevertheless, numerous regional and local initiatives to promote FTTH connections were launched by municipalities, power suppliers and network operators several years ago (especially in response to federal grant incentives), a fact not taken into account in the survey under the KEV.

RTR consequently surveyed data relating to FTTB and FTTH between June and August 2018, specifically the number of connections and network coverage. A total of about 85 companies and municipalities provided data for Q1 of 2018 (as of 31 March 2018). The report on the current status and prospects of glass fibre internet connections in Austria presents the results of that survey, while also broadly discussing the topic of fibre rollout in Austria.

Basic information relating to fibre rollout is followed by international comparisons of NGA and fibre rollout, including data from Austria. Another section presents the results of the FTTH survey and discusses the implications for Austria's international standing. Finally, the report discusses the factors affecting fibre rollout in Austria. The report is available from the RTR website at www.rtr.at/de/inf/GlasfaserOe2018/RTR_Glasfaser-Internetanschluesse_Oesterreich_10_2018.pdf (in German).

8.3   Public relations: information and transparency

A series of public relations activities in 2018 was aimed at familiarising the general public with the specific work of regulatory bodies KommAustria, TKK, PCK and RTR, as well as promoting transparency.

Media relations and enquiry management

By way of numerous press releases and press conferences, RTR informed the public of regulatory decisions, topics related to regulation and grant decisions. RTR also responded to numerous media enquiries and held interviews with media representatives.

Pertinent information was also circulated on Twitter and via the web-based information service.

RTR deals with a large number of enquiries daily, both by phone and in writing. In 2018 written enquiries submitted via rtr@rtr.at increased by 5% over the previous year, to a total of 2,497. Enquiries predominantly concerned end-user issues. Responses to written enquiries usually take about 1.5 working days.

TABLE 21:   VOLUME OF ENQUIRIES, 2014-2018

	2014	2015	2016	2017	2018
Number of enquiries to rtr@rtr.at	3,300	2,262	2,149	2,381	2,497

Source: RTR

A new telephone number for initial enquiries was installed in 2018: experts are available at 0043 1 58058 888 to provide free advice on topics that concern end users.

The www.rtr.at website – the main information portal

The www.rtr.at website comprehensively documents the entire spectrum of activities by KommAustria, the TKK, the PCK and RTR, while also offering insights into market climate and developments. RTR promptly publishes on the website decisions and information designated for disclosure from the scope of regulatory activities and grant administration. The available information is expanded continuously.

Publications

Publications have always been a main feature of public relations at RTR. All publications can be downloaded in PDF and, since 2018, as e-papers from the RTR website at www.rtr.at/en/inf/alleBerichte (partially in English).
Regular publications include: the Communications Report; the activity report of the conciliation bodies for telecommunications, media and postal services; the quarterlies RTR Telekom Monitor, RTR Post Monitor and RTR Internet Monitor; and the Net Neutrality Report. In addition to publishing this portfolio, numerous studies were commissioned in the year under review and some have already appeared (see section 8.1 and 8.2).

This is supplemented by RTR AKTUELL, a media and telecoms newsletter, which provides current information on regulatory topics relating to both RTR divisions, also from an international view.

Symposiums

The regulatory authorities convey relevant information to market participants and the general public at a national and international level, through the organisation of numerous symposiums, discussion forums and workshops, as well as through regular speaking engagements in which RTR experts participate.

The Austrian
communications markets
in 2018

09 The Austrian
# communications markets in 2018

9.1 The Austrian communications and advertising markets

9.1.1 Development of the advertising market

Gross advertising income from conventional media – including print, television, radio and outdoor ads – increased by 1.4%[14] over the previous year to a total of EUR 3.66 billion[15] in 2018 (2017: EUR 3.61 billion), the weakest growth since the crisis in 2009. The increase just for conventional media had been 4.7% in 2017 (5.5% in 2016).

Online advertising[16], including cinema, showed a higher increase of 1.8%, with the gross income achieved through cinema actually dropping by EUR 1 million to EUR 14 million, while online advertising increased by EUR 25 million over the year before.

FIGURE 09:   GROSS ADVERTISING EXPENDITURE FOR CONVENTIONAL AND
ONLINE MEDIA IN 2008–2018
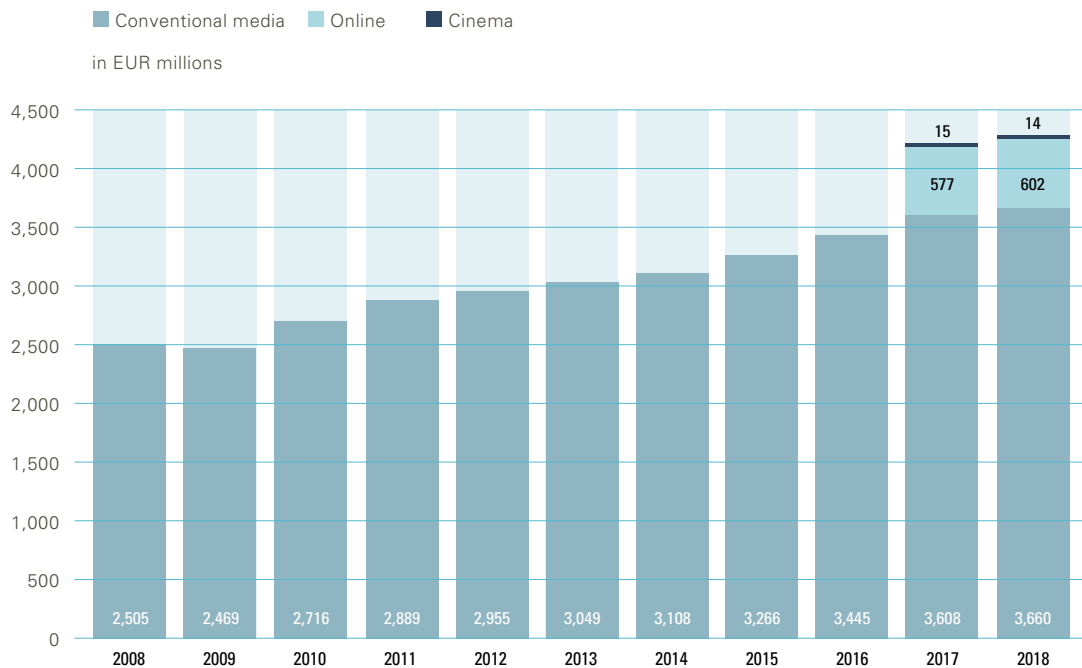
Source: FOCUS Media Research; EUR millions; *Online: projection based on 303 interviews with advertising industry and media agency representatives in 2018
(until 2016 excluding cinema, conventional flyer and online advertising; as of 2017 cinema and online at top)

[14] All figures for gross advertising income in Austria: FOCUS Media Research

[15] Statistical analysis based on the advertising price lists of the media channels in each case

[16] Source: FOCUS Media Research/iab. Austria, survey of experts and projected figure

RTR

In 2018 businesses increased their gross expenditure for conventional radio and television ads, as well as for printed and outdoor advertising, by roughly EUR 50 million compared with the year before, making a total of EUR 3.66 billion (2017: +EUR 159 million). In gross figures, EUR 602 million was invested in online advertising in 2018 (2017: EUR 592 million) and EUR 14 million in cinema ads, representing an increase of 4% or EUR 25 million for both categories together.

This resulted in EUR 4.28 billion in total gross advertising income in 2018 (2017: EUR 4.2 billion).

The advertising income figures presented here refer to gross values, not reflecting any discounts granted. This means that the figures represent the values listed in providers' official price schedules for radio and TV commercials, and for advertising space in print media and outdoors.

Strongest growth in 2018 for online and radio advertising

Online advertising, which increased by 4.5%, and radio ads, with a 4.4% increase, gained the most in gross advertising income in 2018. Trailing at the other end of the rankings were outdoor advertising and 'other' print media (including weekly newspapers and magazines), both of which lost 0.5%, and cinema advertising with a 4.3% drop in gross advertising income.

FIGURE 10:   ADVERTISING EXPENDITURE IN AUSTRIA BY CATEGORY
IN 2017 AND 2018
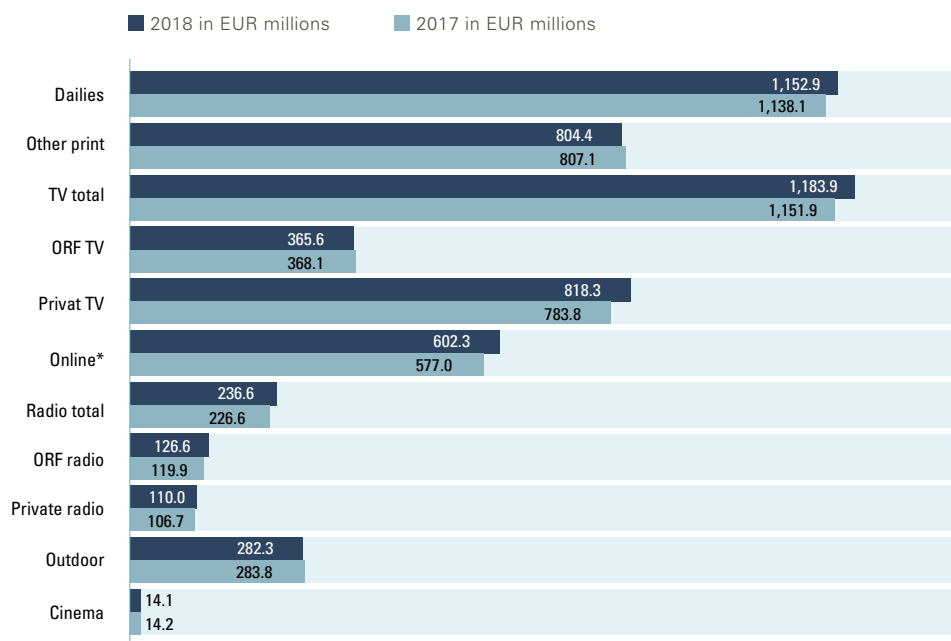
* Online: projection based on 303 interviews with advertising industry and media agency representatives in 2018
Source: FOCUS Media Research; figures in EUR millions

Until 2016, the data provided by FOCUS Media Research only included the gross amounts spent by businesses on conventional forms of online advertising, mainly comprising banner ads and direct response advertising on websites[17], but also mobile marketing and in-stream video advertising (such as pre-rolls but not including YouTube). Now, however, FOCUS is able to provide a reliable estimate of the online advertising market as a whole, additionally taking into account keyword advertising and advertising budgets spent on social media. Yet, unlike the quantitative evaluation of advertising volumes that is used in conventional media – with newspaper ads, billboards, and TV and radio commercials – the estimate here results from a projection based on the responses given in interviews[18] with representatives of the advertising industry and media agencies.

Compared with the year before, the results for online advertising improved on the whole by 4% or EUR 24 million to a total of EUR 602.3 million. Within online advertising, the online mobile (+14.4%), and online video (+10.6%) segments showed the highest gains. The social media (+8.6%) and search engine (+4.6%) segments also achieved higher gross advertising income. Traditional online advertising, including website banners, dropped by 0.5% in 2018.

Recovering ground in 2018, ORF radio gained about 5.7% (or EUR 6.7 million) compared with the previous year, when the drop had been 0.6%. While the results for private broadcasters were positive on the whole, the average gain of 3.1% (or EUR 3.3 million) was smaller than in 2017 (+9.3%) and some 50% below the increases in previous years (2016: +6.2%; 2015: +6.7%; 2014: +6.3%). The radio sector as a whole improved its gross advertising revenue by EUR 236.6 million or 4.4% compared with the year before. The sector thus grew at a slightly higher rate than in 2017 (+3.9%).

The television advertising category achieved more gross revenue than daily newspapers for the first time in 2017. In 2018, TV advertising was the Austrian media market category achieving the highest income for the second consecutive year. Television had 'earned' EUR 14 million more than daily newspapers in 2017. TV advertising more than doubled this margin in 2018, increasing it to EUR 31 million. With a gain of 2.8% or EUR 32 million over the previous year, television achieved a total of EUR 1.184 billion in gross advertising income. ORF television advertising, meanwhile, finished with a gross total of EUR 365.6 million, making for a drop of 0.7% (or EUR 2.5 million) from the year before. This compares with ORF's 12.7% increase in 2017 and 15% gain in 2016. Private television thus figures as the main factor in the marginal increase in TV advertising as a whole, with gross advertising income increasing by 4.4% (or EUR 34.5 million) to a total of EUR 783.3 million (2017: +3.2% or EUR 24.4 million). Within that category, private broadcasters account for a share of more than 69% of gross advertising income.

Daily newspapers again achieved an increase of 1.3% in 2018 (2017: 3.8%), collecting EUR 15 million more in gross advertising revenue, making a total of EUR 1.153 billion. Meanwhile, the daily reach achieved by newspapers dropped in 2018 – as in the previous year – by over 2 percentage points compared with 2017, to 62.3%[19] (2017: 64.6%; 2016: 66.7%). Until 2016, the loss in daily reach had been limited to an average of about 1 percentage point. Newspapers have nonetheless been able to increase gross advertising income from year to year, with gains of 4.8% in 2015, 5.6% in 2016 and 3.8% in 2017.

The gross income collected by 'other' print media (weekly newspapers and magazines) slid somewhat in 2018, dropping by 0.34% or EUR 2.7 million, making total gross sales of EUR 804.4 million. Regional weeklies, in contrast, confirmed their standing as the strongest segment in this category by recording a 3.2% increase. The advertising

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[17] Direct response advertising: interactive banners with direct links to an online shop

[18] 303 interviews in 2018, with the number of varying slightly from year to year

[19] 2018 Media Analysis, Verein Arge Media-Analysen

volumes purchased by journals, meanwhile, dropped by 6.3%, while the decrease for magazines was 3%. This contrasts with 2017, when other print media recorded a 3.5% increase in gross advertising income, and a 1.9% gain in 2016.
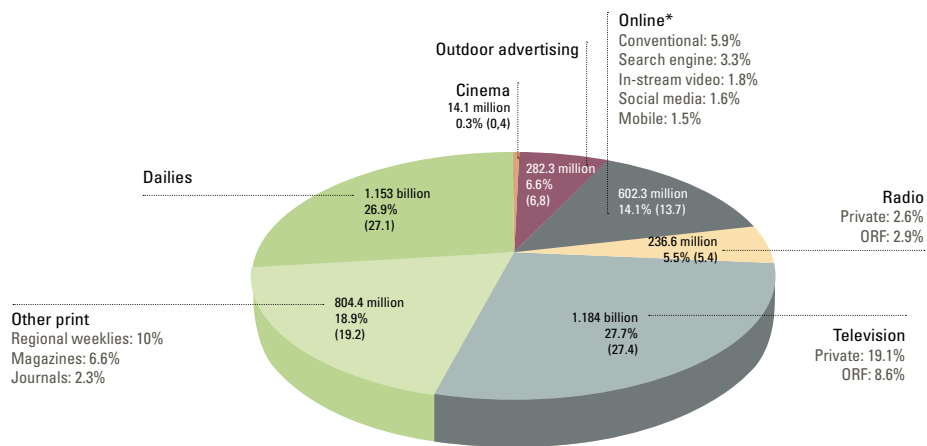
Outdoor advertising as a category achieved stable or in some cases slightly lower gross income, declining in total by 0.5% or EUR 1.5 million from the year before to a total of EUR 282.3 million; according to FOCUS Media Research, the difference is likely due to the National Council elections in 2017, when more outdoor advertising was purchased[20]. Within this category, the digital out-of-home (DOOH) segment showed the strongest growth in 2018. Purchases of all types of publicly screened 'moving' advertising increased by 20% (2017: +11.6%; 2016: +15.6%; 2015: +32.4%). All other segments of outdoor advertising experienced drops: conventional billboard advertising by 4.5%, street furniture by 6.8% and ambient media by 10.9%.

Distribution of advertising expenditure

As in previous years, the sizes of the shares held in gross advertising expenditure changed only marginally in 2018.

FIGURE 11:   SHARES OF GROSS ADVERTISING EXPENDITURE IN 2018 (2017), CONVENTIONAL MEDIA AND ONLINE

Note: Pie chart now includes the previous year's share, as a percentage in parentheses.

Outdoor advertising
Cinema
14.1 million
0.3% (0,4)

Online*
Conventional: 5.9%
Search engine: 3.3%
In-stream video: 1.8%
Social media: 1.6%
Mobile: 1.5%

Dailies
1.153 billion
26.9%
(27.1)

282.3 million
6.6%
(6,8)

602.3 million
14.1% (13.7)

Radio
Private: 2.6%
ORF: 2.9%

236.6 million
5.5% (5.4)

Other print
Regional weeklies: 10%
Magazines: 6.6%
Journals: 2.3%

804.4 million
18.9%
(19.2)

1.184 billion
27.7%
(27.4)

Television
Private: 19.1%
ORF: 8.6%

*   Projection based on 303 interviews with advertising industry and media agency representatives in 2018
Source: FOCUS Media Research, 2018 Advertising Report; figures in euros and as percentages

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[20]   Cf.FOCUS Werbebilanz 2018 presentation, summary on page 19 (in German)

Seven segments – daily newspapers and other print media are listed separately – shared the overall total of EUR 4.3 billion in gross advertising expenditure in 2018, which is about a EUR 75 million (or 1.8%) increase from the previous year. Television achieved the largest share of advertising in that year, increasing its holdings by 3 percentage points and reaching a total of 27.7% in 2018; daily newspapers lost two tenths of a percentage point to finish in second place with 26.9%, followed by other print media, which, at 18.9%, lost three tenths of a percentage point.

The margin separating other print media and online media diminished from 5.5 percentage points to 4.8 percentage points. The various forms of online advertising claimed a 14.1% share of gross advertising expenditure.

This was double the share held by outdoor advertising, which relinquished two tenths of a percentage point for a 6.6% share. With an increase of one tenth of a percentage point, radio advertising claimed 5.5%.

Compared with the year before, cinema lost one quarter and fell back from 0.4% to 0.3%.

9.1.1.1   Comparison with the German advertising market

The German advertising market showed no growth in 2018 compared with the year before. A total of EUR 27.653 billion was spent on conventional media, excluding online and cinema advertising, which represents 0.05% more than in the previous year (2017: 1.3%).

FIGURE 12:   GROSS ADVERTISING EXPENDITURE IN GERMANY BY CATEGORY IN 2017 AND 2018

■ 2018 in EUR millions   ■ 2017 in EUR millions

Category	2018	2017
Dailies	5,002.9	4,983.2
Other print	3,681.3	3,811.8
TV total	15,501.3	15,307.6
Radio total	1,953.8	1,916.7
Public radio	598.9	609.6
Private radio	1,354.9	1,307.0
Outdoor advertising	1,514.0	1,507.4
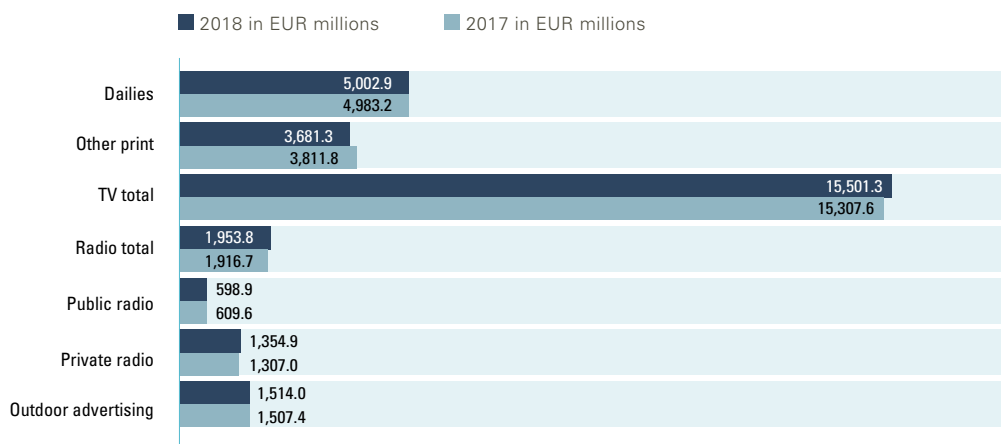
Source: Nielsen Media Research; figures in EUR millions, not adjusted

Including cinema and online advertising, the German advertising market represented a total volume of EUR 31.9 billion in 2018, increasing only by 0.03% from the year before; nonetheless, with the survey methods constantly changing, the annual figures for online are not comparable[21]. Translated into euros, gross advertising expenditure (excluding cinema and online) increased by just under 127 million (2017: 355 million; 2016: 1.56 billion). This represents Germany's poorest result since the crisis in 2009.

Claiming EUR 15.5 billion in gross advertising expenditure, television continued to be Germany's leading advertising channel, its volume increasing by almost 1.3% over the previous year (2017: 1.4%; 2016: 7.9%). Among conventional media, radio increased its gross advertising income the most (by 2.0%), followed by daily newspapers with a 0.4% rise compared with 2017. Popular magazines and professional journals showed roughly a 4% decrease from the year before.

Nielsen Media Research reports a 58.6% jump in spending on mobile online advertising, continuing the skyrocketing trend in this segment, which for the first time achieved a gross advertising income of EUR 1 billion. Investments in the category of desktop media (conventional online advertising) amounted to EUR 2.7 billion in 2018, making for a 6.9% decrease.

Germany and Austria show a similar pattern in terms of distribution of gross advertising income among conventional categories, excluding cinema and online ads. The main difference here relates to the overall print market (dailies plus other print media) and television, with rankings of these categories reversed in the two countries.

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[21] All figures on gross advertising sales in Germany: Nielsen Media Research

FIGURE 13:   SHARES OF GROSS ADVERTISING EXPENDITURE IN GERMANY
AND AUSTRIA IN 2018, CONVENTIONAL MEDIA

■ Television   ■ Radio   ■ Outdoor advertising
■ Dailies   ■ Other print

Based on EUR 27.65 billion for Germany;
source: Nielsen Media Research; percentages

Based on EUR 3.66 billion for Austria;
source: FOCUS Media Research; percentages
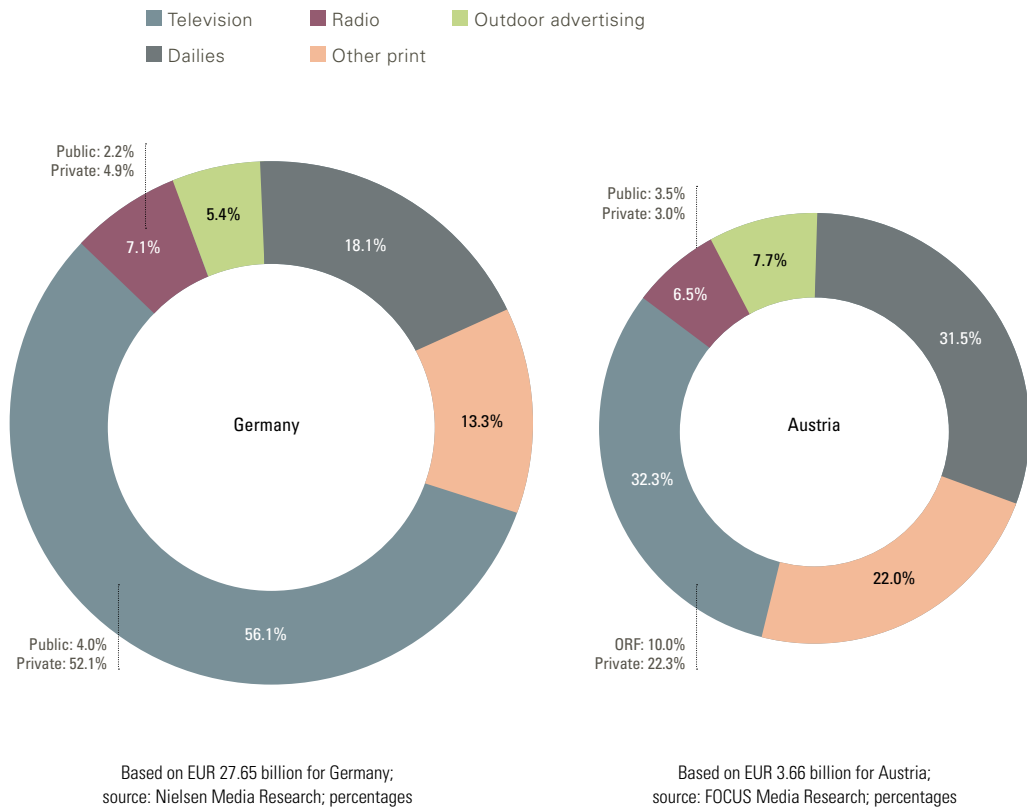
Of the EUR 27.65 billion (gross) spent on advertising in conventional media in Germany, German TV broadcasters received 56.1% (five tenths of a percentage point more than in 2017; AT: 32.3%), while 31.4% went to print media overall (five tenths of a percentage point less than in 2017; AT: 53.5%). At 7.1%, radio advertising in Germany moved up by one tenth of a percentage point from 2017 to achieve a similar share as in Austria (6.5%), while outdoor advertising in Germany accounted for a 5.4% share, one tenth of a percentage point less than in 2017 and smaller than the 7.7% share recorded in Austria.

9.1.2   The Austrian television market

9.1.2.1   Television viewing

Television reached a daily average of 65.1% of the population aged twelve and older in 2018, slightly less than in 2017, when the daily reach had risen by about 2.5 percentage points to 65.3% (2016: 62.7%; 2015: 62.4%).

While viewing time increased again, the rise by six minutes to 192 minutes per day was less significant than the eight-minute increase in 2017 or the seven-minute rise in 2016[22]. The upward trend nonetheless continued. After the most recent record low of 153 minutes in 2009, daily viewing time has increased by about 25% or 39 minutes.

9.1.2.2 Proportional market share of Austrian and non-Austrian television channels

Even though Austrians were more likely to view television channels from other countries than domestic channels in 2018, for the first time since 2012 there was an exception to the long-term rise in foreign television viewing. The market share of non-Austrian channels among the Austrian viewing population declined by seven tenths of a percentage point to 56.6%. The market share held by domestic TV channels correspondingly increased to 43.4%, with private channels taking credit for the gain.

FIGURE 14:   MARKET SHARE OF AUSTRIAN AND NON-AUSTRIAN TV CHANNELS IN 2015–2018

■ Market share 2015   ■ Market share 2016   ■ Market share 2017   ■ Market share 2018

NON-AUSTRIAN CHANNELS

	Non-Austrian	German private channels*	German public incl. 3sat
	56.5 56.7 57.3 56.6	30.1 29.2 29.4 27.9	13.3 13.3 13.0 12.8

* Comedy C./VIVA (A+D), DMAX (A+D), KAB.1, KAB.1 Doku, Nick. (A+D), NITRO, PRO7, PRO7 Maxx, RTL, RTL2, SAT.1, Sat.1 Gold, sixx, SRTL, VOX. NEU 2018: RTL Plus, ntv, N24 Doku, Sport 1

AUSTRIAN CHANNELS

	Austrian channels total*	ORF total	Private Austrian nationwide*
	43.5 43.3 42.7 43.4	35.3 35.1 33.9 32.9	8.1 8.0 8.4 10.0

* ORF eins, ORF 2, ORF III, ORF sport+, ATV, ATV 2, Puls 4, Servus TV, R9 gesamt, gotv, Okto, oe24 TV

* ATV, ATV 2, Puls 4, Servus TV

Persons aged twelve and over in all of Austria, all reception modes
Source: AGTT/GfK TELETEST; Evogenius Reporting; market shares as percentages

[22] All figures for TV: GfK Austria/TELETEST working group 2018, representative survey of 1,649 Austrian households

Market share has become fragmented as a result of German private broadcaster groups introducing special-interest channels, which has led to a net loss of market share. With the main channels losing ground, special-interest channels cannot make up the losses.

The market share held by German private broadcasters shrank by 1.5 percentage points to 27.9%, largely due to the losses suffered by the traditional 'parent channels'. RTL suffered the most, losing six tenths of a percentage point and making a total market share of 4.1%, followed by Sat. 1 with three tenths of a percentage point less, making a share of 3.6%. Kabel 1 dropped by two tenths of a percentage point to a share of 2.3%. Each forfeiting one tenth of a percentage point, ProSieben had a 4% share in the end, VOX 3.7%, NITRO 1.1%, Comedy Central/VIVA 0.3%, DMAX 0.8% and Nickelodeon 0.3%, together accounting for another six tenths of a percentage point in total market share lost by German private broadcasters.

Within the ProSiebenSat.1 group, the special-interest channels Kabel 1 Doku (0.7% market share) and Sat.1 Gold (1.6%) each gained two tenths of a percentage point, while Pro7 Maxx (0.7%) acquired one tenth, almost making up for the four tenths of a percentage point loss suffered by N24 Doku (0.3%).

Two members of the RTL group, the newcomer RTL plus and the information channel ntv, each with 0.6% market share, appear only in the overall list of non-Austrian channels.

In spite of losing six tenths of a percentage point, and with a 4.1% market share, RTL continues to hold a narrow lead of one tenth of a percentage point over ProSieben, to remain the most popular German private channel. Yet, for the first time, RTL came in second overall behind German public broadcaster ZDF, which moved up by two tenths of a percentage point to hold a 4.3% share. Das Erste/ARD held on to its 3.1% share, while the ARD regional channels relinquished a total of three tenths of a percentage point to finish with 3.8%, and 3sat lost one tenth of a percentage point at 1.6%. German public channels achieved a 12.8% share in the Austrian television market in total, two tenths of a percentage point less than the year before.

Besides the additional special-interest channels already mentioned, the overall group of non-Austrian channels features other German-language channels, including Swiss public television and shopping channels such as QVC or HSE 24, as well as channels broadcast in other languages.

9.1.2.3   Market share of Austrian television channels

In a favourable development, Austrian television channels gained seven tenths of a percentage point for a total market share of 43.4%, mostly attributed to private broadcasters in Austria.

All Austrian private channels gain market share

ATV improved its standing by seven tenths of a percentage point for a 3.3% market share in 2018, thereby tying with Puls 4, which gained ground in 2018 after losing share for three consecutive years. Puls 4 moved up by three tenths of a percentage point (3.3% market share in total), as did Servus TV (2.4%) and ATV 2 (1%). The latter's gain of three tenths of a percentage point is particularly significant in relative terms, after successive years when it had each time increased its share by one tenth of a percentage point short of the 1% mark.

FIGURE 15: MARKET SHARE OF AUSTRIAN TELEVISION CHANNELS, 2016 AND 2018
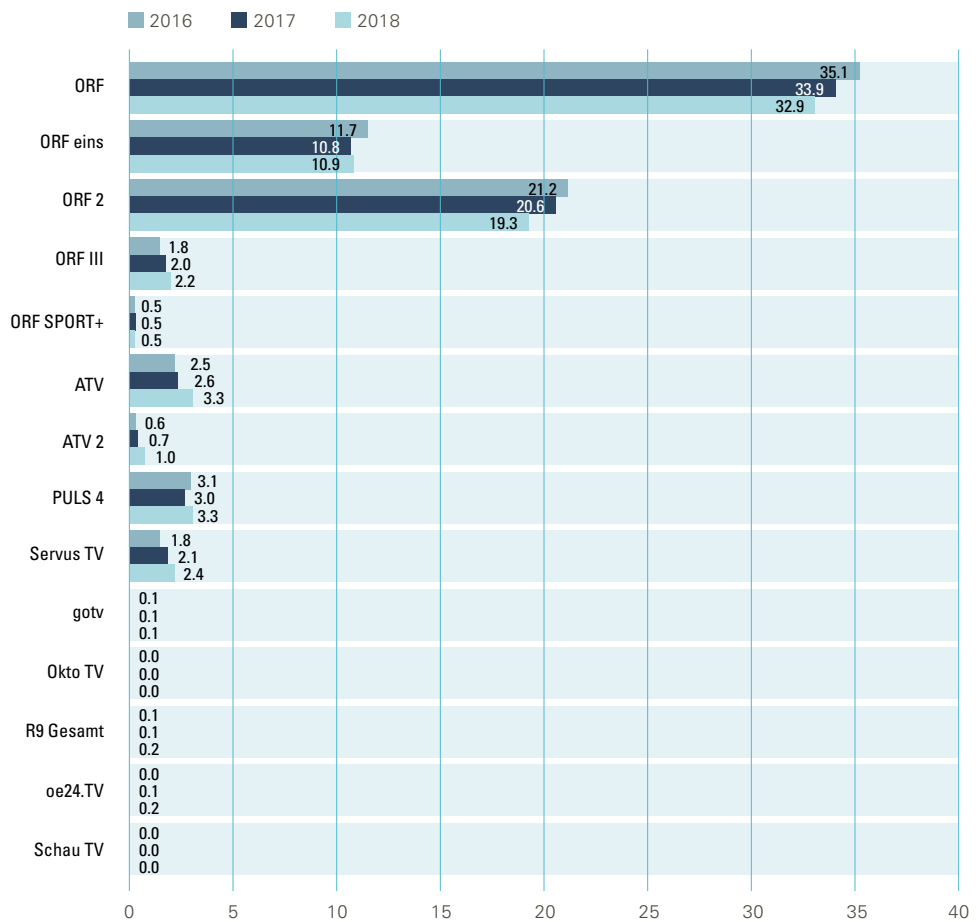
Source: TELETEST; market share as a percentage; persons aged twelve and over in all of Austria, all reception modes

oe24.TV, which was launched nationwide in October 2016, as well as the regional joint private channel R9, gained market share in 2018, with both increasing by one tenth of a percentage point to a total market share of 0.2% each.

ORF 2 loses market share, resulting in an overall loss for ORF

With an overall market share of almost 33%, the ORF channel network continues to be Austria's main provider of TV programming. This is despite the fact that it lost 1 percentage point of overall market share in 2018, in line with the downward trend seen for over a decade, which had been interrupted only by two brief recoveries in 2012 and 2015. The exclusive cause this time was ORF 2, which slumped by 1.3 percentage points to a market share of 19.3%, despite ORF eins succeeding in holding and even slightly improving its share by one tenth of a percentage point to achieve 10.9%. ORF III edged upwards again in 2018, gaining two tenths of a percentage point and making a 2.2% market share in total, while ORF SPORT + continued to hold its 0.5% share.

9.1.2.4 Video viewing: linear broadcasting in relation to online services

The use of internet video sources among the overall population aged 14 and over saw another increase in 2018 from the year before. As in 2017, residents aged 14 and over again viewed a larger share of internet videos in relation to videos overall in 2018, with this share increasing by 3 percentage points to reach a 17% share. Videos originating from broadcasts (live television and private recordings) continued to account for the largest share of video viewing at 82%. Younger members of the population between 14 and 29 years of age, in contrast, spent 44% of their video viewing time watching internet videos.

FIGURE 16:   VIEWING OF VIDEO SOURCES IN 2018, PERSONS AGED 14+ AND 14 TO 29-YEAR-OLDS

Based on avg. daily video use of 225 min.

Based on avg. daily video use of 212 min.

■ Linear TV	■ Netflix	
■ Recorded TV	■ Amazon Video	
■ TV media libraries	■ Facebook	
■ TV live streaming	■ Other videos	
■ YouTube	■ DVDs and similar	

■ Linear TV	■ Netflix	■ WhatsApp
■ Recorded TV	■ Amazon Video	■ Snapchat
■ TV media libraries	■ Facebook	■ Other videos
■ TV live streaming	■ Instagram	■ DVDs and similar
■ YouTube	■ bs.to	

Source: RTR/AGTT 2018 Video Survey; shares as percentages; persons in all of Austria

Since 2017, the Media Division at RTR has jointly conducted a representative survey of roughly 4,000 Austrians with the TELETEST Working Group (AGTT). The aim is to discover the extent to which the viewing population uses conventional linear television for video consumption compared with online services. The study, carried out by GfK Austria each year, appears under the title of Video Survey (Bewegtbildstudie), suffixed by the year when the survey was taken.

Slight increase in internet video viewing among the population at large

The Video Survey reveals that the population aged 14 and over spent 82% of their 225 minutes of average daily video viewing time in 2018 watching linear television broadcasts received via the conventional modes of cable, satellite or terrestrial reception. That figure includes using linear television simultaneously with the actual broadcast (live TV) 77% of the time and viewing private recordings of linear TV for 5% of the time. This means that the share of live TV and recorded TV viewing in relation to video consumption decreased overall by a total of two percentage points compared with 2017 (84%).

Online video sources accounted for 17% of the time the overall population spent watching videos each day on average in 2018 (2017: 14%). Here the YouTube platform accounted for the largest share at 4% (2017: 3%), followed by the media libraries of TV broadcasters, who also improved their standing since the previous year, moving up 1 percentage point to 3%. Video providers Amazon Prime Video and Netflix succeeded in doubling their average viewing time among the population as a whole, with these sources claiming almost 2% each. Those gains were at the cost of other online sources, including Facebook and WhatsApp, which provided only one per cent or less of all videos viewed. Meanwhile, physical storage devices with purchased content, meaning DVDs and Blu-ray discs, were able to hold their 2% share of video viewing time.

14 to 29-year-olds spend 44% of video time viewing internet videos

Among young people between the ages of 14 and 29, there was a renewed rise in the use of online sources during average daily video viewing time. Young people spent an average of 212 minutes per day using the medium of video in 2018 (2017: 211 minutes). A total of 44% of that time was spent watching videos from media libraries, YouTube, Netflix or Amazon Prime Video or while visiting social media (2017: 35%; 2016: 25%). At about 10%, YouTube continued to be the largest 'shareholder'. The media libraries operated by TV broadcasters expanded their share of video use among the category of young viewers, from 6% to 8%. Accounting for a share of 6%, live TV streams were viewed twice as much as in 2017. Netflix and Amazon Prime Video also play a more significant role for young people. Netflix's share of video viewing time increased from 3% to 5%, while Amazon Prime moved up from 3% to 4%. There was practically no change since the previous year in video use via social media among young people. Instagram entered the rankings, achieving 1%.

Among young viewers, television content accounted for 52% of video viewing time in 2018 (including 4% private recordings), with broadcasts viewed via the conventional modes of cable, satellite or terrestrial reception (2017: 61%; 2016: 70%; including recordings in each case).

As in 2017, young people aged 29 and under met their video needs 4% of the time in 2018 by viewing purchased DVDs or Blu-rays.

9.1.3 The Austrian radio market

9.1.3.1 Radio listening in 2018

The daily reach achieved by Austrian radio stations saw a renewed decrease in 2018[23], in line with the gradual long-term trend for the overall population aged 10 and over (10+). Among this group, radio reached almost one per cent fewer people each day on average than in 2017 (75.5% compared with 76.4%). Within the core category of 14 to 49-year-olds (14–49), 71.6% listened to the radio daily in 2018 (2017: 73.8%).

Daily listening time in 2018 increased by four minutes among the overall population aged 10+, reaching an average of 183 minutes (2008: 203 minutes, 20 minutes more). Thus, for the second time since 2011 the general trend towards less radio listening was interrupted, the other exception being 2016. This was largely attributed to radio listeners aged 50+. Listening time in 2018 within the 14–49 category declined by one minute to an average of 171 minutes per day (2008: 207 minutes or 36 minutes more).

9.1.3.2 Market share and daily reach of ORF and private radio nationwide

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 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 a day at all. 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 respondents' activities during the previous day. The day is divided up into quarter hour periods, with respondents able 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 various radio stations, so that the total individual market share held by radio stations may 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 particularly pronounced in 2018. While the individual market shares should all add up to 100%, the total calculated just for ORF radio and private radio nationwide is 101%. This does not yet take into account non-Austrian and free radio stations, which altogether amount to a market share of over 4%.

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[23] Source of all data on the Austrian radio market: Radiotest

Total daily reach of ORF and private radio stations decreases nationwide

All ORF radio stations together achieved a daily reach figure of 51.6% among the target group of 14 to 49-year-olds in 2018 (2017: 53.6%). A 2.8 percentage-point drop was seen for Ö3, resulting in a 36.7% daily reach. The ORF regional radio stations together gained two tenths of a percentage point to finish with 14.6%, but were still unable to recoup the 16% daily reach level recorded in 2015 and 2016. Ö1, the culture and information station, also moved up by two tenths of a percentage point to reach 5.2%, continuing the relatively strong upward trend seen for daily reach in previous years. FM4 showed a better daily reach on average, improving by one tenth of a percentage point to 5.2%.

Like public station Ö3, private stations in Austria also reached fewer individuals within the 14 to 49-year-old category in 2018 than in the year before. Relinquishing 1.4 percentage points in daily reach, private stations together fell to 35.4%.

ORF and private stations gain market share among 14 to 49-year-olds

When the distribution of market shares is viewed at national level over the previous years, the ORF stations as a group are seen to have advanced. The ORF radio network improved its market share among listeners aged 14 to 49 by four percentage points in 2018, to a total of 64%.

FIGURE 17:   NATIONWIDE RADIO MARKET SHARE AMONG THE TARGET AGE GROUP OF 14 TO 49-YEAR-OLDS, 2015–2018

■ Market share 2015   ■ Market share 2016   ■ Market share 2017   ■ Market share 2018

in percent

	ORF gesamt	Ö3	ORF regional stations total	OE 1	FM4	Austrian private radio
2015	60	38	16	3	4	36
2016	61	38	17	2	4	36
2017	60	40	15	3	3	36
2018	64	40	18	4	5	37
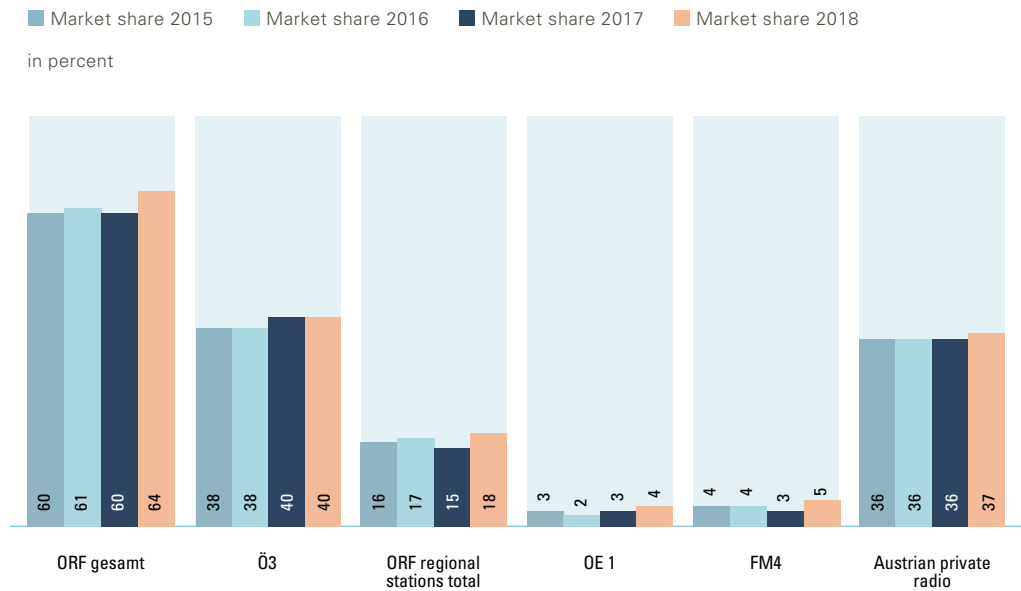
Source: Radiotest; percentages; all of Austria

The Ö3 radio station was able to defend the 40% share achieved in 2017. The nine ORF regional stations (i.e. Radio Niederösterreich, Radio Kärnten, Radio Wien and similar) recovered ground lost in 2017, together rising by 3 percentage points to a total market share of 18%. Continuing its upswing, Ö1 climbed by an additional percentage point to reach 4% of the nationwide market. FM4, the station targeting youths, gained 2 percentage points for a 5% market share.

Regional private stations and the nationwide KRONEHIT network improved their aggregated market share among 14 to 49-year-old listeners, moving up 1 percentage point to a total of 37%.

9.1.3.3   Radio market in Vienna

Developments in Vienna's highly competitive radio market reflected the nationwide daily reach trend in 2018, although losses in Vienna were more substantial. Among the overall population aged 10+, radio reached 63% of listeners daily on average, losing 3 percentage points (nationwide: -0.9 percentage points for a total of 75.5%). Vienna radio stations reached 54.8% of the population aged 14 to 49. This represents a loss of 5.4 percentage points from the previous year.

Ö3 reached 20.1% of 14 to 49-year-old listeners daily compared with 24.3% the year before, a loss of 4.2 percentage points. Yet private radio stations also lost listeners in Vienna. The daily reach achieved among 14 to 49-year-olds by all private stations together dropped by 2.3 percentage points to a level of 28.5%.

Market share: Ö3 loses while private stations gain

The ORF radio network in Vienna lost 3 percentage points of its market share in the region, finishing with 53% in 2018. In contrast to its continued performance at national level, Ö3 as the most popular station relinquished 5 percentage points of its market share, making a total of 27%. Meanwhile, culture and information specialist Ö1 and youth station FM4 each improved their market share by 50% or 3 percentage points, rising from 6% to 9%. Radio Wien, the ORF's regional station in Vienna, succeeded in defending its 9% market share in 2018 after surrendering 2 percentage points in 2017.

RTR

FIGURE 18:   RADIO MARKET SHARE IN VIENNA AMONG THE TARGET AGE GROUP
             OF 14 TO 49-YEAR-OLDS, 2015–2018

■ Market share 2015   ■ Market share 2016   ■ Market share 2017   ■ Market share 2018

in percent

	ORF gesamt	Ö3	Radio Wien	OE 1	FM4	Austrian private radio
2015	55	31	9	6	6	40
2016	59	35	11	5	6	39
2017	56	32	9	6	6	40
2018	53	27	9	9	9	46
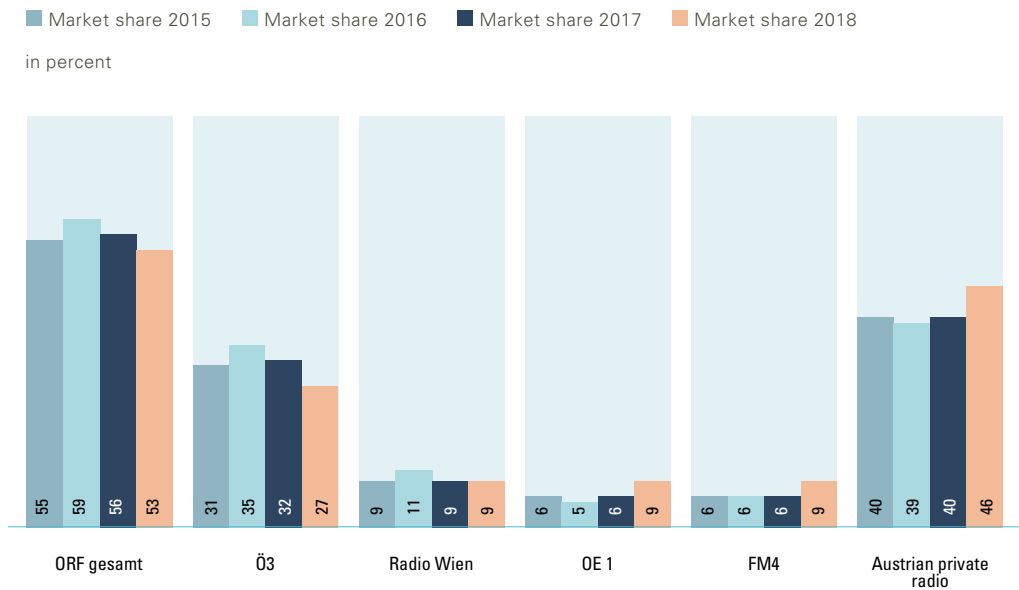
Source: Radiotest; percentages

The market share held by private stations in Vienna increased from previous years by an exceptional 46%, as a result of gains by a group of five stations including KRONEHIT, radio 88.6, Radio Arabella, Radio Energy and 98,3 Superfly, while Radio Ö24 lost 1 percentage point. Adding up the individual market share for private stations would actually result in a total share of 49%; yet this figure is reduced to 46% when decimal values are taken into account in addition and the total is then rounded.

FIGURE 19:   PRIVATE RADIO MARKET SHARE IN VIENNA AMONG THE TARGET AGE
             GROUP OF 14 TO 49-YEAR-OLDS, 2015–2018

■ Market share 2015   ■ Market share 2016   ■ Market share 2017   ■ Market share 2018

in percent

	Austrian private radio	Kronehit	radio 88.6	Radio Ö24	Radio Arabella	Radio Energy	98,3 Superfly
2015	40	13	6	4	6	9	3
2016	39	13	9	3	5	7	2
2017	40	16	6	3	5	6	2
2018	46	19	9	2	7	9	3
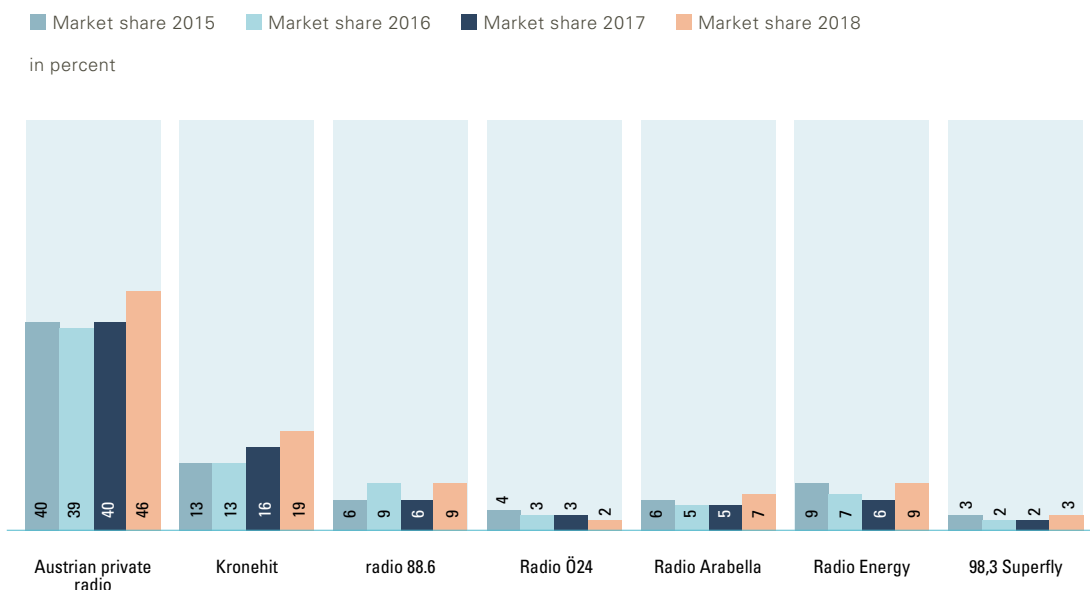
Source: Radiotest; percentages

KRONEHIT, radio 88.6 and Radio Energy were each able to gain 3 percentage points of market share. KRONEHIT achieved a 19% share of the Vienna market, the best showing in the station's history. Radio Arabella moved up by 2 percentage points to a total of 7%. Superfly moved up by 1 percentage point, regaining the 3% market share it had held back in 2015. Radio Ö24 relinquished 1 percentage point to finish with 2%.

9.1.3.4 Use of radio transmission modes

The trend towards less frequent use of conventional stationary radio receivers at home and at work continued among all age categories in 2018. Yet, for the first year ever, users switched on their car radios less often. Instead, radio listeners made somewhat more use of smart TVs and digital voice assistants, such as Amazon Echo (Alexa), Google Home, Apple HomePod and Microsoft Cortana, although this trend was hardly as pervasive as the omnipresence of such devices in the media and at media conventions would suggest.

FIGURE 20: DAILY USE OF RADIO SOURCES IN 2018, PERSONS AGED 10 AND ABOVE AND 14 TO 29-YEAR-OLDS

■ Population 10+   ■ 14 to 29 years

in percent

	Car radio	Stationary receiver	Cable / Satellite	Internet	Smartphone	MP3 player	Smart TV	Digital voice assistant	Headphones / In-ears
Population 10+	44.9	48.5	8.2	6.1	4.5	0.7	1.9	1.5	3.2
14 to 29 years	44.3	30.7	6.8	7.0	8.3	1.1	2.2	2.3	6.6
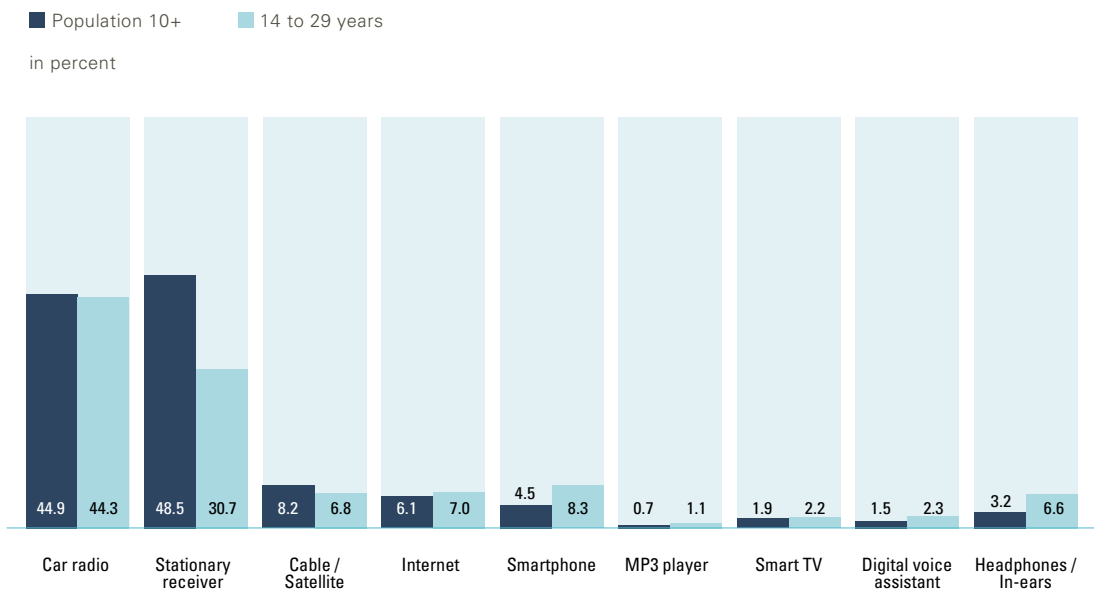
Source: Radiotest; daily radio listening via...; percentage of listeners aged 10+ and 14 to 29

In 2018, 44.9% of the overall population listened to their car radios daily, and 44.3% of individuals between 14 and 29. This means that car radio use within the overall population dropped by almost 2 percentage points compared with 2017, while use among 14 to 29-year-olds declined only by eight tenths of a percentage point.

Less use of stationary radio receivers

Of the total population aged ten and above, 48.5% still switched on a kitchen radio, stereo tuner or similar stationary device for their daily radio listening. This represents a 3.4 percentage-point decrease from the previous year (2017: 51.9%; 2016: 54.3%). Among young listeners, 30.7% still used a stationary radio receiver daily in 2018, which corresponds to a drop of 3.1 percentage points from the year before (2017: 33.8%; 2016: 37.5%).

Radio listening via cable or satellite became more frequent among both age groups in 2018, and more so among young people, who showed an increase of 1.1 percentage points to 6.8% in total. The share of the total population listening to radio daily via cable or satellite increased by two tenths of a percentage point to a total of 8.2%. Back in 2017, preference for this mode of radio listening had increased by seven tenths of a percentage point within the population aged ten and over and by five tenths of a percentage point among young people.

There was no significant increase in the use of internet as a radio reception mode in 2018. As in the previous year, the share of individuals listening to radio via the internet (for example, using notebooks, internet radios or tablets) was 6.1% among the general population and 7% among 14 to 29-year-olds. It should nonetheless be noted that Smart TVs and digital voice assistants were included in the survey for the first time, devices that obviously also stream radio broadcasts.

Digital voice assistants hardly used as radio receivers

Digital voice assistants – including Amazon Echo (Alexa), Google Home, Apple HomePod and Microsoft Cortana – were used as radio receivers daily in 2018 by 1.5% of the overall population and 2.3% of younger residents. Smart TVs now also play a role in radio listening, and are used for this purpose about as much as voice assistants (10+: 1.9%; 14–29: 2.2%). MP3 players see less use as radio receivers (10+: 0.7%; 14–29: 1.1%).

Once again in 2018, smartphones were used more often for radio listening than the year before. As in 2017, the share of the population aged ten and over who listened to the radio daily via smartphone increased by five tenths of a percentage point in 2018, to a total of 4.5% now. There was a greater increase in this group of radio listeners among young people than within the general population, with the share jumping by 1.3 percentage points to reach 8.3%.

Individuals using headphones to listen to radio accounted for 3.2% of the overall population and 6.6% of young listeners.

9.2 Development of the Austrian telecommunications markets

This section provides a summary of the most significant market developments in the segments of mobile telecommunications, broadband and fixed network services.

In 2018 revenue growth was seen both in mobile services and broadband (including fixed network and TV bundles) (see figure 21). A particularly significant uptick – no less than 6% – was seen in revenue for broadband. Fixed network voice service revenues have continued to decline. The substantial increase in leased lines is explained by the fact that data on Ethernet services was first collected systematically at the retail level (and therefore included in revenues) in 2018.

FIGURE 21:   RETAIL REVENUES FROM MOBILE, FIXED BROADBAND, FIXED VOICE AND LEASED LINE SERVICES
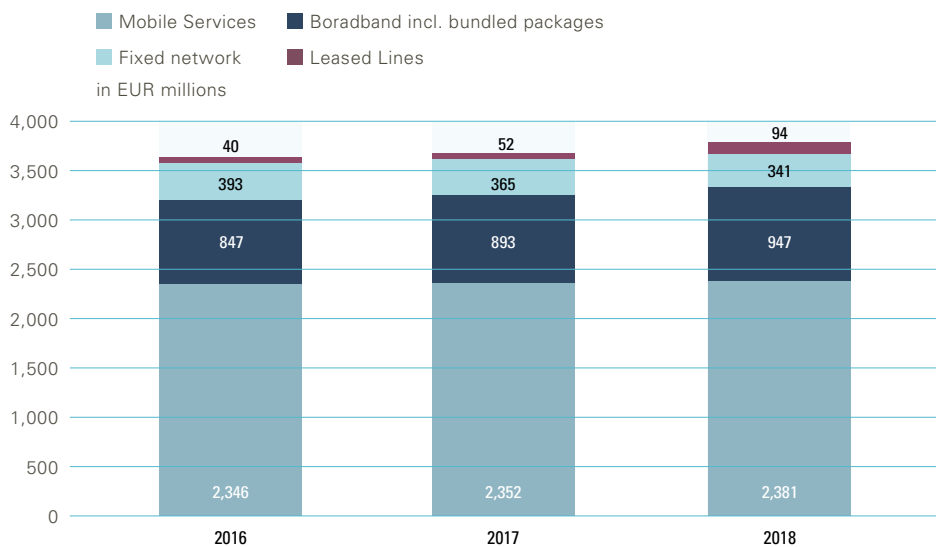
Source: RTR

Key market developments in 2018 are listed below and are described in detail in the following sections:

- More fibre connections, although Austria trails global trends
- Mobile data volume shows weaker growth than in previous years
- Huge rise in roaming data use in the EU outside Austria
- T-Mobile takes over UPC, market consolidates further
- Wholesale level: increased demand following virtual unbundling

More fibre connections, although Austria trails global trends

In the fourth quarter of 2018, the number of fibre connections (fibre to the home, FTTH) was around 63,000, which equates to an increase of around 20% compared with Q4 2017. Apart from A1, fibre networks are mainly set up by regional providers and municipalities, often with the help of government funding. Despite this strong growth in numbers, FTTH connections accounted for only 1.5% of all fixed and mobile broadband connections in the fourth quarter of 2018: this segment continues to be dominated by mobile broadband (approx. 40%), DSL (approx. 37%) and cable broadband (approx. 20%). In terms of installed fibre connections, Austria therefore lags well behind most of the other EU countries. [24]

FIGURE 22: TRENDS IN MOBILE AND FIXED NETWORK BROADBAND DATA VOLUMES

■ Mobile broadband*   ■ DSL   ■ Coaxial cable   ■ FTTH

Connections in thousands
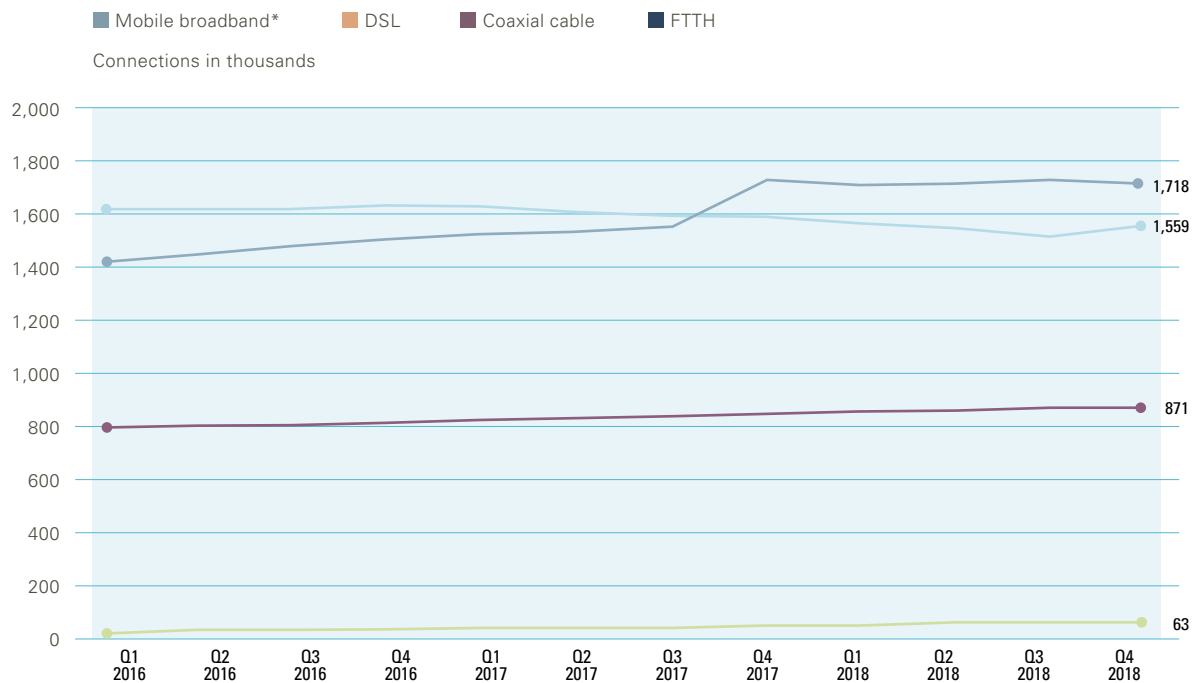
Source: RTR

* Mobile data subscriptions with set monthly rate

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[24] See e.g. "FTTH/B Global Ranking Sep 2018" from the FTTH Council:
https://www.ftthcouncil.eu/documents/Reports/2019/FTTHB%20Ranking%20Sep%202018%20v2.pdf

RTR first collected a detailed set of data on network coverage, as well as usage of FTTB (fibre to the building) and FTTH connections in 2018.[25] These data showed that around 340,000 households and businesses had the option of using a FTTB or FTTH connection by the end of March 2018. Approximately 71,300 of these connections were in actual use. While this equates to a take-up rate of around 20%, many of these networks have only been set up during the last few years.

One important reason for the current relatively low level of availability for fibre connections is the high cost of installation. As ducting is not usually readily available, expensive, time-consuming excavation work is needed to lay fibre-optic cables. With simultaneously low prices, consumers are hardly willing to pay more for higher bandwidths. As a result of these factors, achieving the long-term goal of maximising coverage with FTTB/H in Austria will be possible only with continued subsidies for fibre network rollout. Demand-side activities should also be considered as a supportive measure.

Mobile data volume shows weaker growth than in previous years

In 2018 considerable growth was again seen in the volumes of data sent over fixed and mobile networks. Mobile networks transferred around 1.5 million terabytes[26] of data in 2018, while fixed broadband connections handled roughly 3.2 million terabytes – just over double this volume. Calculated on a per-SIM card basis, this makes Austria one of Europe's market leaders.[27]

Compared with previous years, this nonetheless represents a decline in growth (see figure 23). From Q4 2017 to Q4 2018, mobile data volumes rose by 40%, although growth in this segment had been 60% from Q4 2016 to Q4 2017. Fixed network volumes rose by approximately 20% from Q4 2017 to Q4 2018. Data for comparisons with previous periods are not available

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[25] See RTR (2018): Glass fibre internet connections in Austria – current status and prospects", https://www.rtr.at/de/inf/GlasfaserOe2018 and. https://www.rtr.at/de/pr/PI29102018TK (in German).

[26] 1 Terabyte = 1,024 Gigabyte

[27] S. Tefficient, „Industry analysis #3 2018 – final version",
https://tefficient.com/china-and-india-shift-to-4th-gear-leave-many-mature-markets-in-the-dust/.

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FIGURE 23:   TRENDS IN MOBILE AND FIXED NETWORK BROADBAND
               DATA VOLUMES

■ Mobile broadband data volume   ■ Fixed broadband data volume

Upload/download data volume in terabytes
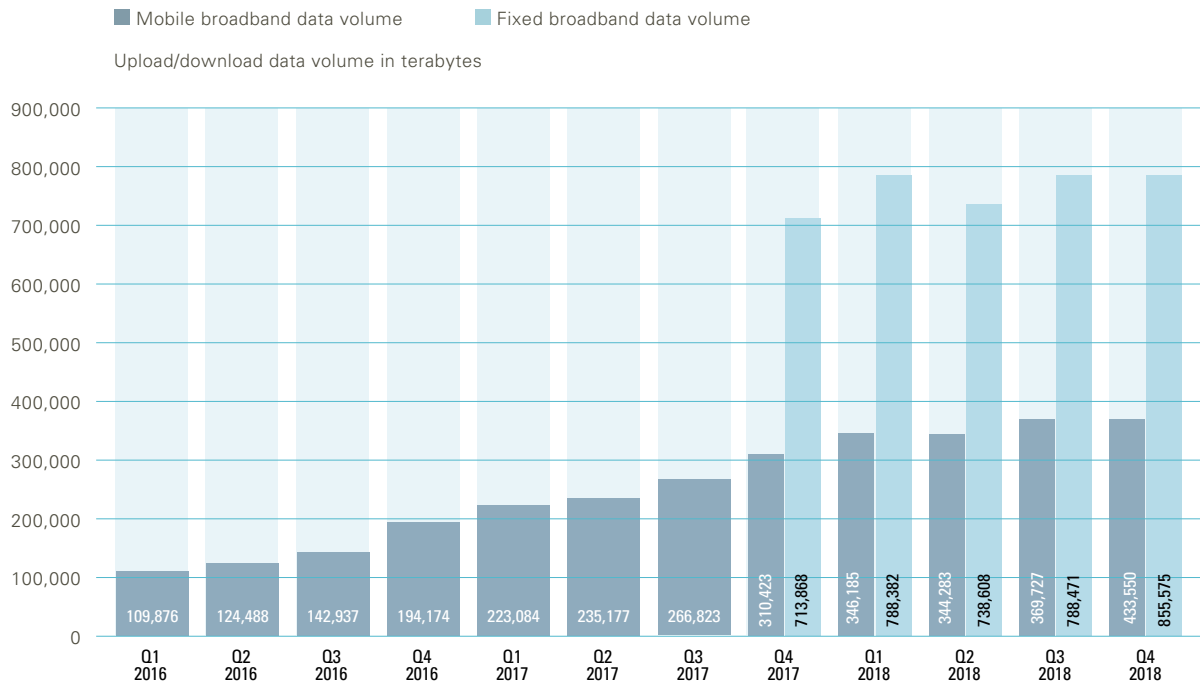
Source: RTR

Huge rise in roaming data use in the EU outside Austria

Since 15 June 2017, consumers can generally use their mobile phone elsewhere in the EU as they would in Austria without incurring additional charges.[28] This new situation had already led to a considerable rise in call minutes, texts and mobile data volumes in 2017. In 2018 this trend assumed an even steeper trajectory: from Q3 2017 to Q3 2018[29], the number of roaming minutes increased from around 155 million to around 173 million (approx. +10%) while the number of roaming texts rose from around 34 million to around 45 million (approx. +35%). Particularly strong growth was seen in roaming data volumes, which increased over the same period from roughly 2,000 terabytes to roughly 4,400 terabytes (approx. +120%, see figure 12).

[28] For further information and potential provisos applicable to this data, see the RTR website at www.rtr.at/de/tk/TKKS_RoamingEU

[29] Data from the third quarter – the vacation season – are of particular interest here.

FIGURE 24:   ROAMING DATA VOLUMES

■ trends in roaming data usage

in terabytes
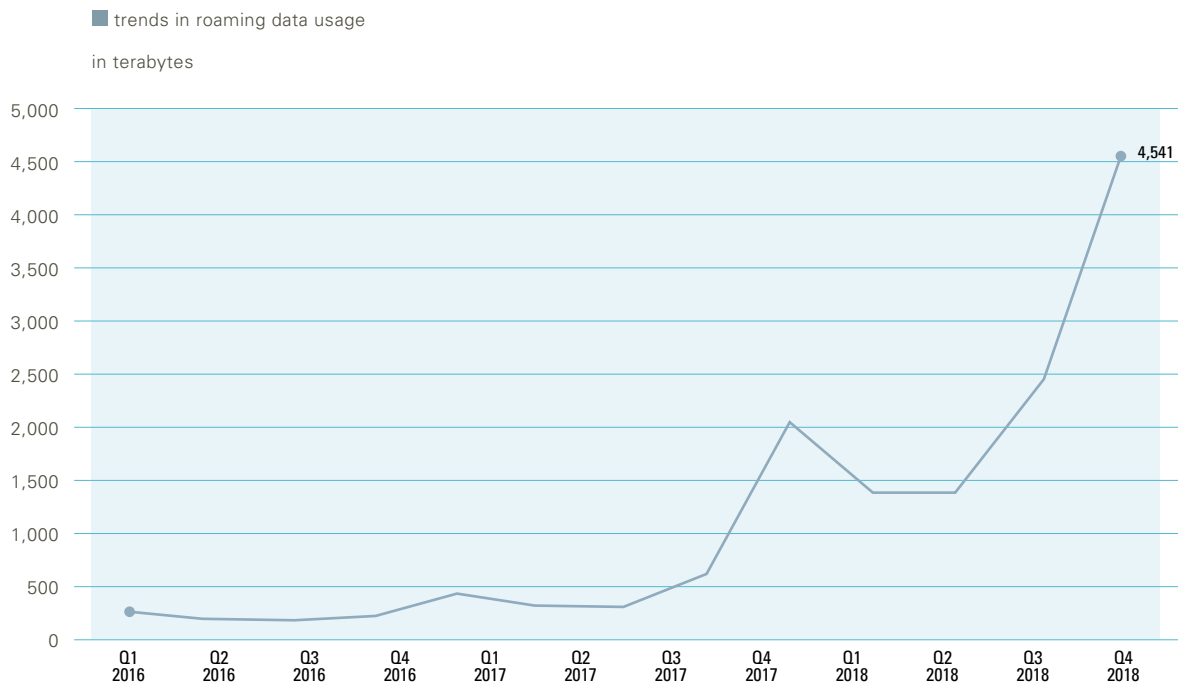
Source: RTR

T-Mobile takes over UPC, market consolidates further

T-Mobile, Austria's second-largest mobile network operator, acquired UPC, the biggest cable network operator and second-largest fixed network operator, in August 2018. The takeover was approved by the European Commission without conditions[30]. Following the takeover of Tele2 by Hutchison Drei Austria ('Drei') in 2017, the Austrian telecommunications market is now dominated by three large providers who offer both fixed-network and mobile services. In the market for private customer broadband connections, which includes both fixed and mobile broadband connections, these three companies are responsible for almost 90% of all connections. The acquisition of UPC by T-Mobile makes the latter less dependent on wholesale services from A1, although fixed network wholesale services (and virtual unbundling in particular) will continue to be purchased outside the UPC footprint.

[30] See European Commission decision dated 9 July 2018 at http://ec.europa.eu/competition/mergers/cases/decisions/m8808_792_3.pdf

Wholesale level increased demand following virtual unbundling

The TKK issued two decisions in July 2017 that introduced new regulations governing access to the A1 fixed network via virtual unbundling.[31] The term 'virtual unbundling' refers to a wholesale service that can be purchased from A1 by alternative operators without their own access network, enabling them to offer broadband access, fixed voice telephony or IPTV to consumers (private or business customers). Compared with physical unbundling, where the alternative operator connects the local loop (typically at the main distribution frame) directly to its own network, virtual unbundling involves the provision of an Ethernet-based service. Traffic transfer can also occur at the main distribution frame or in state capitals, or even, as in Vienna, at just a single handover point. The current restructuring of the A1 access network (fibre to the curb, VDSL vectoring, G.fast) will probably lead to virtual unbundling gradually supplanting or replacing physical unbundling over the next few years. In certain circumstances, A1 can also migrate physically unbundled lines to a virtually unbundled service.

In 2018 this correlated with a significant rise in the number of virtually unbundled connections, from around 29,000 in Q4 2017 to around 49,000 in Q4 2018. At the same time, the number of broadband connections[32] using physically unbundled lines also fell by around 20,000 to roughly 93,000, with bitstream connections also declining to around 34,000. The total volume of broadband wholesale services provided by A1 has remained roughly constant at around 175,000 over the last two years.

FIGURE 25:   BROADBAND WHOLESALE SERVICES FROM A1

Source: RTR

10

Appendix

10 Appendix

10.1 Tables

10.2 Figures

Publishing information

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