

COMMUNICATIONS REPORT

2023



COMMUNICATIONS REPORT

2023

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communications report 2023

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Preface

Dear reader,

we are pleased to present to you the following report, containing detailed insights into the many and varied activities in 2023 of the four regulatory and supervisory bodies responsible for media, telecommunications and postal services: the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR), the Austrian Communications Authority (KommAustria), the Telekom-Control-Kommission (TKK) and the Post-Control-Kommission (PCK). The report is intended to meet several needs: first, to fulfil statutory reporting requirements; second, to contribute towards the transparency of our work at national and international levels; and third, to describe the changes in the markets under our regulatory mandate. We truly hope to have succeeded in these aims.

What might you expect to discover in the pages to follow?

Following introductory comments by RTR's two managing directors, the first section presents the RTR business report, briefly describing the changes seen at RTR as a business organisation, the status of equal opportunity efforts at RTR, and the financial situation, including the annual accounts (i.e. balance sheet, profit and loss statement) as per 31 December 2023.

The second section presents the regulatory activities of KommAustria. A broad spectrum is covered, including items such as notification procedures and approvals, platform regulation, media transparency, and measures to contain terrorist content, as well as broadcasting frequency management, and press and journalism subsidies. Section 3 consists of six special reports by KommAustria: the Youth Protection Report, the Report on Accessibility, the survey of broadcasting reach and market shares, the report on progress of digitisation in broadcasting, the report on self-regulation of commercial communication, and finally a report on major online platforms.

The activities of the RTR Media Division are covered in section 4. Following details relating to the complaints board for communications platforms, the management and awarding of the funds established under the Media Division is presented. During the year under review, a total of EUR 59 million was allocated to the Digitisation Fund, the Austrian Television Fund, the broadcasting funds and the Fund for the Promotion of Digital Transformation.

Section 5 covers the procedures conducted by telecom regulatory authority TKK as well as the ensuing decisions. Specific sets of procedures involved matters including: ensuring competition in the fixed and mobile communications markets, enforcing net neutrality rules intended to safeguard free access to the open internet, and network cooperation. In relation to frequency matters, business during the reporting year included frequency award procedures and the review of compliance with coverage level requirements under previous spectrum award procedures. Finally, the TKK's activities in its capacity as supervisory authority under the Signature and Trust Services Act (SVG) are described.

Section 6 presents the main activities of the Telecommunications and Postal Services Division at RTR, including those in its role as regulatory authority. Falling within this scope are issues such as: user protection, phone number misuse, ensuring the legal compliance of contract terms, management of Austrian number ranges, safeguarding networks and services (including reports of network failures), any ordinances issued, as well as administration of the two information points, for infrastructure data (ZIS) and for broadband coverage (ZIB).

Activities aimed at safeguarding competition in the market for postal services are the focus of section 7. These matters fall within the competence of the PCK and the Telecommunications and Postal Services Division at RTR. Among the procedures conducted during the year under review were cases involving the closure or discontinuation of postal service points, and legal compliance of the contractual conditions and tariffs charged for universal services, while the universal service provider's cost accounting system was also audited. In addition, conciliation procedures as well as developments relating to complaints filed by postal services recipients are described.

Section 8 follows, providing insights into duties assigned to the competence centre. Through numerous studies and events, fact-based knowledge is documented and presented, and subsequently made available to the interested public. This year's Communications Report closes with a survey of the markets falling under our mandate: Austria's communications and advertising market, telecommunications market and postal market.

Our report may well whet your appetite to find out more about a specific topic. For such cases, you will discover here a wealth of links to our website, providing you with detailed information on many issues.

We thus hope to have aroused your interest in our responsibilities and areas of work.

Vienna,
June 2024

Mag. Michael Ogris
Chairperson
Austrian Communications Authority
(KommAustria)

Mag. Wolfgang Struber
Managing Director
Austrian Regulatory Authority for
Broadcasting and Telecommunications (RTR)
Media Division

Mag. Barbara Nigl, LL.M.
Chairperson
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Dr. Klaus M. Steinmaurer, MBA
Managing Director
Austrian Regulatory Authority for
Broadcasting and Telecommunications (RTR)
Telecommunications and Postal Services Division

“The best way to predict the future is to create it yourself.”

Peter Drucker

As of today, we know the past, live in the present and entertain thoughts about the future, which tomorrow will already be reality and in no time at all becomes the past. Still, it is enticing to think about and try to predict the future. The more fast-paced the times we live in – and that is certainly true of our current day and age – the harder it is to plan ahead, and we are often surprised by what transpires. Sometimes even caught napping, if we look back at events of recent years.

Yet this should not discourage us from trying to picture an ideal future. Indeed, this is our only chance of influencing the future at least in part. The title quote from Peter Drucker takes perhaps an all-too-rosy view of our true ability to make change happen. But what alternative is there? Just fold our arms and resign ourselves to fate? Obviously not.

In times such as these, where digitalisation, data and network infrastructure investments are driving innovation forwards at an unheard-of pace; in times such as these, where the development of artificial intelligence is opening up horizons for humanity that would have been unthinkable only a short while before – in times such as these, it's up to us to make something of them.

Take artificial intelligence (AI) for a good example. In late 2022, as the pandemic was just drawing to a close, OpenAI introduced its GPAI model ChatGPT to the general public. Since then, AI has never left the spotlight. Anything even remotely related to data now also inevitably involves AI. Meanwhile, AI was hardly a novel concept when ChatGPT burst onto the scene. At the time, we had already been using many applications on a daily basis without realising they might involve AI. All the many apps used on our smartphones, for example. What was new was how powerful these models had become and how swiftly they have been accepted. Yet first and foremost, AI is just a technology. As early as 2020, the EU was already looking into regulating such technologies, with the aim of promoting competition, serving people's interests and limiting harmful effects.

These deliberations have produced the recent AI Act that includes a nuanced risk model, to my mind an example of a sound approach to appropriately regulating technology. The various risk classes facilitate a targeted regulatory response that is as all-encompassing as possible. One that seeks to promote the opportunities arising from this new technology, of itself risk-neutral, while simultaneously aiming to contain very serious risks that could threaten individuals or society as a whole.

The bulk of contemporary debate focuses on the potential dangers of AI. This is a conversation we need to have, and the EU's AI Act is sure to set a standard for others to follow around the globe. But that hardly takes care of the issue. Thinking about the future of regulation, we need to more readily incorporate our digital ecosphere in its entirety into our considerations. The key player in this digital ecosphere is data – all kinds of data, not just the personal data safeguarded under the GDPR. These data are collected, processed and distributed with the aim of generating added value.

This makes it particularly important that the network infrastructure we use – whether a mobile network, fixed network or satellite network – is secure and trusted. Today, it's all about communication: communication is behind any and every exchange of data. In payments, in e-commerce, in local government, in healthcare and in those scenarios where machines communicate with machines. To function smoothly, a broad base of trust is needed. Whereas it takes some time to build trust in new technologies, it is very quickly destroyed by malicious players. Especially within infrastructure, there are a great many potential targets and AI is adding to them on a daily basis.

When we think about the digital future, we need to address another source of potential risk: the demise of competition within platform industries. Meanwhile, the ill hasn't stopped with the current cohort of giants, including Meta, Amazon or Google. Rather, it will continue to spread, affecting the major GPAI models as well. The inevitable outcome is less competition and, for all of us, greater dependency on mostly private-sector players. It's not an exaggeration to call the current platforms new, global states with the potential of controlling the lives of billions of people – without a shred of democratic legitimation. This is also an area where the EU has been active, developing new tools to help shape the future, including the Digital Markets Act and the Digital Services Act. At the end of the day, a dearth of competition at all levels of the infrastructure-based value chain is at least as problematic for democratic policymaking as the current discussions focusing on the topic of AI. And these issues are of course somehow related.

We also need to remember the issue of data protection, involving our most personal and private data. Here too, we are faced with the perennial problem of building trust, which is a make-or-break factor for the success of any business model.

To sum it up, without trust in the security of our infrastructure, without trust in the market actors requiring our data, and without healthy competition at all levels of this infrastructure, we face a future fraught with uncertainty, both in this country and worldwide. AI is obviously playing a central role in this context.

Yet we can also enjoy the many incredible opportunities that only recently have become available thanks to global networks. These allow us to communicate and give us access to services hosted anywhere on the planet. Opportunities that give us access to data that we can use to create new products and stimulate competition. A wealth of opportunities, in which once again AI takes centre stage.

So it's up to us to decide our own digital future. The basis for this decision-making has to be regulation – but a regulatory approach that takes an integrated look at our entire digital ecosphere and attempts to identify the best-possible solutions. In doing so, we will need to recognise that previous recipes were not made for decades, and that regulators need to be flexible and open to making later adjustments where necessary. Nor will regulation exist in a vacuum but will function only with the help of many stakeholders. Supplementing national regulation, EU harmonisation and regulation at EU level itself will need to play a bigger part in order to make its presence felt around the world.

As of today, we know the past, live in the present and regulate the future. In times like these, this is a good approach and our only chance to shape a future that we want to live in. Modern regulation no longer means simply setting rules but actively shaping progress – and that is a fairly substantial challenge which we have to face each and every day. At national level here in Austria but also in Europe, in the future even more so.

On the following pages, you will find our familiar report on how we at RTR and our commissions have worked (and helped) to shape our digital world over the last year. Take a moment to think about the future as you review our past activities. We have already begun doing so. After all, as cited above, "the best way to predict the future is to create it yourself".

Dr. Klaus M. Steinmaurer, MBA
Managing Director
Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR)
Telecommunications and Postal Services Division

Funding and support of the media in a digital age: a cornerstone of democracy

The media play a decisive role in democratic policymaking. As the primary source of information for citizens and a key driver in the formation of their opinions, the media bear a special responsibility within democratic discourse. In the digital realm, the media now have an even greater responsibility, as a source of information produced in accordance with the principles of journalistic diligence: artificial intelligence is making increasing inroads in media production, while disinformation, especially through social media, has risen significantly. More than ever before, quality media channels need to be careful to avoid the snares of 'fake news,' while rising to the challenge of stemming the tide of mis- and disinformation. This is the only sure way of strengthening democratic participation, ensuring reliable and authentic news and current affairs reporting, and upholding trust in media and democratic institutions. It is within this specific context that the Media Division meets vital needs with far-ranging impact for all of society.

With billions of euros of advertising money now flowing out of the country to fill the coffers of global media corporations, it is becoming increasingly difficult to refinance the portfolios Austrian media firms, and to enable their transition through digital transformation. Maintaining the Austrian media industry and the information it provides while helping it to compete effectively with the services offered by transatlantic platforms is nonetheless the foundation for democratic political discourse within this country. To meet this need, policymakers have set up public funding and entrusted its disbursement to the Media Division of the RTR, and to the KommAustria media authority, to whom we provide operational support.

The Fund for the Promotion of Digital Transformation aims to promote Austria's attractiveness for the media industry while helping its businesses expand their digital services and buttress their instrumental role within a modern, democratic society. We are naturally very aware of our responsibilities in this context. The volume of applications received in 2023 for grants in 2024 was more than double that of available funding. Seen in detail, applications relating to digital journalism more than tripled as an increasing number of projects now target the use of AI. Artificial intelligence has the potential to fundamentally change the media landscape while boosting its competitiveness. It also opens up new ways of producing, disseminating and evaluating content.

The advances made by AI throughout the entire production and value chain within the media sector were also the focus of our special report entitled "Deployment of artificial intelligence in the media sector", commissioned by RTR in its capacity as a competence centre.

The decisions made in 2023 concerning the funding to be provided from the Private Broadcasting Fund and the Non-Commercial Broadcasting Fund for 2024 were based on revised guidelines. These aim to boost the diversity of content, media and opinion in television and radio, thereby better reflecting market needs. This resulted in an upward adjustment to the share of funding for news and current affairs in radio overall, and for local or regional television and radio broadcasts. Producing such content makes a valuable contribution to media democracy in an increasingly globalised marketplace, but from a cost perspective also represents a special challenge for broadcasters.

The tireless efforts of our funding department and IT services ensured appropriate preparations were made for the new quality journalism grant from KommAustria, which aims to provide support for a wide variety of text-based news media, such as daily or weekly newspapers, magazines and online media.

As the operative arm of KommAustria, another crucial assignment during the year was supporting the regulatory authority in its preparations for the Digital Services Act: oversight of compliance with the provisions of the DSA in Austria was conferred on KommAustria by the Coordinator for Digital Services Act. This makes the media authority one of 27 European Digital Service Coordinators (DSCs) now becoming operational in their respective Member States. For RTR, this has meant adjustments to its departmental structure as well as hiring for its new Digital Services team.

Coordinating its activities with KommAustria, the Media Division fulfils its legal obligations as a competence centre to conduct evaluations and studies in the context of the duties and objectives owing upon the KommAustria media authority. The year 2023 saw an unprecedented rise in studies benefiting the market as well as the population. Our new Online Audio Monitor Austria market study represents a logical and necessary addition to the programme of RTR's regular research into key developments in the domestic media market. The publication responds to the digital transformation of media services and their usage, and serves to supplement our annual Video Survey and Study on Awareness and Reach of DAB+ Digital Radio.

When addressing key concepts such as artificial intelligence or the digital transformation, or the importance of democratic discourse in this context, we are also well aware that in the face of rapid change not only media companies but also many content recipients need support. Accordingly, 2023 saw the publication of our second Digital Skills Study and Media Literacy Report. Both publications present a compelling case for more education and training in the field of media literacy.

The Austrian Television Fund has been something of an Austrian success story. A 2023 amendment to film funding legislation brought on several new tasks for this fund. Grants were approved for a total of 117 projects. This growth of around 60% year on year is reflected in particular by the number of documentaries receiving funding, which together make up just under 80% of funded projects. In monetary terms, the largest proportion of grants approved in 2023, amounting to EUR 13.9 million overall, went to the excellence bonus, which took a 54% share. For documentaries, we are now the leading source of funding in Austria by a wide margin: we invested EUR 6.4 million or 46% of our overall funding budget for 2023 in 93 productions in this field, invaluable for culture and education. The cultural focus in this segment of television film production very often holds up a mirror to society, touching on everyday problems while working to promote a greater understanding of political issues. The excellence bonus now established within the Austrian Television Fund has proven to be a magnet for international television film and series co-productions, which bring foreign investment and innovative value creation into our market.

I personally recognise a commitment to our digital and democratic remit in all of the work we do. The funding instruments managed by the RTR play a decisive role here, safeguarding the production of educational and cultural content, and thereby supporting a pluralistic, independent and trustworthy media landscape, while ensuring that high-quality information services remain easily accessible.

I hope your further exploration of the wealth of tasks tackled by the Media Division at RTR proves both inspiring and insightful.

Mag. Wolfgang Struber
Managing Director
Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR)
Media Division



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RTR and the regulatory authorities

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01 RTR and the regulatory authorities

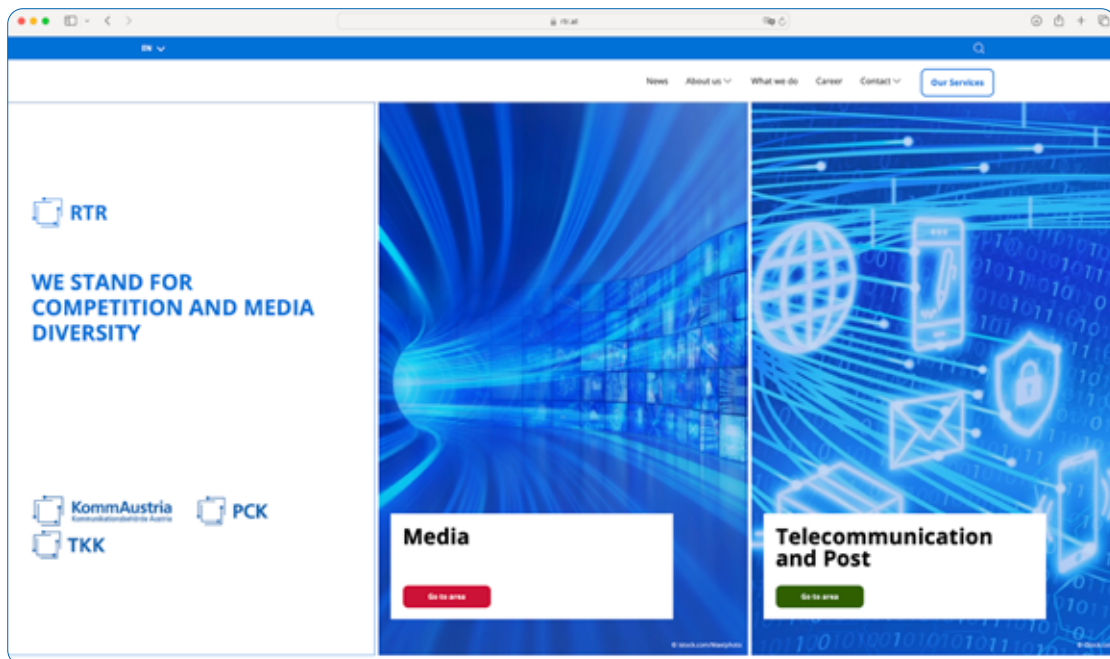
1.1 Our company: we stand for competition and media diversity

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

In the 2023 reporting year, Wolfgang Struber headed the Media Division, while Klaus M. Steinmaurer was the Managing Director of the Telecommunications and Postal Services Division.

As a public corporation, RTR follows the requirements of the 2017 Federal Public Corporate Governance Code, which takes into account the special responsibility and diligence duty owing upon public authorities. As owners of state property, authorities have a responsibility 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.

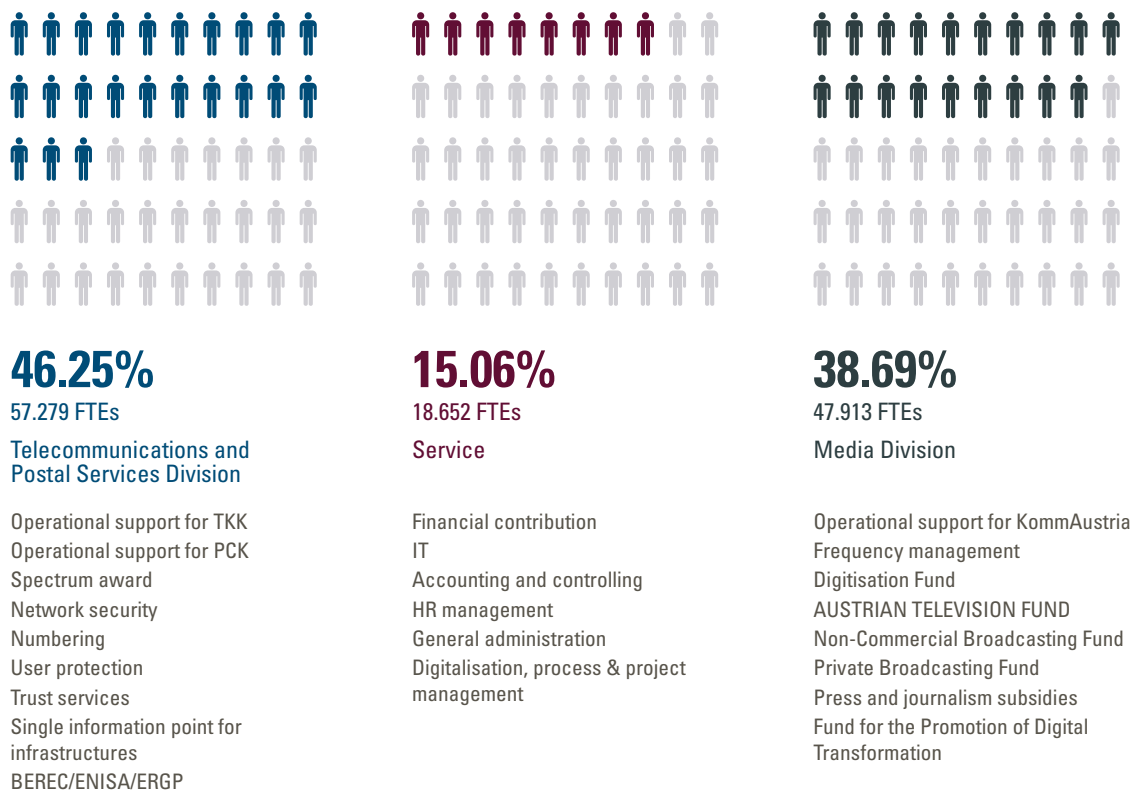


1.1.1 RTR annual review

RTR staff members: specialists competent in their areas of expertise

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

Figure 01: Service departments, media division, and telecommunications and postal services division, average FTEs in 2023



The number of employees increased in both the Media Division and in the Telecommunications and Postal Services Division, as shown in the table below. In the Media Division, this is due in particular to the new activities for the operative arm of KommAustria, such as the Austrian Addressing Terrorist Content Act (TIB-G), which entered into force in 2023. Furthermore, in 2023 for the first time, the increase in staff for the Fund for the Promotion of Digital Transformation had to be budgeted for the full year. In the Telecommunications and Postal Services Division, changes in staffing levels were caused by fluctuations following parental leave on the one hand, and new tasks being assumed in the field of network security and AT-Alert on the other. A slight increase could be seen in the Service area as a result of the new requests by the divisions relating to digitalisation of processes, and also in response to new duties assumed by the operative arm of RTR.

Table 01: RTR Staff size 2021–2023

| Average staff levels (FTEs) | 2021 | Percentage | 2022 | Percentage | 2023 | Percentage |
|---|----------------|----------------|----------------|----------------|----------------|----------------|
| Telecommunications and Postal Services Division | 54.860 | 51.55% | 52.717 | 47.89% | 57.279 | 46.25% |
| Media Division | 34.542 | 32.46% | 40.079 | 36.40% | 47.913 | 38.69% |
| Service | 17.017 | 15.99% | 17.292 | 15.71% | 18.652 | 15.06% |
| Total for RTR | 106.419 | 100.00% | 110.088 | 100.00% | 123.844 | 100.00% |

RTR service department: highly committed to a good working environment

For RTR to continue its high-quality work, it is essential to ensure a good working environment, and to maintain RTR's standing as an attractive employer in the increasingly challenging labour market.

Following the introduction in recent years of updated conditions to ensure the greatest possible flexibility in working time (options for working from home and flexible working hours), during the reporting year of 2023 new pay regulations were drafted, an additional milestone along RTR's path of continued development as a modern employer. In accord with external consultants, the pay management scheme was revised towards enabling RTR to offer employees a fair market remuneration. The new pay regulations also ensure transparency in pay-related decisions and the comparability of salaries, especially allowing dedicated employees to be rewarded and to be given prospects for career development. The launch of an 'Employer Branding' project in the final quarter of the year was a further step towards positioning RTR in the labour market.

RTR's service area was largely occupied with new statutory regulations in the 2023 reporting year. During the preparatory phase, our experts worked with KommAustria and the Federal Chancellery to support preparation of an impact assessment study required for the new legislation. To implement the legislation, employees made comprehensive efforts in the area of personnel planning and recruiting as well as budgeting and financial planning.

Advanced training and knowledge exchange: getting fit for a digital working world

The expertise of our staff members is the defining quality of RTR's work as a regulatory authority. Correspondingly, both personal and the professional dimensions of staff development play a key role at RTR. In the 2023 reporting year, 95 employees made use of a total of 176 working days for education and training, with numerous events being offered online.

Internal workshops, meetings and other events during the year under review were held either on site or as hybrid or online events. A digital information point for distributing staff bulletins as well as a digital pinboard for the exchange of staff information are now established tools within RTR's hybrid working world. The digital 'Yellow Pages' available at RTR can be used to identify contacts within the company who are experts in a particular field.

To become acquainted with working at RTR, six summer interns took the opportunity to spend a month with us during the 2023 reporting year, as did an employee with the Data Protection Authority as part of a job rotation scheme.

The work of RTR's IT team as the foundation of digitalisation

The IT team ensured RTR's ability to smoothly meet the demands RTR faces as a digital regulator. One of the key tasks in the year under review, 2023, was to better equip meeting rooms with audio and video technology for use during hybrid meetings. In the event of any technical issues, the IT helpdesk is always there to provide the customary rapid support to co-workers. Alongside other activities, the IT team provided ongoing website support to the two divisions.

The Media Division called on the expertise of the IT team to assist with planning and implementing the amendments to the Act on Transparency in Media Cooperation and Funding (MedKF-TG). The IT team was responsible for the technical project management of the 'new transparency in media' project and took care of initial implementation. This included the visualisation of the data published in accordance with the MedKF-TG, which has been available online since 1 January 2024. The notification form for the legal entities required to report was amended and has also been in use since January 2024.

In the area of media funding, the IT team provided technical support for the application forms used to apply for funding first introduced in 2024, pursuant to the Act on the Promotion of Quality Journalism (QJF-G).

In the Telecommunications and Postal Services Division, the IT team worked on the Public Warning and Alert System for Austria (AT-Alert) project and supported colleagues in the division both during both the invitation to tender phase and the initial implementation period.

The IT team's technical expertise was also required for implementing a notification system pursuant to the European Whistleblower Directive and the Whistleblower Protection Act (HSchG).

Occupational health and safety at RTR

Employee health and safety is a vital concern at RTR. During the reporting year, RTR's team of health and safety officers organised appointments for the services offered by RTR's occupational health specialist and the health and safety officers. The occupational health specialist concentrated on ensuring correct ergonomics in the workplace alongside administering the annual FSME and influenza vaccinations. After the fire safety regulations had been amended, training courses were held for all employees in the field of occupational health safety in the workplace. These provided relevant information on fire prevention and the correct procedures to be followed in the event of a fire.

An MFT-S3 check was offered at RTR in the spring, a test of bodily balance using a computerised measuring system. A repeated test was carried out in the autumn to identify changes in bodily balance. Around 40 employees took part in this check. Sight tests including an ophthalmological examination were organised with a nearby specialist in ophthalmology and optometry in the reporting year of 2023. There 30 appointments on offer were heavily booked. As part of preventative healthcare, a resilience seminar was held on RTR's premises, which was rated very highly by the participating employees.

The annual Business Challenge, an event organised by the Economic Chamber, was once again in 2023 a highlight for those RTR employees who like to stay active. The aim of the challenge is for company employees to collect as many activity points as possible within seven weeks, whether that time was spent on sporting activities or gardening in their spare time, cycling to work or taking the stairs in the office. Each training minute was recorded by an app. The app enables people to participate in the Business Challenge digitally, independently of location and even while working from home. The event also helps to protect the environment: for every company that registers and for every 1000 activity minutes, one tree is planted. In all, 32 RTR staff members actively participated in the Business Challenge from October 1 to November 20, 2023. During these 50 days, they clocked up 38,218 activity minutes on behalf of RTR. Within Austria overall, RTR ranked 32nd within a field of about 130 firms, and placed twelfth in category 4 (firms having 50 to 250 employees). For the activity minutes collected by RTR employees as part of the 2023 Business Challenge, 38 new trees were planted.

Equality: we are guided by the principles of equal opportunity and equal treatment

RTR is committed to equal opportunity and equal treatment for all staff members, regardless of age, gender, ethnic or national origin, religion, any physical or mental challenges, and sexual orientation.

Founded upon this commitment, equality work at RTR is stipulated in a works agreement. The agreement requires an equality and family support policy, defining both personnel and organisational measures for promoting equality, to be drawn up every two years. The currently applicable equality policy from 2022 includes guidelines on gender-appropriate language, an income equality report and the promotion of career opportunities for women, as well as regulations on the reconciliation of work and family life, and education and training measures. These agendas are supported by the role of equal opportunities officer, which is re-awarded every three years.

During the year under review, work essentially focused on implementing the equality and family support plan for 2022. Preparatory work for developing a new format for the income equality report was carried out from 2024 and a common understanding of gender-sensitive language was established within RTR.

In addition to the usual activities such as the traditional equal opportunities breakfast held to mark International Women's Day on March 8, childcare was offered for the second time to employees with young children on November 15, a school holiday in Vienna and Lower Austria.

1.2 RTR's financial statements for 2023

The external auditors at Confida WirtschaftstreuhandgesmbH issued an unqualified audit certificate confirming RTR's financial statements for the 2023 business year (1 January to 31 December 2023). The financial statements presented below were prepared in accordance with the Austrian Commercial Code (UGB) as amended.

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

RTR is funded by various sources, depending on the areas of activity in question. Market participants are required by law to assume a portion of the financing, while public funding is also tapped. The financial contribution is calculated using the planned revenues of each company in relation to the total revenues of the sector. Once the actual revenues have been determined, the actual financial contributions are calculated and compared with the estimated financial contributions. To simplify administration, entities falling below a certain revenue limit, or threshold, are not required to pay financial contributions.

In 2023, RTR received federal funds amounting to EUR 3.114 million to finance media regulation; the share for financing the market was 46.57%, equivalent to EUR 2.713 million. RTR received a subsidy of EUR 0.349 million for tasks relating to the supervision of communication platforms. This funding was also earmarked for winding down this agenda, with the Communications Platforms Act being supplanted by the Digital Services Act in February 2024. The contributions paid by the market participants were subsequently reimbursed. The federal government made EUR 73,000 available for the supervision of video-sharing platforms, in consideration of the fact that, with only two companies participating in the market, few activities were required, so that costs were not passed on to market participants.

Public funds totalling EUR 3.103 million were awarded for the regulation of the telecoms market; market participants contributed EUR 5.342 million, which corresponds to 63.26%. For postal service regulation, EUR 0.259 million was allocated from the federal budget, with the remaining expenditure, amounting to EUR 0.635 million or 71.03% of the total, contributed by market participants.

Public financing covers the funds (Digitisation Fund, the AUSTRIAN TELEVISION FUND, the Private Broadcasting Fund, the Non-Commercial Broadcasting Fund and the Fund for the Promotion of Digital Transformation) and the supervisory body for trust services. It also funds activities related to the network security advisory board and to setting up a public warning system (AT-Alert).

More information is available at www.rtr.at.

RTR closed the business year running from 1 January to 31 December 2023 with a balanced result.

Table 02: Profit and loss account for the business year from 1 January to 31 December 2023

| | EUR | EUR | 2022 in EUR thousands | 2022 in EUR thousands |
|--|---------------|----------------|--------------------------|--------------------------|
| 1. Net income | | 18,426,907.32 | | 15,545 |
| 2. Other operating income | | | | |
| a) Income from the disposal of fixed assets (excluding financial assets) | 5,641.87 | | 8 | |
| b) Income from the release of provisions | 11,369.11 | | 7 | |
| c) Other | 773,019.91 | 790,030.89 | 687 | 702 |
| 3. Personnel expenses | | | | |
| a) Salaries | -9,778,694.49 | | -8,328 | |
| b) Social expenses | | | | |
| ba) Pension insurance expenses | -323,121.85 | | -292 | |
| bb) Severance pay expenses and contributions to staff provision funds | -169,765.07 | | -156 | |
| bc) Statutory social insurance contributions as well as payroll-related fees and mandatory contributions | -2,310,343.23 | | -1,968 | |
| bd) Other | -140,851.42 | -12,722,776.06 | -126 | -10,870 |
| 4. Amortisation and write-downs of intangible assets, depreciation and write-downs of tangible assets | | | | |
| a) Depreciation, amortisation and write-downs | -723,609.86 | | -736 | |
| b) Release of investment grants | 24,846.69 | -698,763.17 | 50 | -686 |
| 5. Other operating expenses | | | | |
| a) Other | -5,834,540.97 | -5,834,540.97 | -4,648 | -4,648 |
| 6. Subtotal of items 1 to 5 | | -39,141.99 | | 43 |
| 7. Income from other securities held as long-term investments | | 13,675.00 | | 9 |
| 8. Other interest and similar income | | 29,982.44 | | 2 |
| 9. Expenses for financial assets | | | | |
| Write-downs | 0.00 | 0.00 | -63 | -63 |
| 10. Interest and similar expenses | | 0.00 | | -9 |
| 11. Subtotal of items 7 to 11 | | 43,657.44 | | -60 |
| 12. Result before taxes | | 4,515.45 | | -18 |
| 13. Taxes on income | | -7,580.64 | | -1 |
| 14. Result after taxes/net annual income | | -3,065.19 | | -19 |
| 15. Release of profit reserves | | | | |
| Release of free reserves | | 3,065.19 | | 19 |
| 16. Net result | | 0.00 | | 0 |

Sector-specific expenditure in RTR's specialist divisions

In the annual financial statements submitted by RTR, funding use is not reported by division. Table 03 therefore 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 03: RTR's income and expenses by division

| EUR thousands | Telecommunications and Postal Services | Media | Total |
|--|---|--------|---------|
| Net income | 9,755 | 8,672 | 18,427 |
| Other operating income | 146 | 644 | 790 |
| Personnel expenses | -7,464 | -5,258 | -12,722 |
| Depreciation, amortisation and write-downs | -430 | -268 | -698 |
| Other operating expenses | -2,007 | -3,828 | -5,835 |
| Operating result | 0 | -38 | -38 |
| Financial result | 22 | 21 | 43 |
| Result before taxes | 22 | -17 | 5 |
| Taxes on income | -4 | -4 | -8 |
| Result after taxes/annual surplus or deficit | 18 | -21 | -3 |
| Appropriation to/release of profit reserves | -18 | 21 | 3 |
| Net result | 0 | 0 | 0 |

RTR's income and expenses for the individual areas of activity within each division are presented in the annex to the annual accounts as at 31 December 2023 as adopted by the general assembly. The individual areas within the Telecommunications and Postal Services Division are: telecoms regulation, supervisory body for trust services, and postal services regulation. The areas within the Media Division are: media regulation, supervision of communications and media-sharing platforms, Digitisation Fund, Austrian Television Fund, broadcasting funds and the Fund for the Promotion of Digital Transformation (refer to www.rtr.at).

Table 04: Balance sheet as at 31 December 2023 – assets

| | 2023-12-31 | | 2022-12-31 | |
|--|--------------|---------------|---------------|---------------|
| | EUR | EUR | EUR thousands | EUR thousands |
| A) Fixed assets | | | | |
| I. Intangible assets | | | | |
| 1. Industrial property and similar rights | 581,236.30 | | 923 | |
| 2. Prepayments | 222,314.97 | 803,551.27 | 22 | 945 |
| II. Tangible assets | | | | |
| 1. Buildings on third-party land | 56,379.82 | | 40 | |
| 2. Other assets, operating and office equipment | 422,724.27 | 479,104.09 | 391 | 431 |
| III. Financial assets | | | | |
| Long-term securities | | 1,854,081.26 | | 1,854 |
| | | 3,136,736.62 | | 3,230 |
| B) Current assets | | | | |
| I. Receivables and other assets | | | | |
| 1. Trade receivables (With a maturity >1 year EUR 0; previous year: EUR 0) | 1,353,203.49 | | 976 | |
| 2. Other receivables and assets (With a maturity >1 year EUR 20,005.91; previous year: EUR 58 thousand) | 920,785.42 | 2,273,988.91 | 110 | 1,086 |
| II. Cash at bank and in hand | | 3,076,296.88 | | 3,251 |
| | | 5,350,285.79 | | 4,337 |
| C) Prepaid expenses | | 178,213.18 | | 188 |
| D) Trustee accounts – funds | | 35,669,050.13 | | 47,164 |
| | | 44,334,285.72 | | 54,919 |

Table 05: Balance sheet as at 31 December 2023 – liabilities

| | 2023-12-31 | | 2022-12-31 | |
|--|--------------|---------------|---------------|---------------|
| | EUR | EUR | EUR thousands | EUR thousands |
| A) Equity capital | | | | |
| I. Called-up and paid-in nominal capital | 3,633,641.71 | | 3,634 | |
| II. Capital reserves | | | | |
| Committed | 1,924.59 | | 2 | |
| III. Profit reserves | | | | |
| Other reserves / free reserves | 46,125.51 | | 49 | |
| IV. Net result | 0.00 | | 0 | |
| Profit carried forward (previous year: EUR 0) | 0.00 | 3,681,691.81 | 0 | 3,685 |
| B) Special item: investment grant | | 0.00 | | 25 |
| C) Provisions | | | | |
| 1. Provisions for severance pay | 101,650.00 | | 190 | |
| 2. Other provisions | 977,266.34 | 1,078,916.34 | 737 | 927 |
| D) Liabilities | | | | |
| 1. Trade payables | 729,197.05 | | 639 | |
| (With a maturity <1 year EUR 729,197.05; previous year: EUR 639 thousand; with a maturity >1 year EUR 0; previous year: EUR 0) | | | | |
| 2. Other liabilities | 2,794,127.86 | 3,523,324.91 | 2,272 | 2,911 |
| (With a maturity <1 year EUR 2,794,127.86; previous year: EUR 2,272 thousand; with a maturity >1 year EUR 0; previous year: EUR 0; due to taxes EUR 481,408.63; previous year: EUR 514 thousand; due to social security obligations EUR 253,645.49; previous year: EUR 225 thousand) | | | | |
| E) Trustee obligations – funds | | 36,050,352.66 | | 47,371 |
| | | 44,334,285.72 | | 54,919 |

1.3 National regulatory authorities KommAustria, TKK and PCK

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

Austrian Communications Authority (KommAustria)

The Austrian Telecommunications Authority (KommAustria) is Austria's independent and autonomous regulatory and supervisory authority with responsibility for electronic audio and audiovisual media. This mandate includes supervision of the Austrian Broadcasting Corporation (ORF) and its subsidiaries. The authority ensures media and opinion diversity and fair competition on the dual broadcasting market with its private providers and public service broadcaster, and has the mandate of introducing and expanding digital broadcasting. KommAustria also grants funding to print media and fulfils mandates under the Act on Transparency in Media Cooperation and Funding (MedKF-TG) and the Exclusive Television Rights Act (FERG). The organisation, duties and objectives of KommAustria are set forth in the KommAustria Act (KOG).

KommAustria is a panel authority that consisted of five members during the reporting year. Michael Ogris serves as chair of KommAustria and Susanne Lackner as deputy chair.

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

Telekom-Control-Kommission (TKK)

The TKK has been responsible for regulating the telecommunications market in Austria since 1997. The tasks and responsibilities of this independent regulatory institution are laid down in detail in the 2021 Telecommunications Act (TKG 2021). Among other things, it is responsible for regulation of competition, frequency assignment procedures and network cooperation, as well as monitoring net neutrality. Pursuant to the Signature and Trust Services Act (SVG), the TKK is also the supervisory body for trust services.

The TKK consists of three main members and three substitute members who are appointed by the federal government for a five-year term. Barbara Nigl, justice at the Vienna Regional Court, chairs the TKK.

Details on the TKK are published (in German) at www.rtr.at/TKP/wer_wir_sind/tkk/TKK.de.html.

Post-Control-Kommission (PCK)

The PCK has been responsible for regulating the postal market in Austria since 2008. The tasks and responsibilities of this independent regulatory institution are laid down in detail in the Postal Market Act. Among other things it is responsible for measures relating to the universal service provider, licences or approvals of specified sets of general terms of business, and the fees charged by postal service providers. The PCK consists of three main members and three substitute members who are appointed by the federal government for a five-year term. Barbara Nigl, justice at the Vienna Regional Court, chairs the PCK.

Details on the Post-Control-Kommission are published (in German) at https://www.rtr.at/TKP/wer_wir_sind/pck/startseite.de.html.



Activities of KommAustria

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02 Activities of KommAustria

2.1 Access to media markets

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

2.1.1 Approvals and notifications relating to multiplexes

2.1.1.1 Nationwide digital radio

In relation to the nationwide MUX I multiplex platform, one station line-up change and one change to a telecommunications licence were approved in the period under review. At the end of 2023, the overall station line-up comprised 16 stations and two ancillary services.

With 14 broadcasting systems in operation, DAB+ achieved a technical coverage rate of 84% of the Austrian population in 2023.

One procedure concerning another nationwide multiplex platform that had been put out to tender by KommAustria in 2023 was still pending at the end of the period under review.

2.1.1.2 Regional and local digital radio

In the period under review, no licences were issued for operating new regional multiplex platforms for digital terrestrial radio. Procedures concerning five regional multiplex platforms that had been put out to tender by KommAustria in 2023 were still pending at the end of the period under review.

Accordingly, as of the end of the reporting period, only one valid licence had been issued for operating a regional multiplex platform, providing service to around 2.2 million people in greater Vienna.

The station line-up comprised 15 stations and two ancillary services at the end of 2023, with no stations launched or discontinued in 2023.

2.1.1.3 Nationwide television

After renewed tender procedures in 2022, licences for the multiplex platforms D, E and F were issued in the reporting year. Apart from this, no applications for changes to station line-ups for the nationwide multiplex platforms A, B, D, E and F were received during the reporting period.

2.1.1.4 Regional and local television

As of the end of the period under review, 16 licences to operate local multiplex platforms were still in effect, of which 15 were in active use.

A total of five changes to station line-ups and three changes to telecommunications licences were approved in this category.

2.1.1.5 Television pilot projects

The '5G broadcast' pilot project, which has been running since 2019, was extended and expanded to cover additional frequencies. A channel line-up change was also approved for the '5G broadcast' project.

2.1.2 Approvals and notifications relating to radio

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

2.1.2.1 Nationwide radio broadcasting

KRONEHIT Radio BetriebsgmbH has held a second nationwide private terrestrial broadcasting licence, limited to ten years, since December 2014. The network broadcasts KRONEHIT, an adult contemporary radio format, throughout much of Austria.

KRONEHIT Radio BetriebsgmbH had been assigned authorisation for a total of 162 frequencies and twelve tunnel radio systems, as of the end of the reporting period.

A second nationwide licence had been awarded for the first time in early 2019, to Antenne „Österreich“ and Medieninnovationen GmbH (now Radio Austria GmbH). Under this licence, the Radio Austria network has been on air since November 2019. On issue of the licence, Radio Austria GmbH had originally been assigned 48 frequencies, potentially allowing coverage of 61% of the resident population.

During 2023, one frequency was assigned, two changes to telecommunications licences were approved and three frequency assignments were surrendered.

2.1.2.2. Regional and local radio broadcasting

In the local and regional terrestrial broadcasting sector, a total of 12 licensing procedures were carried out in 2023, five of which were still pending by the end of the reporting period.

Licences were issued as follows:

Table 06: Licences issued in 2023, by licence holder and licence area

| Licence holder | Coverage area | Licence assignment final |
|--|--|--------------------------|
| Radio Arabella | Wien und Teile Niederösterreichs | Yes |
| Verein Medien- und Kommunikationszentrum Nördliches Niederösterreich | Bezirk Hollabrunn und Teile des Bezirks Mistelbach | Yes |
| Radio Event GmbH | Tiroler Oberland und Außerfern | Yes |
| Radino GmbH | Wien Innere Stadt 103.2 MHz | Yes |
| Verein vidaFlex Vereinigung der Ein-Personen-Unternehmen Österreich | WIEN 11 (KW Simmering) 99.1 MHz | No |
| Radio Event GmbH | WIEN 11 (KW Simmering) 106.5 MHz | No |
| Livetunes Network GmbH | WIEN 11 (KW Simmering) 96.4 MHz | No |

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

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

- Frequency 'DEUTSCHKREUTZ (Siloanlage) 92.8 MHz' to 'Mehrsprachiges Offenes Radio MORA' (private association)
- Existing frequency consisting of the radio systems 'SALZBURG 6 (Hochgitzten Mobilfunkmast) 102.8 MHz', 'HAUNSBURG (Austro Control Turm) 102.8 MHz', 'VORAU (Mobilfunkmast) 102.8 MHz' and 'STRASSWALCHEN (Tannberg) 102.8 MHz' to Antenne Salzburg GmbH
- Frequency 'UEBELBACH 3 (Badergasse) 106.6 MHz' to Radio Grün Weiß GmbH

A total of 14 procedures, either for expanding coverage areas or for improving coverage in existing coverage areas, were still pending at the end of the reporting period.

2.1.2.3 Event radio and educational radio licences

An event radio broadcasting licence is granted for a maximum of three months, authorising broadcasting in the vicinity of and simultaneously with an independent public event. Licences were granted for a total of 16 event radio broadcasts in 2023.

Educational radio licences are granted to education or training institutions, authorising them to locally broadcast radio formats in a functional context with the duties of the particular institution. Such licences can be granted for a maximum of one year. Five educational radio stations were licensed in 2023.

2.1.2.4 Procedures under telecommunications law

To simplify administration, the Telecommunications Act 2021 (TKG 2021) empowers KommAustria as a kind of 'one-stop shop', with additional authorisation to issue the permits under telecommunications law 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 and solely on the basis of an application under telecommunications law. These latter cases usually involve technical changes planned for radio systems, such as the use of new transmitter antennas, the relocation of transmission sites or increased transmission power.

KommAustria approved five changes to radio systems in 2023, one application to increase power output and four applications allowing private radio broadcasters to conduct test transmissions. During the reporting period, several applications were also received for approval to set up and operate tunnel radio systems.

KommAustria also received 24 requests for permission to operate radio equipment within broadcasting frequency bands but for non-broadcasting purposes (to cover drive-in cinemas, conferences and similar events), with these granted where frequencies were available.

2.1.2.5 Licences for satellite radio

KommAustria issued no licences for satellite radio in 2023.

2.1.2.6 Radio stations subject to notification requirements

In the 2023 reporting period, KommAustria was notified of one new cable radio station.

2.1.3 Approvals and notifications relating to audiovisual media services

2.1.3.1 Satellite television licences

KommAustria issued licences for four satellite television channels in 2023.

2.1.3.2 Media services subject to notification requirements

The following notifications were received by KommAustria in the 2023 reporting period: 30 notifications of on-demand audiovisual media services, eight notifications of cable television channels and eleven notifications of television channels broadcast over the internet. In addition, nine applications for assessment in accordance with Art. 9 Par. 8 of the Audiovisual Media Services Act (AMD-G) were received.

2.1.4 Approvals and notifications of new ORF services

2.1.4.1 Radio broadcasting spectrum assigned to the ORF

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

In this context, a total of five procedures were carried out in 2023, of which three related to the extension or modification of radio systems already assigned to ORF. Two procedures concerned the assignment of multiple tunnel radio systems.

2.1.4.2 Changes to service plans and prior evaluation procedures

On 8 September 2023, Federal Law Gazette (FLG) I No. 112/2023 was published, which among other things amended the ORF Act (ORF-G). As a result of this amendment and pursuant to Art. 50 Par. 15 ORF-G, a further 16 service plans were changed and one new service plan was submitted in 2023.

In addition, five changes to service plans independent of the 2023 ORF-G amendment were submitted.

A prior evaluation procedure relating to a service plan for a public online classical music platform (www.myfidelio.at) became final after the ORF withdrew its appeal.

2.2 Legal supervision (including reference to conciliation activities)

2.2.1 Commercial communications

In the reporting period, evaluations of 46 audiovisual media services and radio stations were carried out as part of monthly advertising monitoring duties. Food influencers formed a particular point of focus here.

ORF radio stations were evaluated as follows in 2023: the regional stations Radio Wien, Radio Oberösterreich, Radio Salzburg and Radio Vorarlberg were evaluated once each, as were the national radio stations Ö1 and FM4, while the national radio station Ö3 was evaluated twice. On the basis of the evaluations, procedures were initiated in three cases that have yet to be completed with final effect.

The ORF's national television channels ORF eins and ORF 2 were monitored four times each (twice for ORF 2 involving separate regional-content programmes). The Sport Plus and ORF III Kultur und Information channels were also monitored once each. On the basis of the evaluations, procedures were initiated in five cases that have yet to be completed with final effect.

In the private radio segment, the stations of seven broadcasters were evaluated. In four cases, procedures were initiated due to infringements of advertising regulations, of which one has been completed with final effect.

In the private television segment, nine channels were evaluated. In five cases, procedures were initiated due to infringements of advertising regulations, one of which was then dropped.

Broadcasts offered by twelve providers of on-demand audiovisual media services were evaluated. In five cases, due to infringements of advertising regulations two procedures were initiated that have yet to be completed with final effect.

Three other procedures were conducted on the authority's initiative as well as two complaints procedures.

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 Act (ORF-G) for the Austrian Broadcasting Corporation (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, aimed at enabling democratic discourse by helping the public freely form opinions.

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

A total of 14 procedures involving complaints of alleged breaches of programming principles by the ORF were initiated in the period under review. The cases mostly involved alleged breaches of the principles of objectivity and impartiality in ORF reporting. In seven complaints procedures, KommAustria ruled that the complaints were to be rejected as unjustified owing to some aspects of these complaints, as inadmissible owing to other aspects and in some cases to be dismissed as a result of lateness. In one complaints procedure, part of the complaint against the ORF was confirmed, with the rest of the complaint being dismissed on grounds of lacking legitimacy. In one complaints procedure, the complaint was partially confirmed, with the other points rejected. A complaint was dismissed in one case, on the grounds that the complaint lacked legitimacy. In another case, the complaint was dismissed due to failure to comply with the order to remedy deficiencies. Three complaints procedures that had been initiated could not be completed in the reporting year.

Within the scope of legal supervision of private broadcasters, in response to a statement of facts that was submitted but did not result in a complaints procedure, one procedure involving an ex officio review of a private television broadcaster's alleged infringements of programming principles was initiated during the reporting period. During the period under review, KommAustria completed this procedure, finding that programming principles pursuant to Art. 41 Par. 1 AMD-G had not been infringed.

2.2.3 Conciliation procedures in media

The RTR Media Division is competent under KommAustria as the conciliation body for complaints relating to communications networks and services used in broadcasting. The main prerequisite for a conciliation procedure is a previously unsuccessful attempt by the customer and operator or provider to reach an agreement. In the course of a conciliation procedure, RTR attempts to negotiate a mutually agreeable solution or informs the participants of its position on the case in question. The conciliation body received 91 complaints in the period under review. Details about conciliation cases are available in the annual conciliation report (Schlichtungsbericht), published annually in German (see the 2023 annual report from the conciliation bodies, www.rtr.at/schlichtungsbericht_2023).

2.2.4 Specific supervision of the ORF and its subsidiaries

2.2.4.1 Purpose of business, public mandate and bodies

During the 2023 reporting period, KommAustria reviewed 16 changes to service plans, which had become necessary as a result of the amended ORF-G (FLG I No. 112/2023), as well as a new service plan 'Television channel and streaming service intended for use by minors under 14' and found no reason to raise any objections.

Four objections raised as a result of failing to be included in the eligible voters list in the 2023 editors' spokesperson elections were dismissed because submitted too late.

KommAustria rejected one complaint relating to the appointment of a provincial director and one complaint raised because of alleged interference in the autonomy of employees involved in channel programming on grounds of lacking legitimacy; these procedures are pending with the Federal Administrative Court (BVwG).

During the reporting period, one complaint was also lodged as a result of an alleged infringement of the ORF's coverage mandate by the failure to broadcast its nationwide channels using the digital DAB+ standard; this procedure was not completed during the reporting period. One complaint was dismissed in response to failure to comply with an instruction to correct an error.

2.2.4.2 Supervision of business activities

As part of supervising the ORF's business activities, during the reporting year KommAustria audited the consolidated financial statements and the individual financial statements as at 31 December 2022. In this case, the KommAustria audit commission issued, based on the service agreement, audit reports with unqualified audit certificates.

A key part of the supervision of ORF business activities involves a business audit to ascertain whether ORF management is complying with the principles of economy, efficiency and expediency. In the year under review, the business audit for the 2022 business year was materially concluded with the issuing of an audit report by the audit commission covering a total of eight audit areas.

During the reporting period, KommAustria did not initiate or complete any procedure, pursuant to Art. 38b ORF-G, to confiscate from the ORF any revenues gained through breach of advertising provisions. One procedure pursuant to Art. 38a ORF-G was initiated and completed in the reporting period.

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

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

During the 2023 reporting year, one procedure was completed that had been initiated the previous year after the broadcaster had notified a change in ownership either too late, incompletely or not at all. Another 25 procedures were initiated in response to failures to notify changes of ownership on time, in full or at all, of which 15 were completed.

In those cases where new partners acquire more than 50% of the shares in a broadcaster, prior to the transfer of shares, an official decision must be obtained from KommAustria to determine whether the relevant legal prerequisites for broadcasting will still be met under the new conditions. In the 2023 reporting period, one such procedure was initiated pursuant to the PrR-G.

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

Under the AMD-G, holders of broadcasting licences for satellite television and digital terrestrial television channels also have the option of applying for approval of major changes to television channels they broadcast via satellite or digital terrestrial transmitter. As these licences are not issued by way of a competitive selection procedure, more flexible options for channel changes are available. Nine such procedures were conducted and completed during the reporting year.

Holders of licences for multiplex platforms similarly have the option of making changes to the channel line-up they broadcast. Here a decision can be requested to determine whether the prerequisites for the licence to operate a multiplex platform will continue to be met after making the change. In the 2023 reporting year, KommAustria conducted a total of five such procedures, completing four of them.

Three procedures initiated during the previous year in response to failures to notify media services on time or at all were also completed in the reporting year. During the 2023 reporting year, KommAustria also initiated seven such procedures, of which two were completed.

No procedures in response to a late notification of a distribution mode change were conducted in the reporting period.

In the 2023 reporting year, KommAustria also initiated a procedure resulting from the late submission or non-submission of recordings requested for a broadcast. This procedure is still pending, while another procedure was completed. In addition, one administrative penal procedure due to the late submission or non-submission of recordings requested for a broadcast was completed in the period under review.

With regard to broadcasting without a licence, KommAustria completed two infringement procedures in the reporting period. Two administrative penal procedures were also completed during the period under review.

During the reporting period, no procedures were conducted owing to breaches of the principle of objectivity by private stations.

2.2.6 Market research

As part of the survey of reach and market shares carried out in 2023 for the 2022 calendar year, the RTR Media Division performed on behalf of KommAustria an initial survey of 466 providers using a special eRTR application. KommAustria subsequently requested 59 media services providers to provide information about reach (market shares), level of coverage and user or viewer figures, details required in order to compile the market report. After failing to provide this information, one media services provider was issued a decision demanding compliance, and the provider responded.

2.2.7 Promotion of accessibility

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

To harmonise these action plans, KommAustria enacted regulations in 2021 to ensure the comparability of data and to standardise form and content, also setting up a separate web interface in the eRTR-Portal to report action plans.

During the reporting period, two infringement procedures and one administrative penal procedure in response to a failure to create an action plan (Art. 30b AMD-G) were completed with final effect.

Two infringement procedures were related to a suspected infringement of Art. 30b Par. 3 AMD-G, which requires annual reporting concerning the implementation of the action plan and increasing proportions in the individual categories. These procedures were initiated and completed with final effect in the reporting period.

Another infringement procedure in response to a suspected infringement of Art. 30b Par. 2 and 3 AMD-G (publication of the action plan and submission of the annual report) was initiated in the reporting period.

2.2.8 Promotion of European works

In the 2023 reporting year, KommAustria conducted three infringement procedures and five administrative penal procedures against providers of on-demand audiovisual media services, in response to a 2022 infringement of notification requirements pursuant to Art. 40 Par. 4 AMD-G. One infringement procedure relating to an infringement of Art. 40 Par. 1 No. 2 AMD-G was initiated against one provider of on-demand audiovisual media services but had not been completed by the end of the reporting year.

Also in the reporting year, one infringement procedure was initiated against a television broadcaster in response to a failure to notify programme figures, as required by Art. 50 and 51 AMD-G, for 2022; an administrative penal procedure was also initiated but not completed. One administrative penal procedure, concerning a failure to notify for 2021 programme figures in accordance with Art. 50 and 51 AMD-G, was duly completed.

2.3 Market regulation

2.3.1 Ex ante regulation under TKG 2021

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

In practice, this notification requirement is especially significant in the case of broadcasting activities by cable network operators and IPTV providers. On the basis of the legal opinion of the European Court of Justice and its ruling of 30 April 2014 in case C-475/12, UPC DTH, certain services are considered broadcasting services and thus subject to notification requirements. Such services consist in detail of providing access rights to

a package of programmes which contains radio and audiovisual broadcast services and is transmitted via satellite or cable in return for a fee.

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

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

Pursuant to the TKG 2003, and now the TKG 2021, KommAustria is also responsible for regulating competition among public communications networks and services used for radio and TV broadcasting. In this context, in a 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 2023 reporting year, KommAustria also reviewed ORS' adherence with imposed obligations relating to the wholesale market for FM radio in 2022, 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.

In addition, one procedure previously initiated in the 2022 reporting year was continued and still pending at the end of the reporting period. The aims here are: to identify the relevant markets subject to sector-specific regulation within the meaning of Art. 199 Par. 1 No. 2 of the TKG 2021, i.e. particularly those for broadcasting activities in accordance with the Federal Constitutional Act on Broadcasting (BVG-Rundfunk) or ancillary services; to determine whether one or more undertakings have significant market power or, alternatively, effective competition prevails in those markets; and to determine whether specific obligations are to be withdrawn, maintained, amended or imposed.

2.3.2 Merger procedures

As part of competition monitoring conducted by the Federal Competition Authority (BWB), KommAustria is given the opportunity to issue an opinion on cases involving competition in the media sector.

In this context, the BWB communicated to KommAustria 27 instances where registration of company mergers affected media services in 2023. For eleven of these registrations, KommAustria conducted an assessment of the impact of the merger on media diversity and the editorial independence of the companies involved in these mergers. In all of these cases, no substantiated risk of a significant impairment to these protected aspects was identified.

2.4 Platform regulation

Platform regulation activities last year were strongly focused on the Digital Services Act (DSA). Entering into force at the end of 2022, the DSA (Regulation (EU) 2022/2065) aims to simplify the application of regulatory standards by intermediary services and facilitate a safe online environment. The Act encompasses a broad spectrum of instruments that includes notice and action mechanisms (Art. 16), an internal complaint-handling system (Art. 20), extensive transparency obligations (e.g. Art. 24, 27, 39) and an effective supervisory mechanism (Art. 49 et seq.).

An accompanying law for the DSA was discussed in the reporting period and adopted by the Austrian Parliament at the end of December. KommAustria submitted a corresponding statement during this process.

In a consolidation procedure (MFE MEDIAFOREUROPE N.V./ProSiebenSat.1 Media SE) initiated back in 2022, KommAustria had expressed concerns about perceived impairments to Austria's media diversity. In the reporting year, the Federal Competition Authority (BWB) and Federal Public Attorney for Cartel Matters (BKartA) submitted review requests to the Cartel Court in the course of this procedure. As a result, MFE withdrew its request and then resubmitted it with amendments. During this procedure, KommAustria once again aired its concerns and review requests were again submitted at the end of the reporting year.

2.4.1 Communications platforms

In early November, the ECJ ruled that the Communications Platforms Act (KoPl-G) had failed to comply with EU law (judgment dated 9 November 2023, case C-376/22). According to this decision, one Member State may not take general and abstract measures against a platform registered as a business in another Member State.

2.4.2 Video-sharing platforms

As of 31 December 2023, two video-sharing platform providers were considered to be established in Austria and were thus subject to legal supervision by KommAustria.

In the reporting year, the NRA investigated whether another video-sharing platform was subject to legal supervision in Austria, in response to a notification from the NRW State Institute for Media. However, this investigation revealed that the platform merely operated an independent branch office in Austria, with the main branch being domiciled in another Member State.

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

2.5 Act on Transparency in Media Cooperation and Funding

The main objective of the Act on Transparency in Media Cooperation and Funding (MedKF-TG) is to ensure full transparency when public authorities award advertising contracts or funding (cf. government bill in annex 1276 to the shorthand verbatim records of the National Council, 24th legislative period). The MedKF-TG consequently requires certain legal entities to provide KommAustria with reports of expenses resulting from advertising placed in media and from grants awarded to media owners, specifically all legal entities that under constitutional and ordinary legal provisions are subject to business auditing by the Court of Audit. As the independent recipient of the reports, KommAustria has the duty to verify compliance with reporting requirements.

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

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

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

Reports have been submitted for a total of 46 quarters since the MedKF-TG entered into force on 1 July 2012. After a clear trend towards increasing reporting discipline in the initial quarters, the reporting rate has in recent years reached a consistently a high level, also seen in 2023. On annual average, more than 99.9% of the legal entities required to report had complied. In 2023, 37 administrative penal procedures resulting from a failure to report were carried out, of which 19 have since been completed with final effect. In addition to this, two penal procedures were carried out in response to apparently inaccurate or incomplete reports. Also in 2023, 39 applications were received for procedures to determine exemptions from reporting requirements pursuant to the MedKF-TG.

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 5,300 legal entities currently required to file.

In 2023, the MedKF-TG received a substantial amendment (FLG I No. 50/2023, published on 19 May 2023): while entering into force fully only on 1 January 2024, it had already given rise to a significant degree of preparatory work beforehand, in terms of both interpretation and technical requirements. This amendment aimed firstly to boost transparency by closing loopholes (removal of the de minimis limit of EUR 5,000 per quarter and medium, extension of reporting requirements to ad hoc media and outdoor advertising such as billboards). Secondly, the new law aimed to simplify reporting requirements for legal entities (waiving of duty to submit zero reports, transition to semi-annual rather than quarterly reports, extension of reporting deadline from two to four weeks after a six-month period). The reporting scope was also expanded to include other data types, including ad visuals from a total advertising order volume of EUR 10,000 per six months.

To further specify data entry options, KommAustria issued the 2023 Data Entry Ordinance for the MedKF-TG on 29 September 2023. In accordance with legal requirements, the NRA also implemented a technical solution on its website to visualise the reported data.

2.6 Countering terrorist content

Entering into force on 1 September 2023, the Austrian Addressing Terrorist Content Act (TIB-G) codifies the obligations arising from the EU Terrorist Content Online (TCO) Regulation. KommAustria is the competent authority as defined by the TCO Regulation. The TCO Regulation aims to counter and contain terrorist online content within the European Union. Terrorist online content is to be taken down as soon as possible with the aim of helping to improve public safety throughout the Union as a whole.

The TCO Regulation gives competent authorities powers to order the removal of terrorist online content, with hosting service providers required to implement removal within one hour. Removal orders may also be issued by authorities in other Member States: in such cases, the competent authority in the country of domicile has a right to review the order. In certain circumstances, hosting service providers must take action when confronted with terrorist content. Where terrorist content represents a direct threat, hosting service providers must report this without delay to the competent law enforcement agency – such as the Austrian police.

Breaches of the TIB-G are subject to legal penalties. Fines of up to EUR 50,000 may be imposed for administrative offences, while systematic breaches may attract fines of up to 4% of the provider's annual turnover.

In 2023, KommAustria issued a hosting service provider in another Member State with two removal orders; the service provider implemented these orders as required.

2.7 Administration and coordination of broadcasting frequencies

In Austria, KommAustria manages the frequency spectrum for the terrestrial broadcasting of radio stations and television channels. The terrestrial broadcasting spectrum consists of various frequency bands, each of which is allocated to a certain broadcasting system.

The broadcasting systems of commercial relevance, which offer correspondingly large-scale coverage, are analogue radio (FM), digital radio (TDAB+) and digital television (DVB-T/T2).

The authority receives support for its broadcasting frequency management by the department of the same name (RFFM) within the Media Division at RTR. This work includes the preparation of spectrum evaluation reports during licence award procedures, international frequency coordination, and bilateral/multilateral frequency negotiations with neighbouring countries. As the signals broadcast often extend far into other territories, it is important to negotiate broadcasting frequencies with neighbouring countries as part of a coordinated procedure, so as to avoid mutual interference when receiving the transmitters.

For digital radio (T-DAB+), two multilateral frequency negotiation meetings were held with neighbouring country administrations in 2023. The results of these negotiations not only had a direct impact on the DAB+ tender procedures that were issued in the reporting year but also formed the basis for the numerous Austrian coordination procedures that needed to be initiated as a consequence.

Compared with the previous year, there was a slight uptick in the number of international coordination procedures for FM. Most of these procedures addressed adjustments to existing broadcasting networks as opposed to new network planning. This can be attributed to the fact that almost all frequencies in the FM band are assigned to broadcasting transmitters.

During the reporting year, workloads increased in relation to broadcasting frequency management for digital television (DVB-T/T2). This resulted from the fact that many television broadcasters from historical plans have now been registered in the Geneva assignment plan.

In Vienna, pilot operations for 5G Broadcast continued. As in previous years, this pilot project was able to utilise a Slovak TV channel temporarily made available by the Slovakian administration.

The question of the future use of the remaining UHF spectrum band for terrestrial television was again an important topic at EU level. However, the scope, timespan and tempo of these changes in usage for terrestrial television are as yet unforeseeable, as are the resulting options for other applications – including especially mobile telephony.

2.7.1 Licensing and assignment procedures

The RFFM department prepares spectrum evaluation reports for KommAustria's licensing procedures. First and foremost, these reports involve evaluating the feasibility of the technical planning with regard to frequencies as well as the number of residents to be provided with coverage.

The section below provides a number of details from the procedures in 2023. Roughly 90 spectrum evaluation reports were prepared in the reporting year.

2.7.1.1 Reports relating to FM radio

In 2023, numerous frequency changes as well as licensing and licence renewal procedures for radio were evaluated in terms of spectrum, and expert reports prepared.

Some of these reports involved the evaluation of spectrum in relation to new licences being issued following the expiry of the ten-year limit for the coverage areas 'Wien und Teile Niederösterreichs', 'Bruck an der Mur/Mur-, Mürztal', 'Freistadt' and 'Radio Radino' in Vienna.

Other reports addressed new coverage areas and expansions to existing coverage areas, which consequently led to invitations to tender for the corresponding frequencies. Especially noteworthy here are the reports for the awards of coverage areas in Vienna over the frequencies 96.4 MHz, 100.3 MHz, 106.5 MHz and 105.1 MHz. In the 'Tiroler Oberland und Außerfern' coverage area, no less than eight new frequencies formed the basis for the report. Similarly, a report was required for a coverage area in Lower Austria in order to award seven frequencies as part of an invitation to tender.

Reports were also prepared for the approval process for test transmissions in the regions of Central Burgenland, Vienna and Voitsberg-Deutschlandsberg.

As in previous years, reports were also prepared for the educational radio stations based in Deutschlandsberg, Freistadt and Vösendorf, the St. Pölten campus radio station and the educational radio station in Vienna.

Around 90 radio broadcasting stations from the ORF were also subjected to a spectrum analysis for new licences after expiry of the ten-year limit.

Several reports were prepared in 2023 in the context of the licensing of event radio stations organised consecutively in Lower Austria and Vienna. For the event radio broadcasts in Lower Austria, new frequencies were utilised that required both expert reviews as well as international coordination.

Similarly, the licences for FM tunnel radio equipment that had expired after ten years also needed to be evaluated and renewed in 2023.

In the reporting year, numerous requests were again received from FM low-power broadcasters, including drive-in cinema to cultural events and civil defence exercises. The RFFM department had to evaluate the frequencies used by these applications to exclude any chance of disruption to existing radio broadcasting stations.

2.7.1.2 Reports relating to digital television

In the reporting year, an expert spectrum evaluation report was prepared for the recent award of the nationwide DVB-T2 multiplexes D, E and F to ORScomm. The bulk of these technical reports related to the 43 base stations for each multiplex, which are located throughout Austria.

A spectrum evaluation report was also prepared for the extension of 5G Broadcast test operations to channel 45 at the broadcasting transmitter sites WIEN 1, WIEN 8 and WIEN 9 as well as channel 42 at WIEN 8 and WIEN 9.

2.7.1.3 Reviews relating to digital radio

As part of the multiplex calls for tender made by KommAustria, extensive spectrum evaluation work was carried out in late 2023, with six reports prepared.

For the Austrian DAB+ broadcasting sites Bregenz/Pfänder in Vorarlberg and Untersberg in Salzburg, multiplex operators in Germany submitted requests for licences that needed to be evaluated in terms of spectrum and expert reports prepared.

2.7.2 Frequency coordination procedures and frequency usage

The following table lists for the reporting year the number of international broadcasting frequency coordination procedures that were completed with Austria as a participant:

Table 07: Number of international broadcasting frequency coordination procedures in 2023

| Country | Analogue radio | Digital radio | Digital television |
|-------------------|----------------|---------------|--------------------|
| Austria | 36 | 117 | 10 |
| Bosnia | 0 | 0 | 0 |
| Germany | 5 | 50 | 0 |
| France | 6 | 0 | 0 |
| Italy | 0 | 0 | 0 |
| Poland | 5 | 0 | 0 |
| Switzerland | 5 | 13 | 0 |
| Slovakia | 8 | 0 | 1 |
| Slovenia | 11 | 0 | 1 |
| Czechia | 25 | 4 | 2 |
| Hungary | 5 | 0 | 0 |
| TOTAL | 106 | 184 | 14 |
| ITU registrations | 34 | 4 | 746 |

The ITU registrations given in the last row of the table relate to coordination requests for which bilateral coordination with Austria was not possible before registration in Geneva. As with all other coordination requests, these also had to be subjected to a spectrum evaluation. Overall, 25 circulars were received from the ITU in the reporting year, with assignment plan registrations that were processed in the RFFM department.

Frequency negotiations and signing of the MFA in Budapest

On 12 and 13 June, the Multilateral Framework Agreement (MFA) was signed at a final multilateral working meeting in Budapest that was attended by seven spectrum administrations. In the four years before this event, a DAB+ assignment plan had been developed – mostly in online meetings – that can largely be implemented with 'high tower, high power' broadcasting locations. Negotiations in this working group were conducted by delegates from Austria, Bosnia and Herzegovina, Croatia, Hungary, Romania, Serbia and Slovenia.

ADSL meeting in Liechtenstein

On 18/19 April 2023, a meeting was organised in Vaduz with authorities and broadcasting network operators from Austria, Germany, Liechtenstein and Switzerland. The event addressed general topics relating to FM and DAB+ coverage. The VHF assignment plan for DAB+ was amended and updated with the requested changes. One agenda item addressed the regulatory handling of UHF converters that did not fit into the typical scheme for the Allotment Plan and the applicable conditions for registering these converters with the GE06 assignment plan. Consultations were also held on national preparations for WRC-23, developments in the 5G Broadcast standard for the mobile reception of broadcast signals and the importance of broadcasting transmitter networks for keeping the general populace informed in the event of a disaster.

2.7.3 Measurement projects

Comprehensive sets of FM measurements were taken in the context of several test transmissions in Central Burgenland, Vienna and Western Styria. Various frequencies were investigated to determine their coverage performance and potential interference. Several tests were also conducted regarding the operational status of broadcasting systems, both for FM and DVB-T/T2 base stations.

Coverage measurements and frequency scans for radio and television were also conducted by the RTR measuring bus in the context of report commissions and international coordination procedures. Joint measurements were also carried out with the Austrian telecommunications authority in the reporting year.

2.7.4 Frequency register

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

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

In the 470 to 694 MHz television frequency band, the currently approved DVB-T/T2 transmitters in the frequency register were distributed among the individual multiplex platforms as at the end of 2023 as shown here (see table below).

The 36 base stations in the DVB-T/T2 MUX C platforms are operated by 15 various other private licence holders besides ORScomm.

Table 08: Approved DVB-T/T2 transmitters (as of 31 December 2023)

| Multiplex | Number of broadcasting transmitters |
|---|-------------------------------------|
| DVB-T2 multiplex A (ORS multiplex) | 317 |
| DVB-T2 multiplex B (ORS multiplex) | 43 |
| DVB-T/T2 multiplex C (regional/local multiplex platforms) | 36 |
| DVB-T2 multiplex D (ORScomm multiplex) | 43 |
| DVB-T2 multiplex E (ORScomm multiplex) | 43 |
| DVB-T2 multiplex F (ORScomm multiplex) | 43 |

In VHF band III, which is reserved for DAB+, the following DAB+ multiplexes were approved as at the end of 2023:

Table 09: Approved DAB+ transmitters (as of 31 December 2023)

| Multiplex | Number of broadcasting transmitters |
|--|-------------------------------------|
| DAB+ multiplex I (ORS comm) | 14 |
| DAB+ multiplex II (RTG Radio Technikum GmbH) | 1 |

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

2.7.5 Contributions to working groups under international organisations

As in the previous year, some of the working group meetings on broadcasting management held in the reporting year were strictly videoconferences, while others were hybrid events.

a) Participation in the PTD project team of the European Conference of Postal and Telecommunications Administrations (CEPT)

At CEPT level, three sessions were held for this working group, in which preliminary documents for WRC-23 were prepared. The majority of these documents addressed frequency studies that looked at the impact on broadcasting coverage in the event of potential changes to the usage of the 470–694 MHz spectrum band.

This working group also spent some time drafting a European Common Proposal (ECP) for the WRC-23 on the UHF sub-700 MHz band.

b) Participation in the WP6A study group 6 (SG 6) at the ITU

The working group 6A for the ITU-R SG 6 drafted – and in some cases also then adopted – a number of revised standards, guidelines, recommendations and reports in the field of digital terrestrial broadcasting systems.

Key points of focus here included characteristics of a reference reception system for the frequency planning of digital terrestrial television systems, assessing the electromagnetic fields of terrestrial broadcasting systems in arbitrary spectrum bands, and the design and implementation of single frequency networks (SFNs) in digital terrestrial broadcasting.

The direct transmission of broadcasting signals to mobile devices (phones, tablets, etc.) was once again a highly relevant topic. Work began on collecting data from field trials of terrestrial multimedia broadcasting systems for mobile reception from all over the world and summarising this information in a report document.

c) RSPG sub-working group 'UHF beyond 2030'

In the reporting year, the opinion paper "Strategy on the future use of the frequency band 470–694 MHz beyond 2030 in the European Union" from the Radio Spectrum Policy Group (RSPG) was completed, published for public consultation and then adopted. The end result will be used following WRC-31 as the starting-point for further deliberations and preparations within the EU regarding the future use of the UHF band below the 700 MHz spectrum band.

d) World Radio Conference 2023 (WRC-23)

The ITU 2023 World Radio Conference was held in Dubai, achieving an important outcome for broadcasting in relation to the dedication of the sub-700 MHz band from 470 to 694 MHz.

WRC delegates agreed that the sub-700 MHz band would continue to be reserved primarily for broadcasting and radio microphones, at least until 2031, with this frequency range being scheduled for further review at WRC-31 in 2031.

For most of the EU Member States, another result of the conference was a footnote for a potential and immediately effective secondary usage of mobile telephony. Several Arab countries achieved a footnote for the co-primary usage of mobile telephony, but subject to strict conditions to ensure that the expansion of the broadcasting service (DVB-T/T2) would not be hindered in neighbouring countries still wishing to operate terrestrial television.

2.8 International activities

KommAustria's engagement at international level ensures that the interests and goals of the Austrian media markets are provided with a level and harmonised playing field within an EU context, and one that is, wherever possible, also in line with the situation in other EU countries.

2.8.1 KommAustria and European Regulators Group for Audiovisual Media Services (ERGA)

KommAustria further expanded its international engagement in relation to ERGA in 2023. One of the reasons for this expansion was the fact that the European Commission needed to advance new pieces of legislation to the point of adoption.

For the DSA and DMA, which had been adopted in October 2022 and September 2022, respectively, work focused on the activities at national and community level related to the entry into force of this legislation. Most of the work on the European Media Freedom Act (EMFA) was completed during the course of 2023. ERGA was convened several times in this context for the purposes of advising the European Commission and providing statements on several occasions on the individual new drafts of the text. ERGA also completed its planned programme of work in 2023, not least because individual ERGA working groups focused specifically on providing the necessary support.

KommAustria and RTR staff members played an active part in all three ERGA working groups as well as the two action groups.

2.8.1.1 Working group for the consistent implementation and enforcement of the European framework for audiovisual media services

Among the tasks for this subgroup in 2023 were the consolidation of efforts made by ERGA to ensure an improved and more effective enforcement of the EU's legislative framework for audiovisual media services as well as the collection of data on transposition and the potential future development of this framework. This work culminated in the publication of a report addressing the practical application and future of the transboundary enforcement of media legislation.

Efforts to implement and ensure compliance with the rules in the MoU adopted by ERGA in 2020 were also audited with the aim of deriving insights for their further development. The MoU facilitates the provision of cross-border support and guidance between regulatory authorities, especially in cases where national options for action on the part of regulatory authorities are restricted by the country-of-origin principle. This group has defined a uniform set of practical rules, standards, approaches, and response times and patterns for use in international cooperation. The MoU again saw frequent application during 2023, thereby forming a basis for the further developments and improvements needing to be tackled.

Lastly, this working group also addressed the transposition of the provisions of the EU AVMS Directive concerning age verification systems and procedures for the handling of complaints.

Vlogging was another topic of interest touched on in 2023, culminating in a short report based on a 2022 analysis paper, largely authored by KommAustria, which supplied several recommendations for the regulation of this area.

2.8.1.2 Subgroup for the completion of the EU regulatory framework for media

Three core topics were essentially addressed by this working group. Most of these activities involved the planned EMFA legislative process. Alongside participation in the preparatory work, regular statements from ERGA also needed to be submitted on proposed recommendations for the EMFA. As the EMFA envisages making sweeping changes to ERGA, extensive planning work also needed to be set in motion here to address these expected changes.

As regards the legislative process for the DSA, which has since entered into force, preparatory work needed to be completed to meet national requirements. Although the roles and remits applicable to specific institutions in Member States in the context of the DSA remained unclear throughout 2023, the corresponding processes still needed to be established, so as to be ready for the commencement of the active phase.

The working group also tracked developments in relation to the proposal for an EU regulation to prevent and combat child sexual abuse (child sexual abuse material, CSAM), and worked on preparing an ERGA position paper on this issue.

2.8.1.3 Working group for countering disinformation and strengthening democracy in the digital environment

The work of this subgroup mostly involved supporting and advising the Commission on the effective implementation of the more rigorous Code of Practice on Disinformation as well as participating in the activities of a permanent taskforce for countering disinformation. Resources for monitoring the more rigorous Code of Practice on Disinformation also needed to be prepared and a report produced on the Code's implementation.

Other activities of this subgroup involve making contributions to discussions relating to the adoption of the EU regulation on the transparency and targeting of political advertising, and the enforcement of the same, as well as the development of responsibilities for national regulatory authorities in light of the forthcoming legislation. This subgroup has also been assigned the task of drawing up powers for national regulatory authorities in relation to the countering of disinformation.

2.8.1.4 Action group for internal procedures at ERGA

Set up in 2023 – for the first and probably only time – this action group is tasked with evaluating ERGA's internal procedures and adapting them to handle the tasks to be assigned to ERGA following the entry into force of the European Media Freedom Act. The group was given the brief of proposing specific changes to the current rules of procedure with respect to the future adjustments needed. These encompass:

- Improvements to the procedures for composing, adopting and disseminating ERGA documents and reports
- Improvements to the procedures for publishing press releases
- Auditing other internal administrative structures and procedures at ERGA with the aim of improving ERGA's working efficiency and visibility
- Representation of ERGA in other bodies, especially the high-level group for the Digital Markets Act and the permanent taskforce for the Code of Practice on Disinformation, with a focus on organisational/ process-related aspects

2.8.1.5 Action group for media literacy

ERGA's work programme for 2023 emphasises the role of media literacy in terms of its significance for democratic discourse and debate. In 2023, the ERGA action group for media literacy continued its activities, based on the work of the ERGA action group on media literacy from 2021 and the informal contact group from 2022, with the aim of comparing best practices in relation to the national instruments or measures deployed by national regulatory authorities to promote or develop media literacy and to prepare for the transposition of

Article 33a of the AVMS Directive in line with the ERGA work programme for 2023. A workshop was used to present and explain the measures adopted by almost all of the EU Member States with the aim of improving and promoting media literacy.

Finally, at the final ERGA plenary meeting, the ERGA work programme for 2024 was already adopted, with Giacomo Lsorella, Director of the Italian AGCOM regulatory authority, reelected as ERGA chair for 2024 as well. At this same meeting, Susanne Lackner, Vice-Chair of KommAustria, was once again unanimously voted into the ERGA Board. For 2024, KommAustria is therefore once again given an opportunity to participate actively in topics of international interest and promote corresponding initiatives within ERGA.

2.8.2 KommAustria and the European Platform of Regulatory Authorities (EPRA)

EPRA is a platform extending beyond the borders of the European Union that takes in 55 media regulatory authorities from 47 countries. The platform concentrated efforts in 2023 on the following points:

- Media and information for the public good
- The future of content delivery and implications for NRAs

2.8.2.1 Media and information for the public good

The wide-ranging topic of “Media and information for the public good” unites (at least) four strategic keywords, building on the study investigating disinformation, plurality and trust that formed the basis of the EPRA work programme for 2022. The topic draws attention to the key role played by independent media in the production and dissemination of content conforming to high journalistic standards. The freedom to receive and impart information (Art. 10 of the European Convention on Human Rights, ECHR) is a basic condition for a healthy civic space and media. Meeting this condition is critical for media in times of crisis – as was seen during the Covid-19 pandemic and as is still evidenced by the war in Ukraine. How can regulatory efforts work to secure this key role for media in the public interest and for the common good? EPRA has addressed a series of current legal, regulatory and social issues on this topic, including the following:

- Investigating the definitions and reasons behind ‘public interest’, ‘general interest’, ‘independent’, ‘trustworthy’ and ‘quality media’, as well as the spectrum of public interest media content.
- Discussing issues relating to the availability, appropriate status and visibility of public interest media content in the digital age, with concerns relating to the transparency of algorithms and the prioritisation of content also needing to be taken into account.
- Reviewing precautions taken to protect independent, high-quality media, including—but not limited to—public service media, and to promote an inclusive and sustainable playing field, which especially highlights the need to discuss questions of financing and structuring, media ownership, market consolidation and competition.
- Discussing the role to be played by media regulators—whether in small or large countries—in promoting the following aspects:
 - the promotion of public service media and public interest media content as well as ‘public service literacy’, and the implications of ‘media regulation for the public good’. This broad-based topic usefully complements discussions relating to the European Media Freedom Act (EMFA), which is now in its preparatory phase.

2.8.2.2 The future of content delivery and implications for NRAs

“The future of content delivery and its implications for NRAs” is a wide-ranging topic that unites (at least) four strategic topics, building on an investigation into whether the traditional regulatory approaches, methods and internal workflows used by national regulatory authorities are indeed appropriate for the online environment – an investigation that itself formed the basis of the EPRA work programme for 2022. Supplementing the first plenary topic of “Media and information for the public good”, this topic is suitable for promoting cross-references and reciprocal insights in discussions.

The media landscape is undergoing rapid change. One key trend here is the marked increase in volume of broadcast content provided to viewers over the internet, whether directly via a public network (over-the-top, OTT) or via a closed, managed network utilising proprietary equipment (Internet Protocol TV).

As the mode of dissemination shifts towards the internet (and away from broadcast or cable television, or satellite signals), a licensing framework may cease to apply, raising questions about the future of the following:

- Content-based or general-purpose regulation. How are viewers protected?
- Dissemination. How will television and radio content be disseminated in future?
- Licensing. How will the licensing framework need to develop? Do the reasons for granting licences, which form the basis for the licensing systems, need to be reconsidered? Which alternative/supplementary instruments from the ‘regulatory toolbox can be utilised’?

A subject as wide-ranging as this requires dialogue between media regulators that focuses on practical approaches – on the contribution made by technical systems, on the development of content delivery, on the identification of the limits of what ‘audiovisual’ might mean in future in relation to the services and strategies of market participants, and on the specific social and ecological impacts brought on by these changes. Discussions will also need to focus on the impacts of these developments on regulation, the tools available to regulatory authorities and the role to be played by regulatory authorities—whether in small or in large countries.

KommAustria also cooperated actively within EPRA, contributing towards achieving the outcomes that resulted from implementing the 2023 EPRA work programme.

2.8.2.3 KommAustria and cooperation with consumer authorities

KommAustria is the competent consumer protection authority for cooperation with consumer authorities at EU level. To enforce decisions on intra-EU (cross-border) infringements of certain significant consumer protection regulations – in terms of media services, these are the regulations on commercial communication – a corresponding network of consumer protection authorities has been set up, with the aim of addressing and preventing harmful practices.

In the context of its corresponding duties, KommAustria routinely fulfilled its responsibilities in the field of advertising monitoring during 2023.

2.9 Funding by KommAustria

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 KommAustria, with the administration of press and journalism subsidies being assigned to one member of the authority. The Press Subsidies Commission and the Journalism Subsidies Advisory Board have been set up as bodies to advise on these matters. The legal bases for the allocation of grants are the Press Subsidies Act (PresseFG) 2004, the press subsidies guidelines published annually by KommAustria, and Section II of the Press Subsidies Act (PubFG). The funds-sourced grants for self-regulation of the press were duly managed pursuant to Art. 12a PresseFG 2004 in the reporting period.

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

2.9.1 Press subsidies

In 2023, KommAustria received 102 applications for subsidies in accordance with the PresseFG 2004. KommAustria allocated funding in 98 cases, while four applications had to be rejected for not meeting legal requirements.

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

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

Table 10: Press subsidies – grant amounts, applications and approval rates, 2019–2023

| Year | Grant amount (EUR) | Requests | Approvals | Approval rate in % |
|------|--------------------|----------|-----------|--------------------|
| 2019 | 8,883,000.00 | 115 | 111 | 96.52 |
| 2020 | 27,038,757.00 | 243 | 205 | 84.36 |
| 2021 | 8,881,000.00 | 108 | 104 | 96.30 |
| 2022 | 8,860,000.00 | 101 | 99 | 98.02 |
| 2023 | 8,904,260.00 | 102 | 98 | 96.08 |

Notes:

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

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

Table 11: Total press subsidies in 2023 by funding areas

| Total press subsidies in 2023 | Funding | Requests | Granted |
|--|---------------------|------------|-----------|
| Distribution subsidies under Section II PresseFG (dailies and weeklies) | 3,885,000.00 | 42 | 40 |
| Special subsidies under Section III PresseFG | 3,242,000.00 | 6 | 4 |
| Promotion of quality and securing the future of journalism under Section IV PresseFG | 1,560,000.00 | 53 | 53 |
| Self-regulation in matters relating to the press / Austrian Press Council | 217,260.00 | 1 | 1 |
| Total | 8,904,260.00 | 102 | 98 |

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

2.9.2 Journalism subsidies – promotion of print periodicals

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

In 2023, KommAustria received 66 applications for funding of a print periodical in accordance with Section II PubFG 1984, complying with 64 requests while rejecting two due to failure to meet statutory funding requirements.

KommAustria decides the level of funding on a case-by-case basis, giving due consideration to recommendations made by the Journalism Subsidies Advisory Board as well as to the scope, circulation, resources and financial situation of the relevant print periodical. By law, grants may be no less than 0.4% and no more than 4% of the funds designated for this purpose in the Federal Finance Act (BFG). As in previous years, EUR 340,000.00 was available for this funding in 2023. The subsidy amounts ranged from EUR 1,360.00 to EUR 13,600.00.

Table 12: Journalism subsidies – grant amounts, applications and approval rates, 2019–2023

| Year | Grant amount (EUR) | Requests | Approvals | Approval rate in % |
|------|--------------------|----------|-----------|--------------------|
| 2019 | 340,000.00 | 75 | 73 | 97.30 |
| 2020 | 340,000.00 | 77 | 72 | 93.50 |
| 2021 | 340,000.00 | 75 | 73 | 97.30 |
| 2022 | 340,000.00 | 70 | 69 | 98.60 |
| 2023 | 340,000.00 | 66 | 64 | 96.97 |

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

2.9.3 Funding for self-regulation of the press

Funding from the Fund for the Promotion of Self-Regulation of the Press (*Fonds zur Förderung der Selbstkontrolle der Presse*) may be allocated to a recognised self-regulatory body within the Austrian press. The objectives are 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 help effectively enforce its decisions and resolutions.

The Austrian Press Council was the sole applicant for funding in 2023, requesting a cost contribution that was subsequently approved by KommAustria with a grant of EUR 217,260.

The Austrian Press Council processed 407 cases in total in 2023. A total of 403 cases were submitted to the Press Council from outside parties, while in four cases the body's senates reviewed cases arising from its own monitoring activities.

Of Austria's dailies, only Kronen Zeitung has not recognised the Press Council's arbitrator status. An amendment to the statutes made at the end of 2021 created the option of allowing the Press Council to additionally assume the duties of a media ethics arbitrator for a number of non-commercial private radio and TV broadcasters (see Art. 29 KOG). This was done at the behest of the respective broadcasters, with nine having made use of this option to date.

Table 13: Press Council – number of cases handled and cost contributions, 2019–2023

| Year | Cases | Cost contribution in euros |
|------|-------|----------------------------|
| 2019 | 297 | 196,000 |
| 2020 | 418 | 196,000 |
| 2021 | 647 | 194,000 |
| 2022 | 435 | 173,000 |
| 2023 | 407 | 217,260 |

2.9.4 Funding for self-regulation of commercial communication

The Fund for the Promotion of Self-Regulation in Commercial Communication has been allocated EUR 75,000.00 each year since 2021 (previously EUR 50,000.00 a year). Pursuant to Art 33 KOG, this amount can be granted to a recognised self-regulatory body in the field of media commercial communication.

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

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

As the sole applicant, the Österreichische Gesellschaft zur Selbstkontrolle der Werbewirtschaft – Österreichischer Werberat (Austrian Advertising Council) received all funding in 2023. A total of 334 complaints were submitted to the Austrian Advertising Council and 235 decisions were handed down in 2023.

Table 14: Press Council – number of cases handled and cost contributions, 2019–2023

| Year | Cases | Cost contribution in euros |
|------|-------|----------------------------|
| 2019 | 338 | 50,000 |
| 2020 | 411 | 50,000 |
| 2021 | 413 | 75,000 |
| 2022 | 503 | 75,000 |
| 2023 | 334 | 75,000 |

2.9.5 Funding of self-regulation for the protection of minors

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

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

The only applicant to date has been the Verein zur Selbstkontrolle audiovisueller Medienangebote zum Schutz von Minderjährigen (Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services; in brief: Jugendmedienschutzverein), which was founded in June 2021. In 2023, total grant funding of EUR 47,742.94 was approved for the Jugendmedienschutzverein.

Six complaints were submitted to the self-regulatory body in 2023 in response to a breach of the conduct guidelines.

Table 15: Jugendmedienschutzverein – number of cases handled and cost contributions, 2021–2023

| Year | Cases handled | Cost contribution in euros |
|------|---------------|----------------------------|
| 2021 | 0 | 35,971.32 |
| 2022 | 2 | 13,054.59 |
| 2023 | 6 | 47,742.94 |

2.9.6. Promotion of quality journalism

During the reporting period, preparatory work was also completed for the introduction of the new quality journalism grants pursuant to the Act on the Promotion of Quality Journalism (QJF-G). This law was published in the Federal Law Gazette on 22 December 2023 (FLG I No. 163/2023) and entered into force on the day following its publication. Section IV of the PressFG 2004, 'Promotion of quality and securing the future,' was also repealed on the same date. The funding measures in that section, including funding for representative self-regulation bodies for print and online, are now to be found – expanded both in terms of content and the allotted budget – in the new act for the promotion of quality journalism. New funding areas were also created, in the form of promotion of journalism and content diversity.

In the context of the promotion of quality journalism, financial support is offered to daily and weekly newspapers, magazines and online media with the aim of promoting the diversity of text-based news media. A total budget of EUR 20 million is provided. Funding decisions are made by KommAustria after a meeting of the advisory board.

The first grants to promote quality journalism will be disbursed in 2024.



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03 KommAustria Reports

3.1 Requirements for the protection of minors and subsequent implementation

3.1.1 General information

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

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

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

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

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

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

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

Pursuant to Art. 39 Par. 5 AMD-G, a self-regulatory body for the protection of minors (Art. 32a in conjunction with Art. 32b KOG) is to provide the regulatory authority with a report, describing the progress made towards achieving compliance with the obligation of media service providers to use references to inform the public (Art. 4 and Art. 32a Par. 2 No. 5 KOG). In its activity report, the regulatory authority is to present the current status in meeting the obligation described in Par. 4. The regulatory authority can attach to this report an evaluation suggesting improvements on how information is made available.

The conditions governing both the organisation and the specific activities of the self-regulatory body for youth media protection in audiovisual media (TV and on-demand services) were finalised when the body was set up in 2021. A system for self-regulation was developed that specifies stricter standards than previously for the protection of minors when consuming audiovisual media. The system was implemented by the Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services (hereinafter: association), which has worked with the industry to develop uniform guidance on conduct and procedure, and also set up a complaints system. In the third year since it was first established, the activities of the association have been heavily focused on further implementation of the self-regulation project, which has now been successfully transitioned to regular operations.

The association submitted its activity report and its effectiveness report for 2023 in February 2024.

In the following sections, the regulatory authority provides, on the basis of the reports received, a short overview of the general legal framework for self- and co-regulation in relation to the protection of minors, as well as a synopsis of the self-regulatory body (the association), together with its conduct guidelines and rules of procedure and their effectiveness. The authority then describes the progress achieved in meeting the obligation to provide guidance, and concludes by presenting its assessment of and recommendations for improving the effectiveness of the self-regulation system.

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

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

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

In accordance with the concept of co-regulation as supported by the Directive, Art. 39 Par. 4 to 7 AMD-G accordingly contains provisions that initially call on the industry to directly establish this kind of system and submit regular reports on implementation. Par. 5 utilises the powers granted by Art. 4a Par. 3 of the EU Directive, according to which the evaluation of effectiveness may be transferred to the regulatory authority in order to create a legal relationship between the self-regulatory body and national policymakers. For the hypothetical case that the industry itself fails to set up such a system within legal time limits, the regulatory authority is granted powers by Art. 39 Par. 6 and 7 AMD-G to issue an ordinance enforcing a corresponding youth protection system, preceded by a consultation period with representative stakeholders. These powers were not used in the reporting period.

The most relevant provisions of the AMD-G are presented in the following.

"Article 39. (1)–(3)

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

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

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

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

(7) Before an ordinance as referred to in Par. 6 is issued, the relevant interest groups in the field of audiovisual media services and youth welfare as well as the Federal Ministry of Education, Science and Research, the Federal Ministry of Labour, Family and Youth, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection and the Federal Ministry of Justice shall be given the opportunity to submit statements. The aforementioned entities shall make proposals to the regulatory authority on how to indicate harmful content. The regulatory authority shall verify at regular intervals, but at least every two years, whether there is a continued need for issuing an ordinance. If, after having consulted the aforementioned federal ministries, the regulatory authority comes to the conclusion that sufficient and efficient measures have been taken in the scope of self-regulation in accordance with the requirements of Art. 32a KOG, the regulatory authority shall set aside the ordinance."

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

"Protection of minors"

Article 10a. (1)–(2) ...

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

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

"Self-regulatory bodies"

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

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

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

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

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

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

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

"Funding of self-regulation for the protection of minors"

Article 32b. (1) To provide financial support to the self-regulatory body in its activities relating to the classification of content that could impair the physical, psychological or moral development of minors (Art. 39 AMD-G), EUR 0.075 million of fee income collected pursuant to Art. 3 Par. 1 of the Broadcasting Fees Act (RGG) is to be remitted to KommAustria by 31 January of each year, in addition to the amount to be paid pursuant to Art. 35 Par. 1; Art. 35 Par. 1 third and last sentence shall apply. Art. 33 Par. 1 last sentence, Par. 2, 3 and 4 shall apply.

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

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

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

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

3.1.3.1 Establishment, articles of association and internal organisation

The conditions governing both the organisation and the specific activities of the association in its role as self-regulatory body for youth media protection in audiovisual media (TV and on-demand services) were finalised when the body was set up on 2021.

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

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

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

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

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

- Fachverband der Telekommunikations- und Rundfunkunternehmen in der Wirtschaftskammer Österreich (Association for Telecommunications and Broadcasting Companies within the Austrian Federal Economic Chamber)
- Österreichischer Rundfunk (Austrian Broadcasting Corporation)
- Verband Österreichischer Privatsender (Austrian Association of Private Broadcasters)

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

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

Current members of the management board are Helga Tieben (President), Corinna Drumm (Treasurer) and Dr Klaus Kassai (Secretary).

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

In April 2023, an amendment to Article 15 Par. 4 of the Articles of Association specified that *"if the general assembly appoints an auditor of the annual financial statements (certified external auditors and tax consultants or auditing and tax consulting firms), the auditor of the annual financial statements shall assume the duties of the auditors. The auditor of the annual financial statements shall be appointed for one financial year."*

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

In recent years, extensive negotiations within the association were required for the establishment and operation of a fully functional self-regulatory system recognised by the industry as a whole (these activities included the creation of a graphical representation of the complaints system, funding, documentation and reporting requirements, and a data privacy policy). Due to the need to handle a higher volume of complaints in 2023, the complaints system could be reviewed and evaluated on a regular basis in terms of ability to function.

The association was able to start full regular operations as of 2023.

3.1.3.2 Experts council

In line with the association's rules of procedure, the experts council (cf. Article 14(2) of the articles of association) makes decisions on such complaints as may be filed as a result of alleged breaches of the conduct guidelines on the part of media service providers. The following individuals have been appointed to the expert council:

- Pia Bambuch, ProSiebenSat.1 PULS 4 GmbH, director of legal and regulatory affairs
- Frank Holderied, ServusTV, head of programming, purchasing and in-house fiction content productions
- Claudia Horvath-Polak, ORF, film and series youth protection/member of the Youth Media Commission
- Andreas Ney, Austrian Federal Economic Chamber/Association for Telecoms/Broadcasting, deputy managing director
- Lisa Zuckerstätter, ORF, access services – youth protection officer

3.1.4 Conduct guidelines

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

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

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

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

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

Certain content potentially impairing development is not prohibited by law but is to be classified as particularly harmful, such as the casual depiction of sexual acts (hardcore pornography and other pornographic material

that does not meet the criteria for being considered content prohibited by law). Such content may be provided only if measures such as age verification systems or comparable access control measures are in place to ensure that minors are not generally able to use it. News broadcasts and party political broadcasts are exempted from these obligations.

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

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

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

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

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

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

Rules for television programming

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

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

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

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

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

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

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

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

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

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

Rules for on-demand services

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

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

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

3.1.5 Youth protection at the ORF

In accordance with Art. 10a ORF-G, the ORF summarised its youth protection activities in its television and internet divisions as well as ORF TELETEXT as part of its 2023 annual report.

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

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

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

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

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

Scheduling by broadcasting time slots

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

To this end, the ORF applies broadcasting time slots as mentioned above:

- Before 8 pm: All programmes broadcast normally must have content suitable for children in the 12 and under range or, in isolated cases (and if this does not impair the well-being of younger minors), 12 and over (but not 16 and over).
- From 8 pm: From this time onwards, the ORF considers parents and legal guardians to share responsibility for the viewing habits of their young and adolescent children. During the evening television slot (8 to 10 pm), programmes with a higher age classification (12+ and 16+) may be broadcast but not programmes falling under the 18 and above category. Programmes falling under the 18+ age category may be broadcast only during the night-time slot (11 pm to 6 am).
- From 11 pm: Programmes falling under any age category can be broadcast during the night-time slot (11 pm to 6 am).

A new labelling and information system

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

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

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

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

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

Youth protection in ORF online services and ORF TELETEXT

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

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

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

3.1.6 Complaints and sanctioning procedures (rules of procedure)

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

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

See [section 3.1.8.3](#) for a report on complaints received by the association in 2023.

3.1.7 Recognition of the conduct guidelines and rules of procedure

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

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

According to the association's reports for 2023, a large part of the work focused on extending acceptance of the conduct and procedural guidelines among the industry and supporting implementation of these in practice.

Accordingly, the administrative office heavily concentrated efforts in 2023 on obtaining more youth protection declarations from industry representatives and improving acceptance of the association. Following written and telephone contacts, the report states that acceptance has increased to the extent that 75 television broadcasters and 67 on-demand service providers have notified the association of their acceptance of the conduct guidelines and rules of procedure, as of 31 December 2023 (compared with 63 broadcasters and 75 on-demand service providers at the end of 2022).

The administrative support office followed up these official announcements of recognition of the self-regulatory body's conduct guidelines and rules of procedure by visiting the websites maintained by media service providers to confirm that these declarations had indeed been published. All of the 67 on-demand service providers and 75 television broadcasters who formally notified the association of their recognition of the code of conduct and rules of procedure have also published and/or linked to the youth protection declaration or the conduct guidelines from the self-regulatory body on their websites.

The individual providers are listed in the activity report published by the association: www.jugendmedienschutz.at/organisation.

Despite this widespread acceptance, the association's conduct guidelines and rules of procedure have yet to be formally recognised by a few providers of TV programmes and on-demand services. Convincing these providers of the merits of the self-regulation mechanism and the association's rules and guidelines will be a key task for the association over the next few years.

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

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

The Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services complied with its reporting duties by the due date.

By way of an overall summary and on the basis of the general criteria as specified by Art. 32a Par. 2 KOG, the self-regulatory body considers the following effectiveness criteria to be relevant:

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

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

The following measures for auditing conduct guideline implementation and compliance were set out in 2023:

3.1.8.1 Effectiveness audit

In 2023, the participating media service providers underwent an effectiveness audit, seeking answers to the following:

- 1.) Has the association's administrative office received a signed youth protection declaration from each television broadcaster and on-demand service provider (dated and with stamp, address, etc.)?
- 2.) Is this declaration published on the website and/or have the conduct guidelines been published on the media service provider's website by means of a link to the association's youth protection guidelines?

Auditing was carried out continuously throughout 2023. The media services were informed of any compliance weaknesses and instructed correspondingly. A final audit at the end of 2023 resulted in a score of 100%, with all 75 on-demand service providers and 67 television broadcasters successfully completing the effectiveness audit.

3.1.8.2 Auditing media service providers for youth protection conformity

In 2023, the administrative support team then conducted a youth protection conformity audit of the television channels and on-demand services that had declared their intention to comply with the conduct guidelines and recognise the rules of procedure. This audit consisted of random sampling of the audiovisual media services provided To determine compliance with:

- a) labelling requirements (announcement by means of an acoustic signal or the application of a visual identifier throughout the entire broadcast); and
- b) information requirements (age reference and harm reference).

An average of two audits were conducted each month. Smaller providers and on-demand services were increasingly prioritised in 2023.

These regular audits aim to strengthen cooperation with media service providers, where necessary notifying them of any failure to comply with labelling or information requirements.

Looking at the results of the effectiveness audit on the one hand and the youth protection compliance audits of media services on the other, the association found that the major providers and many smaller providers alike had acted to ensure adequate implementation of the conduct guidelines and the newly created information system in particular, including age and harm references, by the end of 2023. No major instances of non-conformity were identified. In the event of minor non-conformities, the media service was contacted and informed promptly, and the issues then resolved.

In all other respects, the association as self-regulatory body found no other evidence to suggest that media service providers who had formally recognised the conduct guidelines had not (or not adequately) implemented them in practice.

In its effectiveness report published at the end of 2023, the association accordingly concludes that the television broadcasters and on-demand service providers who have recognised the new rules also implement these rules in practice.

The association plans to continue the effectiveness audit and the youth protection conformity audits of media services in 2024, so as to monitor and provide evidence of the implementation of the conduct guidelines.

3.1.8.3 Type, number and outcome of complaints

The self-regulatory body publishes an annual activity report that informs the general public about a number of topics, including the measures and decisions adopted by the body in the reporting year, as well as the sanctions imposed in response to breaches of the conduct guidelines (Art. 32a Par. 2 No. 5 KOG).

In the 2023 calendar year, six formal complaints were submitted to the self-regulatory body in response to a breach of the conduct guidelines.

In two cases, the experts council at the association found that the broadcasts that were the subject of the complaint had not in fact violated the conduct guidelines.

Two complaints were dismissed due to lack of jurisdiction and one because of being incomplete.

The sixth complaint will be processed at the beginning of 2024, as it was received by the association's administrative office on 30 December 2023.

A summary of decisions taken to date by the experts council can be accessed here (in German): www.jugendmedienschutz.at/entscheidungen/

The number of complaints received tripled in 2023 compared with the previous year. This increase can be explained by growing awareness of the Jugendmedienschutzverein (association). It has been possible to establish a smooth workflow and thus a sound procedure thanks to regular evaluations and reviews of the complaints system.

3.1.8.4 Public relations and networking with stakeholders

In 2023, the association focussed on raising awareness of the association to ensure that the organisation's monitoring function is recognised and utilised by the interested public. This meant more intensive networking with private and public stakeholders, with both sides getting to know each other, exchanging views on important youth media protection issues, identifying common ground and providing insights into each other's work.

The focus in 2023 was increasingly on taking advantage of meetings, discussions and events in order to network with relevant stakeholders (e.g. Austrian League for Child and Youth Health, UNICEF, Saferinternet, federal pupil representatives, the ombudsperson for children and youth, federal youth representatives, emergency services for children and youth, the NOYB association, Medical University of Vienna, Epicenter. works, Ministry of Health, Children's Rights Network, bOJA, No Hate Speech Committee, Kinderfreunde association, Department of Communication at the University of Vienna, network policy spokespersons of various political parties, media lawyers and the Ministry of Education). Further meetings with stakeholders will be held in 2024.

Media relations work primarily took place through contacts with journalists active in trade and consumer media. Press releases were issued using the OTS service offered by the Austria Press Agency (APA) (e.g. APA-OTS on 9 March 2023: "Protection association for youth media presents its 2022 activity report"), interviews were given (e.g. via the professional media channels Horizont and Mediendiskurs as well as in the daily newspaper Der Standard) and public information meetings held. The association's social media presence on LinkedIn was also used for this purpose.

A presentation of the association and its activities also took place as part of the Kinderliga Lunch. The association was also a participant in the round tables on media literacy organised by RTR, and as part of the Media Days 2023, the head of the association's administrative office took part in the RTR panel on the topic of digital skills.

Folders and roll-ups were designed to be used at future events in order to present the association to the public as effectively as possible.

As is also indicated by the threefold increase in the number of complaints received by the association compared to the previous year, it is evident that the objective of public relations, namely to raise the association's profile among the wider public, is increasingly being met. The association is now often consulted for advice on issues relating to youth protection or youth media protection.

3.1.8.5 Summary for 2023 and outlook for 2024

Looking at the reports submitted for 2023, the association offers the following conclusions about the past and upcoming calendar years.

The association focused for the first time in 2023 on the practical application and verification of providers' compliance with the conduct guidelines. Spot-checking has shown that the majority of media services already comply with the media protection regulations for minors and thereby also adhere to the recognised guidelines.

A significant increase complaints was recorded, while the reasons for decisions also increased: there was a threefold increase in the number of complaints received compared with the previous year.

Another focus of the association's work in the past year was to ensure that the interested public is aware of the institution's monitoring function. This was achieved primarily by increasing cooperation with private and public stakeholders. With a large number of meetings, presentations and media work, it was possible to draw attention to the presentation and work of the association.

The declared goal of the association was and still is to improve the protection of minors in Austria from harmful media and bring the topic even more to the attention of the public.

From the association's perspective, the focus in 2024 will be on strengthening activities in the context of ongoing public relations and media work. The primary aim here is to further expand and intensify networking activities with private and public stakeholders, while also participating in conferences and organising in-house events to draw attention to the association's work. These activities were kicked off by the event held in February 2024 on the topic of 'Influencers – between rapid reach and responsible action'. The goal was to educate people and bring the professional group of content creators on board, such as by supporting them on their journey towards greater transparency and a heightened sense of responsibility. All of these planned measures are intended to raise awareness among providers and consumers and thus draw attention to media protection for minors.

Other essential aspects of the association's work in 2024 include processing incoming complaints, increasing the acceptance and awareness of the conduct guidelines and rules of procedure in the industry, and monitoring the implementation of these conduct guidelines by businesses in practice. The association is continuing to progress from a startup self-regulatory institution to becoming an established institution.

3.1.9 Evaluation, assessment and recommendations by KommAustria to improve effectiveness

Pursuant to Art. 39 Par. 5 AMD-G, a self-regulatory body for the protection of minors is to provide the regulatory authority with a report, describing the progress made towards achieving compliance with the obligation of media service providers to use references to inform the public (Art. 4 and Art. 32a Par. 2 No. 5 KOG). In its activity report, the regulatory authority is to present the current status in meeting the obligation described in Par. 4. The regulatory authority can attach to this report an evaluation suggesting improvements on how information is made available.

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

Firstly, it should be noted that the association successfully transitioned to regular operations in 2023. The plan for 2023 was to ensure that the institution's monitoring function is recognised and utilised by the interested public. The work therefore focused on raising the association's profile externally through increased public relations and media work.

The list of activities in this regard, as well as the threefold increase in the number of complaints in 2023, show that the association is on the right track in terms of raising its profile and heightening awareness among the public.

The increased number of complaints made it possible to further review and evaluate the functioning of the complaints system. While some additions and adjustments to the association's system in 2022 proved useful, this process was consolidated in 2023.

Furthermore, the association endeavoured to increase recognition of the self-regulation system among broadcasters and media service providers, with this process continuing to be successful in 2023. Another positive aspect is the self-regulatory body's ongoing monitoring of media service providers' compliance with the self-imposed guidelines. This is essential for the effectiveness of the system of self-regulation.

The association was of course only recently formed and only a small amount of empirical data related to its work has been obtained to date. As a result, there is little basis as yet for KommAustria to conduct a detailed evaluation pursuant to Article 39 Par. 5 of the Audiovisual Media Services Act (AMD-G), aimed at improving the effectiveness of the guidance provided in order to enable the assessment of the potential harms posed to minors by media content. Consequently, KommAustria is equally unable to present well-grounded recommendations on the effectiveness of the code of conduct within the meaning of Art. 32b Par. 4 KOG.

However, KommAustria welcomes the continued progress in the way of organisation and areas of activity, as presented in the reports, which the relatively new association has made following its year of formation in 2021. Conversely, KommAustria sees clear evidence that the self-regulation system established by the association is fundamentally effective and capable. This is seen in increasing professionalisation, a growing number of complaints and the routine auditing of effectiveness in the context of the system as presented in section 8.

In consideration of the above, KommAustria welcomes the following priorities as announced by the association for its future work.

The association is obviously correct in stating that the effectiveness of the conduct guidelines depends to no small degree on its recognition by the industry's 'primary stakeholders,' meaning the major television broadcasters and on-demand service providers. The association has presented a list of the television broadcasters and on-demand service providers who have formally recognised the self-regulatory body's conduct guidelines and rules of procedure. The number of television broadcasters increased compared to the

previous year, although some Austrian media services have not yet agreed to the association's conduct and procedural guidelines. In light of these facts, KommAustria concurs with the association's assessment that a key objective for activities on into the future must be to convince these remaining providers of the merits of the self-regulation mechanism and of uniform conduct guidelines. Not least because, if it should fail to publish a youth protection declaration, the Austrian media service concerned is then required by law to draft and monitor its own specific conduct guidelines (cf. Art. 39 Par. 4 AMD-G).

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

3.2 2023 Report on Accessibility

There are more than 1.5 million people with disabilities in Austria. Only a small percentage of these disabilities are congenital, or were acquired as a result of an accident or an occupational illness. The vast majority are the result of a disease or disorder.¹ Nor should it be forgotten that disabilities also affect older people especially.

The following groups are most likely to experience restrictions to participation in society and democratic discourse:

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

The UN Convention on the Rights of Persons with Disabilities – and the subsequent EU Directive on Audiovisual Media Services – introduced ‘accessibility’ as one of its foundational principles.² Accessibility is a prerequisite for people with disabilities to be able to live independently, participate equally in society and exercise their rights.

Pursuant to Article 8 (1) of the UN Convention on the Rights of Persons with Disabilities (UN CPRD),³ the signatory countries are committed to taking immediate, effective and appropriate measures

- a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;
- b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;
- c) To promote awareness of the capabilities and contributions of persons with disabilities.

Paragraph (2) sets out measures to promote awareness, with (c) specifying the measure of *encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention*.

In relation to media services, accessibility is not simply reduced to how the persons concerned are portrayed, however. Rather, the issue here is to ensure that media are discoverable, accessible and usable by people with disabilities in a general and typical manner without encountering undue difficulty or requiring the aid of another person.

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

Accordingly, media service providers should “actively seek to make content accessible to persons with disabilities, in particular with a visual or hearing impairment.”⁴ This accessibility should not be restricted to persons with a visual or hearing impairment, but should also include persons with other disabilities (such as learning difficulties). Accessibility requirements should be met through a progressive and continuous process, while taking into account the practical and unavoidable constraints that could prevent full accessibility, such as programmes or events broadcast in real time.

1 For figures, see the federal government’s third report on the situation of people with disabilities, available (in German) at <https://www.sozialministerium.at/Themen/Soziales/Menschen-mit-Behinderungen/Bericht-der-Bundesregierung-ueber-die-Lage-der-Menschen-mit-Behinderung.html> (accessed 21 April 2022)

2 Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), last amended by Directive (EU) 2018/1808

3 <https://www.sozialministerium.at/Themen/Soziales/Menschen-mit-Behinderungen/UN-Behindertenrechtskonvention.html>

4 Cf. Directive (EU) 2018/1808, Recital 22

The moving image – and therefore the role played by vision – plays a significant role in audiovisual media as a whole. Yet vision is not the only means of human sensory perception that is stimulated by audiovisual content. Moving images should be made perceptible so that they evoke mental pictures and emotions in the audience. Although the strong presence and significance of video viewing in our society constitutes a disadvantage for people with vision impairments as well as individuals with hearing impairments, this disadvantage can be mitigated by the deployment of technical aids. This enables these consumers to participate in audiovisual media. Furthermore, modern media tools also permit the creation of technical solutions – such as the incorporation of media content in simple language – that allow people with learning difficulties to access audiovisual media content and therefore participate more fully in an inclusive social and cultural life.

3.2.1 Legal basis

The legal basis for increasing percentage shares of accessible content and for creating action plans and reports can be found in the Audiovisual Media Services Act (AMD-G) on the one hand, and in the ORF Act (ORF-G) on the other.

Pursuant to Art. 30b Par. 1 AMD-G, media service providers are to achieve a continuous and step-by-step annual increase in programmes that meet accessibility standards compared with programming as at 31 December 2020. This increase is to be achieved throughout all of their channels and programming in accordance with their economic capabilities while also accounting for the financing provided for such measures from public funds. In terms of live content, the greater degree of effort required to ensure accessibility to this content permits certain technically justifiable exemptions to be made.

To achieve the goals of ensuring accessibility for audiovisual content, Art. 30b Par. 2 AMD-G stipulates that providers of audiovisual media services should take appropriate steps to ensure a continuous and progressive increase in the proportion of their audiovisual content that they have made accessible to people with hearing and vision impairments. Media service providers must provide details of how they intend to implement these measures by preparing an action plan in consultation with a representative organisation acting on behalf of people with vision or hearing impairments and on behalf of people with intellectual disabilities. This action plan must set out concrete details for a three-year time frame and build on the earlier action plan adopted for the prior period. The plan must also ensure an annual increase in the proportion of programmes meeting accessibility standards, within the categories of news and current affairs, entertainment, education, art and culture, and sport. In terms of live programming, justifiable technical exemptions from the requirement to pursue this proportional increase can be made, as this kind of content requires greater effort to make it accessible. Media service providers must publish the action plan so it is easily and immediately available, and accessible at all times. The action plan must also be submitted to KommAustria in a standardised format.

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

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

Similar provisions are envisaged for the ORF in Art. 5 ORF-G.

Pursuant to Art. 5 Par. 2 ORF-G, news and current affairs television broadcasts (Art. 3 Par. 1) must be designed, in accordance with technical advances and economic feasibility, to simplify the consumption of such broadcasts by individuals with vision and/or hearing impairments and persons with intellectual disabilities (who need content to be expressed in simple language). Beyond that, the ORF is required to offer at least one news broadcast in simple language during its daytime programming (9 am to 10 pm).

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

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

Art. 5 Par. 2 ORF-G also specifies an annual increase of at least 2.5% in the categories of news and current affairs, education, and arts and culture, and of at least 4% in the category of entertainment, compared with figures at the end of the prior calendar year. Here priority is to be given to ensuring accessibility for all television broadcasts in early evening and main evening programming (7 pm to 10 pm) as well as online services provided pursuant to Art. 4e Par. 1 No. 4 ORF-G and approved pursuant to Art. 4f Par. 1 ORF-G in conjunction with Art. 6b ORF-G. Priority is additionally given to regional broadcasts in the news and current affairs category, press conferences and broadcasts reporting on elections or election results, and children's programming in the categories of news and current affairs, and entertainment.

As at 31 December 2021, a total of ten media service providers had submitted an action plan for their audiovisual media services. Two action plans were submitted in March 2022, applying to the 2021–2023 period. By 31 December 2022, two (other) media service providers had submitted an action plan for their audiovisual media services; these apply to the 2022–2024 period. Of these, one action plan was a late submission.

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

In 2023, infringement procedures were initiated and completed against two media service providers, as a result of a late submission of the 2022 annual report and a failure to prepare the 2022 annual report. One further infringement procedure was initiated as a result of a late submission of the 2022 annual report and a failure to publish the action plan according to requirements; this procedure is still pending. The newly submitted action plans and the annual reports submitted for 2023 are being evaluated, and procedures will be initiated as appropriate.

Pursuant to Art. 30b Par. 4 AMD-G, the regulatory authority's annual report (Art. 19 KOG) must present for each media service provider the status quo and development in terms of the requirements described in Par. 1, together with a comparative presentation of intended target values and the actual values achieved by the provider. The regulatory authority can enclose with this report, supported by RTR as a service point pursuant to Art. 20b KOG, a statement about further improvements to accessibility.

Pursuant to Art. 20b KOG, RTR has the remit to act as a service point for complaints and information services relating to accessible audiovisual media services and to accordingly provide information for media service providers and for the general public. This information is presented under www.barrierefreiheit.rtr.at. Furthermore, RTR serves as a complaints board for accessibility issues with the content of audiovisual media services. No complaints were received relating to accessibility issues in 2023.

3.2.2 Reports on 2021–2023 action plans

In accordance with statements provided by media service providers, the preparation of all action plans was preceded by a consultation with a representative organisation acting on behalf of people with vision or hearing impairments and on behalf of people with learning difficulties. The action plans are subdivided into the categories of entertainment, news and current affairs, education, arts and culture, and sport.

With the 2023 annual reports, the first action plans that started with the 2020 reference year have come to a conclusion. These plans envisage an increase in accessible content as a proportion of overall broadcasting for 2021 to 2023. As a result, the following section can contrast the planned figures with the figures actually achieved.

3.2.2.1 ProSiebenAustria GmbH

Table 16: Planned increase for the ProSieben Austria channel according to action plan (in %)

| ProSieben Austria | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.33% | 0.66% | 0.99% |
| Actual increase according to annual reports | - | 0.10% | 0.76% | 0.99% |

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

ProSiebenAustria GmbH submitted a report.

In the 2023 reporting period, a total of 399 minutes (0.99%) of accessible broadcasts in overall programming were subtitled.

The figure stated in the annual report thus exceeds the target in the action plan.

3.2.2.2 SAT.1 Privatrundfunk und Programmgesellschaft mbH

Table 17: Planned increase for the SAT.1 Österreich channel according to action plan (in %)

| SAT.1 Österreich | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.31% | 0.61% | 0.92% |
| Actual increase according to annual reports | - | 0.09% | 0.88% | 1.16% |

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

SAT.1 Privatrundfunk und Programmgesellschaft mbH have presented a report.

In the 2023 reporting period, a total of 510 minutes (1.16%) of accessible broadcasts in overall programming were subtitled.

The figure stated in the annual report thus exceeds the target in the action plan.

3.2.2.3 PULS 4 TV GmbH & Co KG

PULS 4 TV GmbH & Co KG submitted a report for both channels.

3.2.2.3.1 Puls 4

Table 18: Planned increase for the Puls 4 channel according to action plan (in %)

| Puls 4 | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.02% | 0.04% | 1.00% |
| Actual increase according to annual reports | - | 0.02% | 0.04% | 1.02% |

In the 2023 reporting period, within overall programming, 5,357 minutes (1.02%) of accessible broadcasts in the category of entertainment were subtitled.

The figure stated in the annual report thus exceeds the target in the action plan.

3.2.2.3.2 Puls 24

Table 19: Planned increase for the Puls 24 channel according to action plan (in %)

| Puls 24 | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.02% | 0.04% | 0.30% |
| Actual increase according to annual reports | - | 0.02% | 0.07% | 0.38% |

In the 2023 reporting period, 2,002 minutes (0.38%) of accessible broadcasts in overall programming for the Puls 24 channel were subtitled.

PULS 4 TV GmbH & Co KG claimed that an internal decision was made to offer not only entertainment shows with subtitles, but also to provide news programmes with sign language interpreters. However, this decision is not reflected in the figures from the 2023 annual report.

In the action plan, the percentage figure for the entertainment category was 1.5%. PULS 4 TV GmbH & Co KG reported that this referred to the total broadcasting time in the entertainment category.

The total figure stated in the annual report exceeds the target in the action plan.

3.2.2.4 ATV Privat TV GmbH & Co KG

ATV Privat TV GmbH & Co KG submitted a report for both channels.

3.2.2.4.1 ATV

Table 20: Planned increase for the ATV channel according to action plan (in %)

| ATV | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.02% | 0.04% | 1.03% |
| Actual increase according to annual reports | - | 0.02% | 0.04% | 1.08% |

In the 2023 reporting period, within overall programming, 5,674 minutes (1.08%) of accessible broadcasts in the category of entertainment were subtitled.

The figure stated in the annual report thus exceeds the target in the action plan.

3.2.2.4.2 ATV 2

Table 21: Planned increase for the ATV 2 channel according to action plan (in %)

| ATV 2 | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.01% | 0.01% | 1.05% |
| Actual increase according to annual reports | - | 0.02% | 0.04% | 1.13% |

In the 2023 reporting period, within overall programming, 5,953 minutes (1.13%) of accessible broadcasts in the category of entertainment were subtitled.

The figure stated in the annual report thus exceeds the target in the action plan.

3.2.2.5 Sky Österreich Fernsehen GmbH

Sky Österreich Fernsehen GmbH submitted a report for both channels.

3.2.2.5.1 Sky Sport Austria

Table 22: Planned increase for the Sky Sport Austria channel according to action plan (in %)

| Sky Sport | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.14% | 0.38% | 0.86% |
| Actual increase according to annual reports | - | 0.17% | 0.34% | 0.98% |

In the 2023 reporting period, within overall programming of the Sky Sport Austria channel, a total 5,130 minutes (0.98%) of accessible broadcasts in the category of sport were subtitled.

In its 2022 annual report, Sky Österreich Fernsehen GmbH announced that it had been unable to achieve its target, because of the postponement of the football matches in 2023 for which subtitles had been scheduled. The two matches, with a total length of 180 minutes, are therefore to be considered in calculations of figures for accessible broadcasting for 2023.

Figures from the 2023 annual report show that Sky Österreich Fernsehen GmbH exceeded the action plan targets by 0.08% (630 minutes).

3.2.2.5.2 Blue Movie

Table 23: Planned increase for the Blue Movie channel according to action plan (in %)

| Blue Movie | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.50% | 0.70% | 0.85% | 1.05% |
| Actual increase according to annual reports | - | 1.57% | 2.00% | 3.77% |

In the 2023 reporting period, within overall programming for the Blue Movie channel, a total of 11,223 minutes (3.77%) of accessible broadcasts in the entertainment category were subtitled.

The figure stated in the annual report thus exceeds the target in the action plan.

3.2.2.6 wedify GmbH

Table 24: Planned increase for the A1 Xplore TV channel according to action plan (in %)

| A1 Xplore TV | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|--------|--------|
| Planned increase according to action plan | 0.00% | 0.02% | 10.00% | 20.00% |
| Actual increase according to annual reports | - | 0.03% | 12.28% | 16.01% |

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

wedify GmbH submitted a report by the due date for its A1 Xplore TV channel, also announcing that a correction to the 2022 annual report had become necessary. According to the corrected figure, however, the action plan for 2022 has still been exceeded. In contrast, the action plan target for 2023 was not achieved. This was justified by a statement to the effect that the company does not produce its own content but buys it in: as suppliers did not provide appropriate content, the 20% target could not be achieved. To achieve this 20% target next year, wedify GmbH plans to conduct more in-depth negotiations with its content suppliers, with the aim of purchasing more films with subtitles. Another step will be to replace older films offered on its video platform by versions with subtitles and/or audio descriptions.

In the 2023 reporting period, within overall programming, 144,720 minutes (16.01%) of accessible broadcasts in the category of entertainment were subtitled.

Accordingly, the figure stated in the annual report falls short of the target in the action plan.

3.2.2.7 T-Mobile Austria GmbH

Table 25: Planned increase for the Magenta On Demand channel according to action plan (in %)

| Magenta on Demand | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|--------|--------|--------|
| Planned increase according to action plan | 38.77% | 39.11% | 40.22% | 41.58% |
| Actual increase according to annual reports | - | 39.11% | 39.64% | 40.32% |

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

T-Mobile Austria GmbH submitted a report by the due date for its Magenta On Demand channel.

In its 2022 annual report, T-Mobile Austria GmbH announced that had been unable to achieve its target as planned. By way of justification, the company cited delays to technical implementation work on the one hand and, on the other, an increase in the total video minutes provided, which is reflected in the percentage figures.

In 2023, T-Mobile Austria GmbH achieved 40.32%, a figure below the target in the action plan. This was explained as resulting from a delay in the product launch for EST (Electronic Sell Through), now planned for 2024.

If the proportion of accessible content is considered in minutes rather than as a percentage figure, an uptick from 321,803 to 328,109 minutes is observed for 2022 to 2023. As a result of the significant volume of all available content, however, this is a smaller percentage than envisaged by the action plan.

3.2.2.8 Red Bull Media House GmbH

Red Bull Media House GmbH submitted a report for both channels by the due date.

In its 2023 annual report, Red Bull Media House GmbH explained that the subtitled programme “P.M. Wissen” and the accessible episodes of the “Bares für Rares” show had resulted in an increase in the categories of education, and of arts and culture, for its ServusTV and ServusTV Deutschland channels. ServusTV Deutschland ceased broadcasting on 31 December 2023.

3.2.2.8.1 ServusTV

Table 26: Planned increase for the ServusTV channel according to action plan (in %)

| ServusTV | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.10% | 2.50% | 5.40% |
| Actual increase according to annual reports | - | 0.10% | 4.14% | 5.89% |

From a total of 22,000 minutes (5.89%) of accessible programmes within overall programming offered by the ServusTV service, 4,670 minutes (15.56%) were subtitled in the category of news and current affairs, 8,000 minutes (12.31%) in education, and 780 minutes (20.26%) in arts and culture. The percentages specified in brackets for the categories each relate to the specified category. The figures stated here from the annual report

therefore exceed the targets in the action plan. Education is the only exception: while the target of 12.31% was not achieved in this category, this is masked in the overall total by larger increases in the categories of news and current affairs, entertainment, and arts and culture.

3.2.2.8.2 ServusTV Deutschland

Table 27: Planned increase for the ServusTV Deutschland channel according to action plan (in %)

| ServusTV Deutschland | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.04% | 1.90% | 4.70% |
| Actual increase according to annual reports | - | 0.04% | 2.80% | 4.85% |

Within the next word the overall programming of the ServusTV Deutschland service, from a total of 19,232 minutes of accessible programmes. In the category of education, this was 17,492 minutes (12.22%), while 1,740 minutes (44.5%) were subtitled in the category of arts and culture. The percentages specified in brackets for the categories each relate to the specified category. The figures in these categories therefore exceed the action plan targets. In contrast, no accessible content was broadcast in the news and current affairs category in 2023 – recent changes to channel programming was cited as the underlying reason. As a corresponding increase was achieved in the categories of arts and culture, and education, the action plan was in fact exceeded in terms of its total broadcasting time target.

3.2.2.9 Sa Fira Blue GmbH (ViktoriaSarina)

Table 28: Planned increase for the ViktoriaSarina YouTube channel according to action plan

| ViktoriaSarina | Base year 2020 | 2021 | 2022 | 2023 | 2024 |
|---|----------------|-------|-------|-------|--------|
| Planned increase according to action plan | 0.00% | 0.00% | 4.00% | 8.00% | 12.00% |
| Actual increase according to annual reports | - | 0.00% | 4.3% | * | - |

* No details given for broadcast minutes

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

Sa Fira Blue GmbH submitted a report for 2023.

In 2023, the ViktoriaSarina channel posted 181 videos, of which 70 were shorts. Six of the shorts (8.57%) and nine of the long-format videos (8.11%) use simple language. As no details of broadcast minutes were given, however, the figures cannot be compared with action plan targets.

3.2.2.10 MediaShop GmbH

Table 29: Planned increase for the Mediashop Meine Einkaufswelt channel according to action plan (in %)

| Mediashop | Base year 2020 | 2021 | 2022 | 2023 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.01% | 0.21% | 1.07% |
| Actual increase according to annual reports | - | 0.01% | 0.52% | 1.12% |

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

MediaShop GmbH fulfilled its reporting duties pursuant to Art. 30b Par. 3 AMD-G by the given due date, noting that it had implemented a number of measures during the reporting period.

Trailers now feature hardcoded subtitles and text overlays are now a regular part of channel programming. A trailer on the topic of accessibility with sign language interpretation is broadcast several times a day and audio descriptions are used in infomercials⁵ to provide details of phone numbers, for example.

Simple language is also utilised although not included in the annual report, as the specific use of simple language and other language cannot be assessed on a clear enough basis.

In the category of entertainment, out of 5,875 minutes (1.12%) of accessible programming in overall channel programming of the Media Shop Einkaufswelt service, 2,872 minutes (0.55%) were subtitled, while 487 minutes (0.09%) were provided with sign language and 2,515 minutes (0.48%) with an audio description.

Accordingly, the figure for minutes stated in the annual report exceeds the action plan target.

3.2.2.11 Melodie Express GmbH

Table 30: Planned increase for the Melodie Express channel according to action plan (in %)

| Melodie TV | Base year 2020 | 2021 | 2022 | 2023 | 2024 |
|---|----------------|-------|-------|-------|-------|
| Planned increase according to action plan | 0.00% | 0.10% | 0.19% | 0.29% | 0.38% |
| Actual increase according to annual reports | - | 0.10% | 0.21% | - | - |

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

Melodie Express GmbH did not submit a report pursuant to Art. 30 Par. 3 AM this D-G for 2023.

⁵ The word 'infomercial', a portmanteau of 'information' and 'commercial', describes a television ad that is longer than usual and which offers more information in a (potentially) more entertaining format.

3.2.2.12 Austrian Broadcasting Corporation (ORF)

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

Unlike other media service providers, the ORF is required to create an action plan on a yearly basis. This action plan must be published so as to be easily and immediately available and accessible at all times, and the regulatory authority must be notified of publication. In 2024, an action plan with 2023 as a reference year was subsequently published, which charts the planned increases for the years 2024 to 2026.

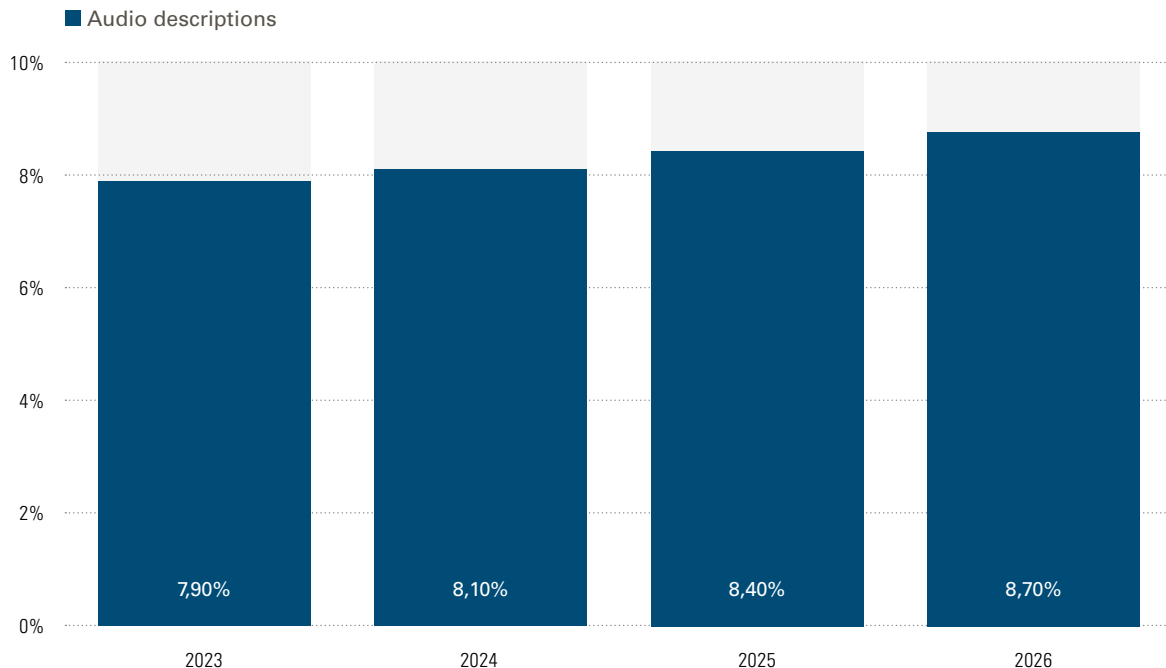
In this action plan, the ORF highlights a number of developments, mostly in the news and current affairs category. These new developments include the following:

- Since January 2024, all "Bundesland heute" and "Südtirol heute" regional programmes have been available online with subtitles shortly after being broadcast.
- Since December 2023, the news in simple language on ORF III has been increased to five minutes daily.
- The children's news show "ZIB Zack Mini" has been made available online with sign language since 2024.
- Since 2023, signing has also been provided for the "Bewusst gesund" und "G'sund in Österreich" programmes.

In its action plan, the ORF also mentions the points of focus that are required by law.

The respective proportions have been increased in relation to children's and current affairs broadcasts, and evening primetime (6:30 pm to 10:00 pm): news and current affairs 65.3% (2021: 51%), children's shows 91% (2021: 54.4%) and evening primetime 59% (2021: 46.9%).

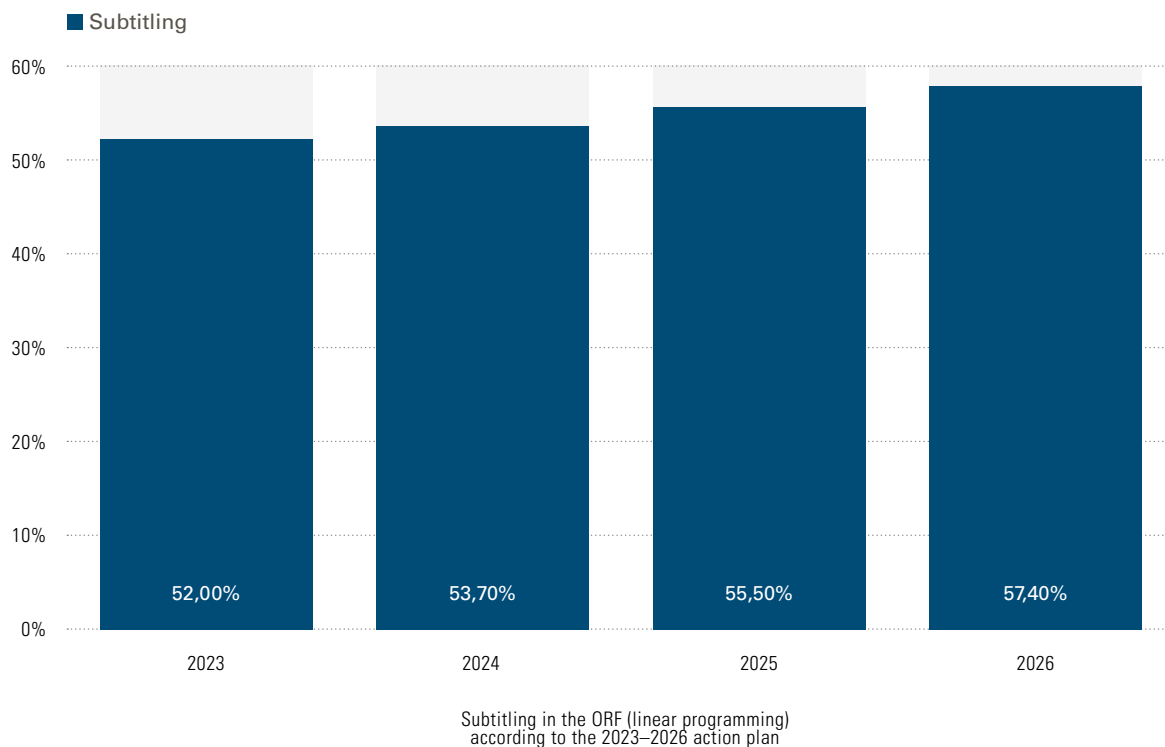
Figure 02: Planned increase in audio descriptions across all ORF channels, according to action plan (in %)



Audio descriptions in the ORF (linear programming)
according to the 2023–2026 action plan

In 2024, the focus will be on audio descriptions of sporting events, such as the Olympic Games and the Paralympics. The ORF aims to offer 3,000 hours of audio descriptions over the next few years, with 2,766 hours achieved by 2023.

Figure 03: Planned increase in subtitling across all ORF channels, according to action plan (in %)



In 2023, no less than 52% was subtitled instead of the planned 48.30%. For 2024, the aim is to subtitle 53.7% of total programming, with about 90% of content being subtitled on ORF 1 and ORF 2.

According to the ORF, the independent online Flimmit platform ceased broadcasting on 30 November 2023 and therefore no longer appears in the action plan. The ORF ON streaming platform, which is intended to replace the TVthek, features a separate overview page that lists accessible programmes. Steps have also been taken to ensure that broadcasts which are offered 'online first' are made accessible as soon as possible.

The action plan for 2023–2026 has been published (in German) at <https://der.orf.at/unternehmen/humanitarian/barrierefreiheit/aktionsplan-barrierefreiheit104.html>.

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

The ORF submitted reports for all channels with reporting requirements by the due date.

The annual report also included a data correction.

For 2020, the starting value for programming with sign language had been given as 596 hours, although the actual figure was 550 hours. Although this had led to the increase being incorrectly depicted, the corrected figures are now given in the tables below.

Table 31: Accessible share of TV programming for the ORF in 2023 (percentages)

| Percentage shares of accessible content in the ORF (linear programming) | Subtitling | Audio description | Sign language | Simple language | Total accessible percentage share |
|---|------------|-------------------|---------------|-----------------|-----------------------------------|
| News and current affairs | 65.3% | 0.2% | 7.2% | 0.15% | 65.3% |
| Entertainment | 88.6% | 15.9% | 0.06% | 0.0% | 88.6% |
| Education | 83.1% | 2.6% | 7.6% | 0.0% | 83.1% |
| Arts and culture | 55.1% | 2.5% | 0.57% | 0.0% | 55.1% |
| Sport | 8.5% | 7.2% | 0.0% | 0.0% | 8.5% |
| Channels overall | 52% | 7.9% | 1.7% | 0.03% | 52% |

Table 32: Percentage shares of accessible content in the ORF-TVthek in 2023 (in %)

| Percentage shares of accessible content in the ORF-TVthek | Subtitling | Audio description | Sign language | Simple language | Total accessible percentage share |
|---|------------|-------------------|---------------|-----------------|-----------------------------------|
| News and current affairs | 63.2% | 0.3% | 10.7% | 0.2% | 63.2% |
| Entertainment | 80.0% | 18.1% | 0.10% | 0.0% | 80.0% |
| Education | 84.3% | 2.7% | 12.6% | 0.0% | 84.3% |
| Arts and culture | 56.7% | 3.2% | 0.73% | 0.0% | 56.7% |
| Sport | 12.1% | 11.3% | 0.0% | 0.0% | 12.1% |
| Channels overall | 51.3% | 9.3% | 3.8% | 0.1% | 51.3% |

Table 33: Accessible share for FLIMMIT in 2023 (percentages)

| Percentage shares of accessible content in the ORF (FLIMMIT) | Subtitling | Audio description | Sign language | Simple language | Total accessible percentage share |
|--|------------|-------------------|---------------|-----------------|-----------------------------------|
| News and current affairs | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Entertainment | 8.1% | 1.1% | 0.0% | 0.0% | 8.1% |
| Education | 8.1% | 0.8% | 0.0% | 0.0% | 13.6% |
| Arts and culture | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Sport | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Channels overall | 9.3% | 1.0% | 0.0% | 0.0% | 9.3% |

3.2.3 Reports on 2022–2024 action plans

3.2.3.1 Sascha Huber GmbH

Table 34: Planned increase for the Sascha Huber YouTube channel according to action plan (in %)

| Sascha Huber | Base year 2021 | 2022 | 2023 | 2024 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 1.00% | 2.00% | 3.00% | 4.00% |
| Actual increase according to annual reports | - | 4.00% | 5.00% | - |

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

Sascha Huber GmbH submitted a report.

In the 2023 reporting period, 30 minutes (5%) of accessible broadcasts in overall channel programming by Sascha Huber were subtitled in the sport category. Accordingly, the figure for minutes stated in the annual report exceeds the action plan target.

3.2.3.2 schau Media Wien GesmbH

schau Media Wien GesmbH operates the KurierTV channel.

In relation to technical implementation, schau Media Wien GesmbH states that subtitles are in use.

Within the action plan period of 2022–2025, accessible programmes are to be offered in the categories of news and current affairs and entertainment.

The action plan has been published at <https://kurier.tv/amp/info/kurier-tv-barrierefreiheit/402135966>.

Table 35: Planned increase for the Kurier TV channel according to action plan (in %)

| Kurier TV | Base year 2021 | 2022 | 2023 | 2024 |
|---|----------------|-------|-------|-------|
| Planned increase according to action plan | 0.43% | 0.91% | 1.14% | 1.26% |
| Actual increase according to annual reports | - | 0.59% | 0.1% | - |

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

schau Media Wien GesmbH submitted a report by the due date.

In the category of news and current affairs, 380 minutes (0.07%) of programming were subtitled, and 120 minutes (0.02%) in entertainment. Thus, the action plan targets in terms of minutes were met, even though this fact is not reflected in the percentage values because of varying overall broadcasting times.

3.2.4 Statement about further improvements to accessibility

For most media service providers, 2023 was the last year in their action plan and also forms the baseline year for the new 2024 to 2026 action plans. No new media services were launched for which action plans would have needed to be submitted in the 2023 reporting year.

Alongside the ORF, which is required to produce an annual action plan as well as an annual report, another 16 annual reports were submitted for 2023. These 16 annual reports are attributable to twelve separate providers, although ten annual reports had not been submitted by the due date; one provider did not submit an annual report.

Figures from the annual reports show that the action plan targets were exceeded in eleven cases. Targets were met exactly in one other case. One annual report did not include any broadcast minutes or percentage figures, which means values cannot be compared between the report and the action plan. Two providers were unable to achieve their action plan target and provided reasons in each case.

One fact worth noting is that the targets for the action plans completed in 2023 were not just met but exceeded in two thirds of cases. The majority of trends for the last three years are therefore positive.

In relation to the various categories of content – news and current affairs, entertainment, education, arts and culture, and sport – the 2023 annual reports show that, as in previous years, the accessible share continues to rise but does so by highly varying degrees. In this context, it should be noted that some media services do not offer content in every category. In five cases, channels were described as entertainment-only services, with two channels providing only sports content.

This explains the especially frequent increases seen in the category of entertainment. Twelve channels state that they have taken steps to improve accessibility in this category. For sport, in contrast, increases are being observed only in the channels offering sports-only content. It should also be remembered here that, in relation to live content, the AMD-G permits technically justifiable exemptions from the duty to increase the share of accessible programming. These exemptions are justified by the increased effort that is necessary to make live content accessible. As sporting events are typically broadcast live, the low proportion of accessible content in this category is also explained by such exemptions.

When analysing the accessibility measures chosen by the media service providers, a strong preference for subtitling is seen. Ten providers with 13 channels mentioned this option in their 2023 annual report. One of these providers includes additional content with sign language in their channel, while another offers content with sign language and audio descriptions. Simple language is mentioned in the annual report by one provider with one channel.

This strong preference for subtitling can be explained by the comparatively low costs and low effort that this option involves, when compared with other options. Subtitling not only makes content accessible to people with hearing impairment but is also helpful for people with only basic German language skills. While this does address a second target group, the first is only partially served: sign language is rarely offered, which therefore excludes many people with hearing impairment.

Audio descriptions and simple language are each provided in only one channel. Measures to serve people with vision impairment and people with learning difficulties, who need content in simple language, are therefore rarely implemented.

From the annual reports submitted, it is clear that opportunities for gaining access to news and current affairs have actually worsened rather than improved for people with impairments. Apart from the ORF, there are only two channels that mention the category of news and current affairs in their annual reports. This means that people in need of accessible content are given very few opportunities to inform themselves and participate in public discourse.

The ORF must comply with more specific rules, which have already been mentioned in the “2. Legal basis” section. One of these is that greater priority must be given to accessible programming during elections, and for news and current affairs programmes. A further priority must also be given to regional broadcasts, press conferences and broadcasts reporting on elections or election results.

This provision aims to ensure that people with impairments are provided with a range of suitable services for their use. Many people remain without adequate opportunities to inform themselves from a range of sources, however. Given that 2024 is often dubbed a ‘super election year’, this reduction in accessible news and current affairs programming compared with the 2022 annual reports is of particular concern.

3.2.4.1 Subtitling

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

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

In 2013, a common set of subtitling guidelines was published for the German market, which addresses teletext and DVB subtitling at the preproduction stage. These guidelines are recommended by the Austrian Association of the Deaf (ÖGLB) and the Austrian Council of Associations for Hearing Loss (ÖSB).⁶ In January 2015, public television broadcasters in Austria, Germany and Switzerland agreed on a set of uniform standards for subtitling.⁷ These encompass a series of basic principles for the presentation of subtitles in German-speaking countries, relating to aspects such as format, font size, colours and overlays.

3.2.4.2 Sign language⁸

Sign language is an officially recognised language based on a visual-manual modality that is used by people with hearing impairments to communicate with one another. The language employs a combination of gestures, facial expressions and bodily posture. Many distinct sign languages exist as well as many dialects. For children who grow up signing, sign language is their native language.⁹

3.2.4.2.1 Sign language interpreters

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

6 Untertitelrichtlinien.de, “Common subtitling guidelines for German-speaking countries” (in German)

<http://www.untertitelrichtlinien.de/index.html> (accessed on 21 April 2022)

7 P. Chojnacki et al.: “Subtitling standards at ARD, ORF, SRF, ZDF” (in German)

http://www.untertitelrichtlinien.de/pdf/Untertitel-Standards_ARD_ORF_SRF_ZDF_Version_1.3.pdf (accessed on 21 April 2022)

8 Österreichischer Gehörlosenbund: „Herzlich willkommen“ <https://www.oeglb.at/> (eingesehen am 21.04.2022)

9 ÖGSDV: “Deafness and sign language” (in German) <https://www.oegsdv.at/web/gehoerlosigkeit-gebaerdensprache/> (accessed on 2 May 2022)

The following points should be considered for their use:

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

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

3.2.4.2.2 Signing avatars

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

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

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

3.2.4.3 Audio description

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

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

3.2.4.3.1 Dual-channel mode

Dual-channel mode is an audio transmission technique whereby two separate audio channels are broadcast simultaneously. One of the two audio channels can be used to provide an acoustic description of the broadcast image, allowing especially people with vision impairments to use audiovisual media content.

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

3.2.4.3.2 Synthetic voice audio description

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

10 Presentation given on 30 June 2021 by Helene Jamer, accessible from <https://www.youtube.com/watch?v=K7di95kQTZA&t=3s> (accessed on 21 April 2022)

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

3.3 2023 survey of reach and market shares¹²

3.3.1 Introduction

To enable the enforcement of the provisions of the Audiovisual Media Services Act (AMD-G) as part of legal supervision, Art. 65 AMD-G requires a survey of the reach (market shares), coverage levels, and user and viewer figures.

Based on these provisions, market research was carried out in 2024 for the 2023 calendar year, just as had been the case for the 2020, 2021 and 2022 calendar years. As part of the survey, all providers were queried about reach (market shares), coverage levels and user and viewer numbers.

Survey method

A total of 456 providers were sent requests, including 157 television broadcasters, 163 providers of on-demand services, 72 radio broadcasters and 163 cable network operators. The survey considered all services that were listed in the KommAustria directory as of the survey date of 8 January 2024 and that were active during the 2023 calendar year. During the 2023 calendar year, twelve television channels, nine on-demand services and eleven radio stations began service, while also four cable networks became operational, all of which were additionally included in the basic group surveyed. During the same period, 16 television channels and 32 on-demand services discontinued service, as did two radio stations and one cable network.

The survey entailed the questions listed below.

Television channels:

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

On-demand services:

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

The data presented in this document are based on the information supplied directly by the service providers. The figures may thus relate to varying reference values (such as coverage areas), depending on the service. The responses given by the service providers as a whole are therefore comparable only to a limited extent.

¹² As of 18 April 2024

Data validity

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

3.3.2 2023 market report

The data queried pursuant to Art. 65 AMD-G can be grouped under three categories:

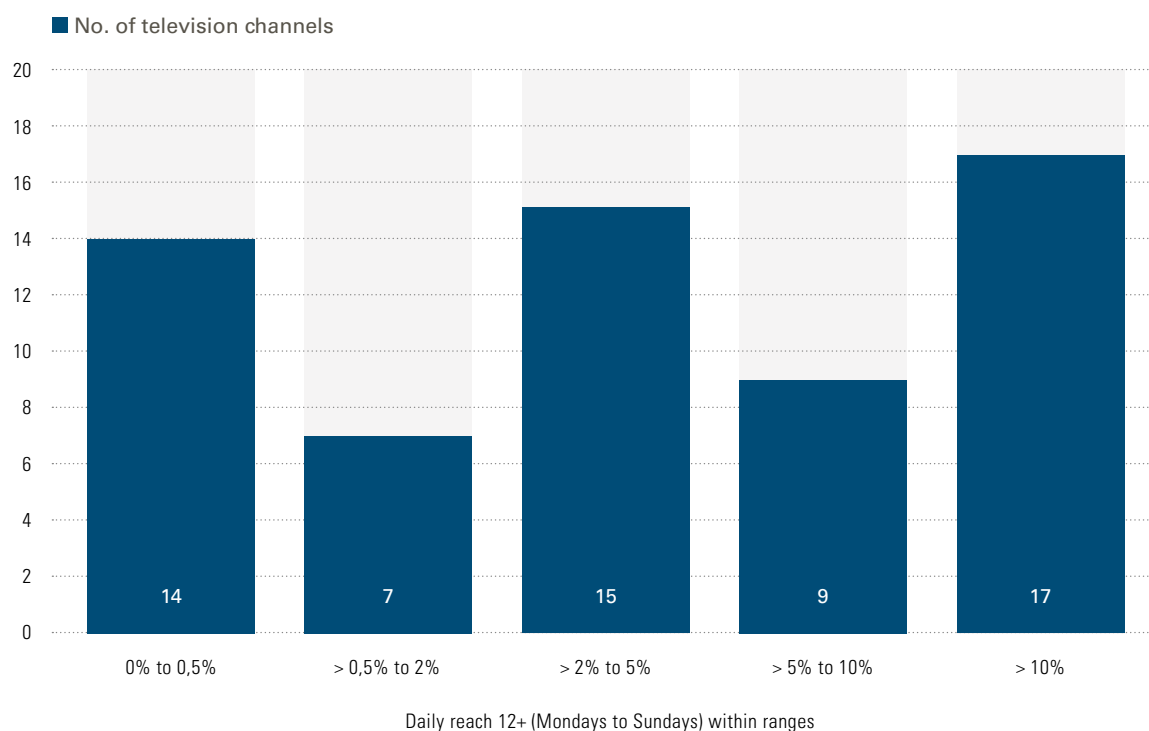
- Television channels
- On-demand services
- Cable networks

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

3.3.2.1 Television channels

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

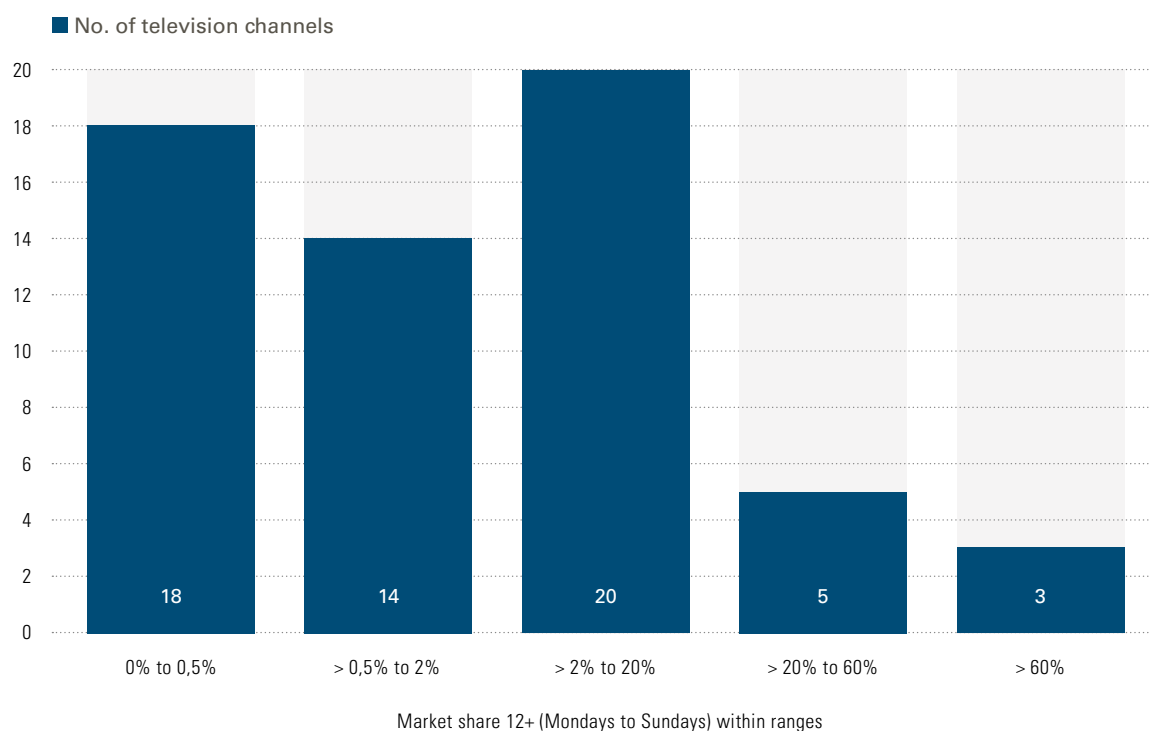
Figure 04: Number of television channels within specified daily reach ranges among viewers 12+ in 2023 (no data exist or are available for 191 providers)



Referring to the chart above, the numbers of television channels falling within specified ranges of daily reach among the 12+ target group (Monday to Sunday) in 2022 are as follows:

- 0% to 0.5%: 16
- Over 0.5% and up to 2%: 3
- Over 2% and up to 5%: 12
- Over 5% and up to 10%: 5
- Over 10%: 18
- No data existing/available 197

Figure 05: Number of television channels within specified market share ranges among viewers 12+ in 2023 (no data exist or are available for 193 providers)



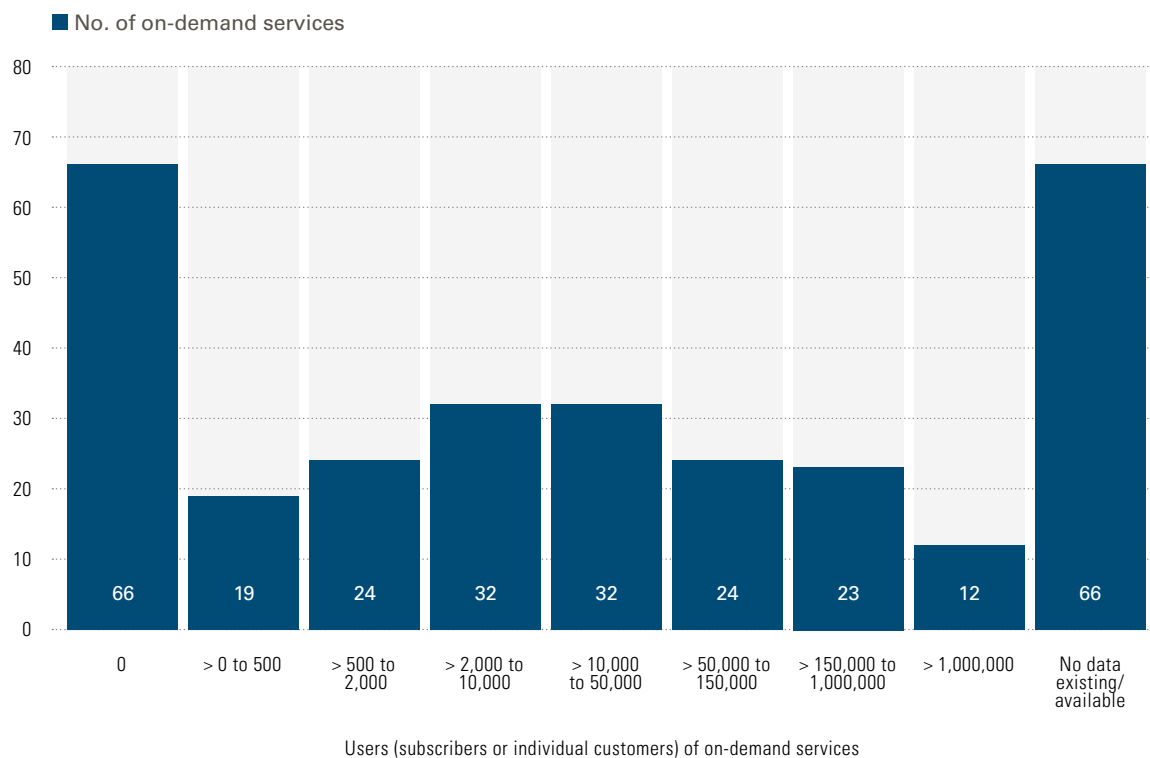
Referring to the chart above, the numbers of television channels falling within specified ranges of market share among the 12+ target group (Monday to Sunday) in 2022 are as follows:

- 0% to 0.5%: 19
- Over 0.5% and up to 2%: 11
- Over 2% and up to 20%: 14
- Over 20% and up to 60%: 4
- Over 60%: 6
- No data existing/available 197

3.3.2.2 On-demand services

For the group of on-demand services, the questions related to the number of users (subscribers or individual customers) as well as to service requests. As above for television channels, the figures that are reported here are also divided into ranges and displayed as a bar chart.

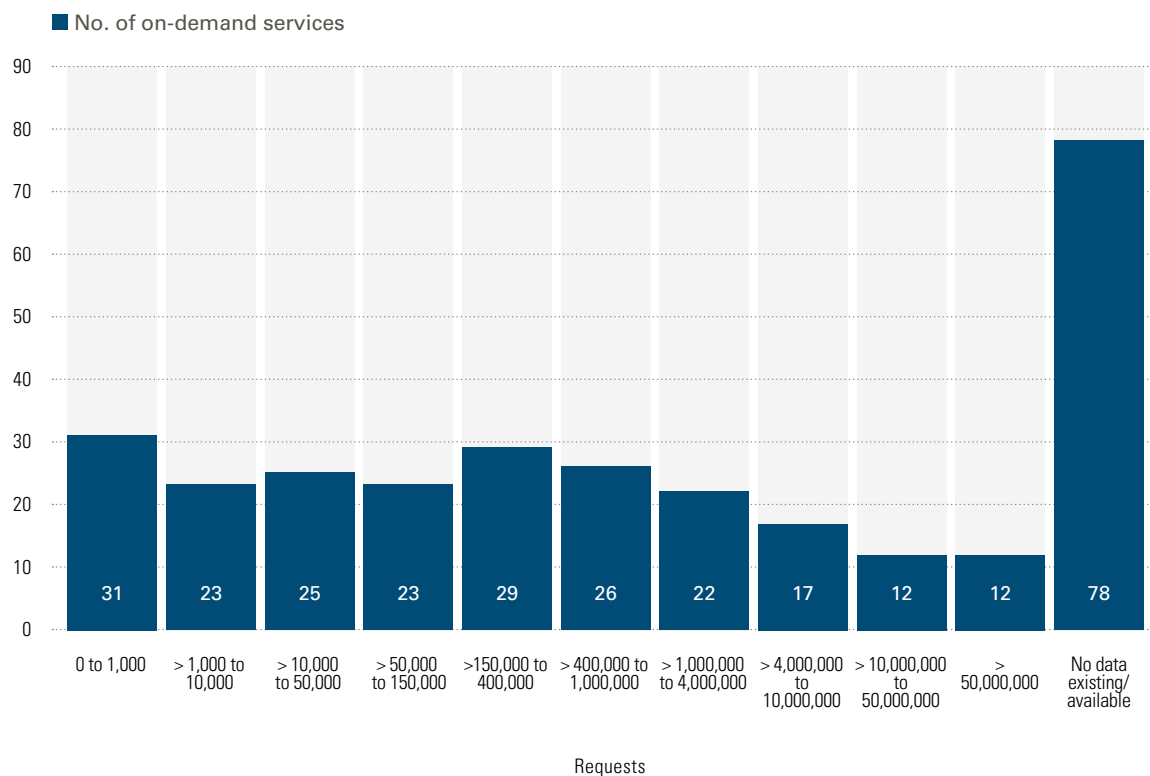
Figure 06: Number of users (subscribers or individual customers) of on-demand services in 2023 within specified ranges



Referring to the chart above, the numbers of users (subscribers or individual customers) in 2022 were as follows:

- 0: 45
- Over 0 and up to 500: 21
- Over 500 and up to 2,000: 28
- Over 2,000 and up to 10,000: 35
- Over 10,000 and up to 50,000: 33
- Over 50,000 and up to 150,000: 28
- Over 150,000 and up to 1 million: 21
- Over 1 million: 13
- No data existing/available 68

Figure 07: Number of service requests in 2023 within specified ranges



Referring to the chart above, the numbers of requests in 2022 were as follows:

- 0 to 1,000: 26
- Over 1,000 and up to 10,000: 28
- Over 10,000 and up to 50,000: 26
- Over 50,000 and up to 150,000: 28
- Over 150,000 and up to 400,000: 38
- Over 400,000 and up to 1 million: 28
- Over 1 million and up to 4 million: 26
- Over 4 million and up to 10 million: 9
- Over 10 million and up to 50 million: 13
- Over 50 million: 13
- No data existing/available 57

3.3.2.3 Radio stations

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

Figure 08: Number of radio stations within specified daily reach ranges among listeners 10+ in 2023 (no data available for 55 providers)

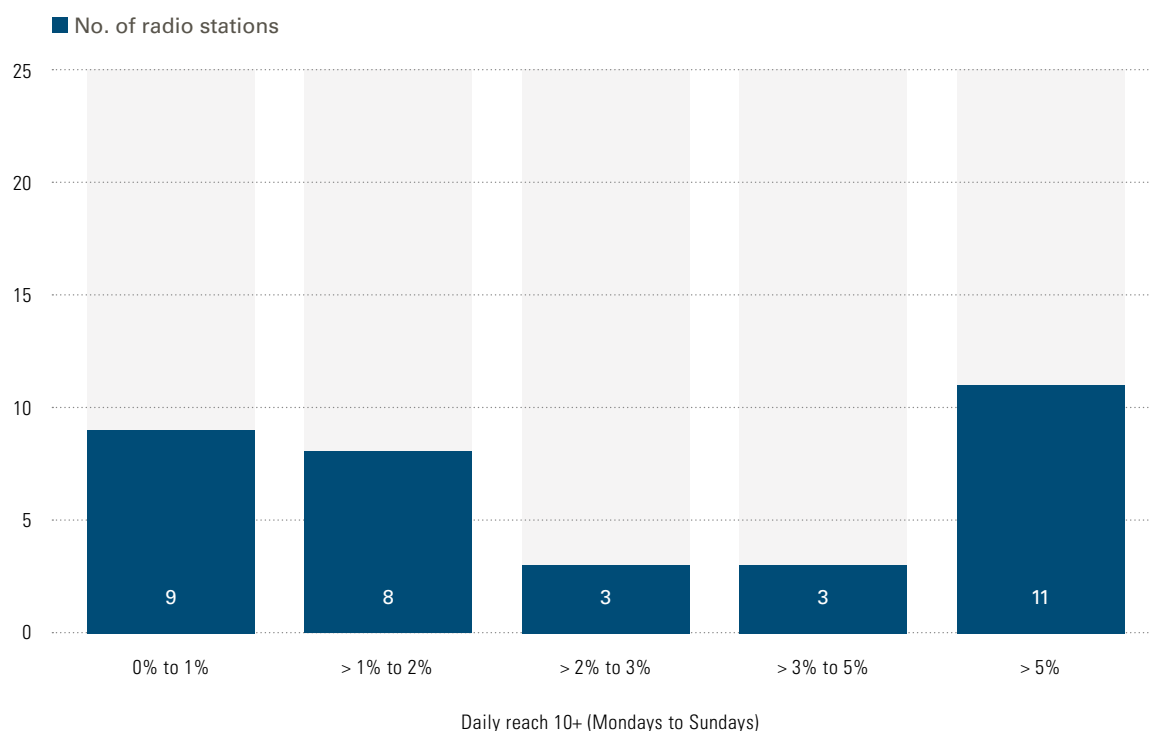
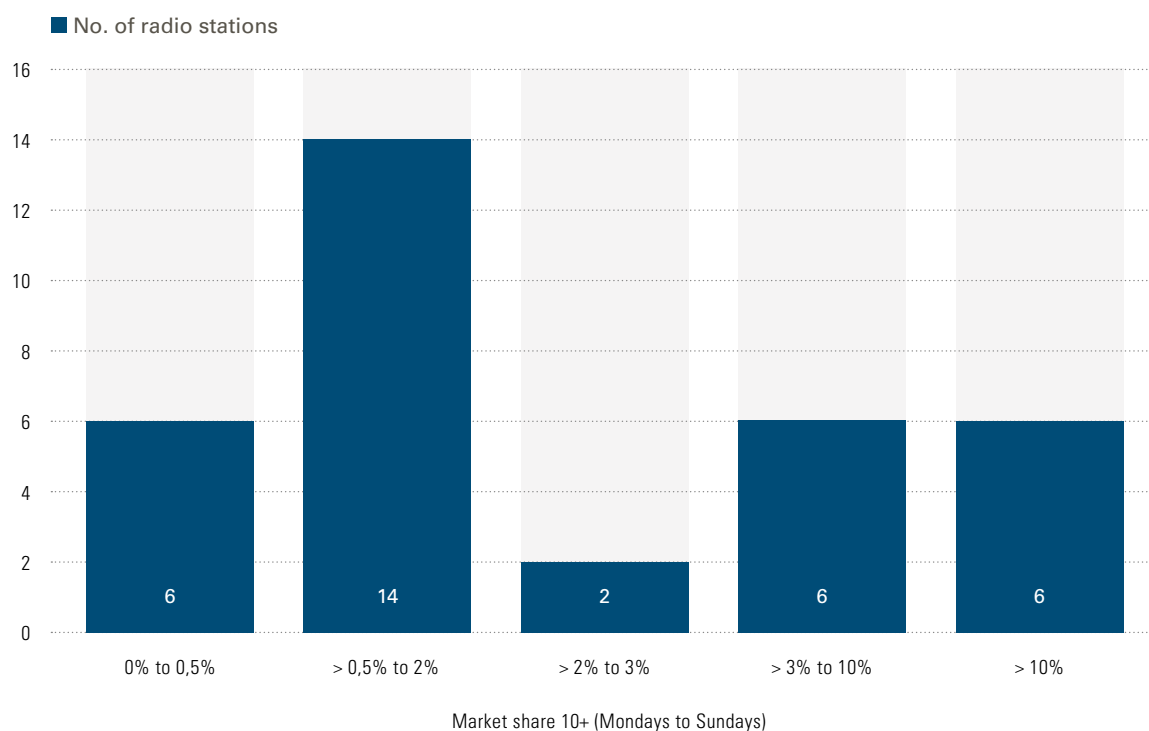


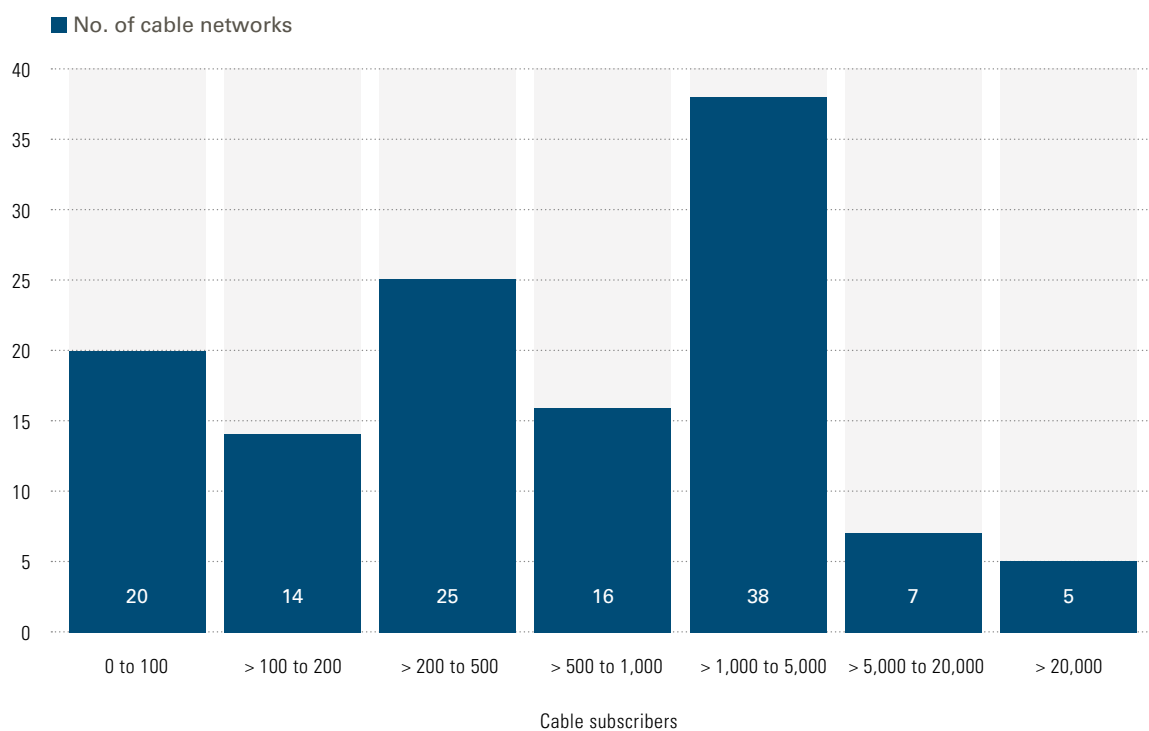
Figure 09: Number of radio stations within specified market share ranges among listeners 10+ in 2023 (no data available for 55 providers)



3.3.2.4 Cable networks

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

Figure 10: Number of cable networks within subscription ranges in 2023



3.3.3 Selected detailed results

In addition, survey results were singled out from the various areas by way of example. These are presented here for 2023 as a whole. Note that the information presented here is based on the figures provided directly by the service providers.

Figure 11: Top 10 nationwide television channels by daily reach as a percentage of viewers 12+ in 2023

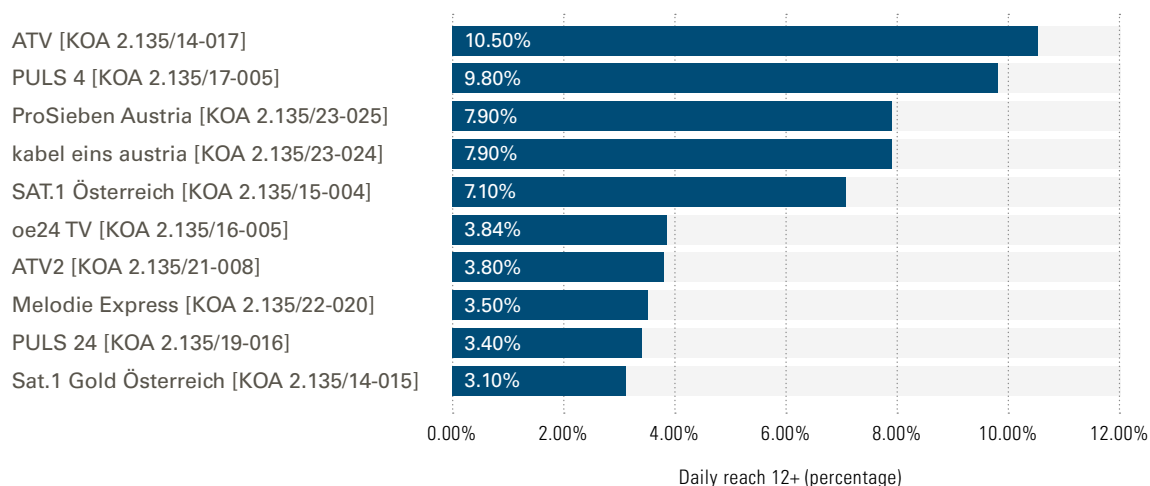


Figure 12: Top 10 on-demand services by number of users (subscribers or individual customers) in 2023

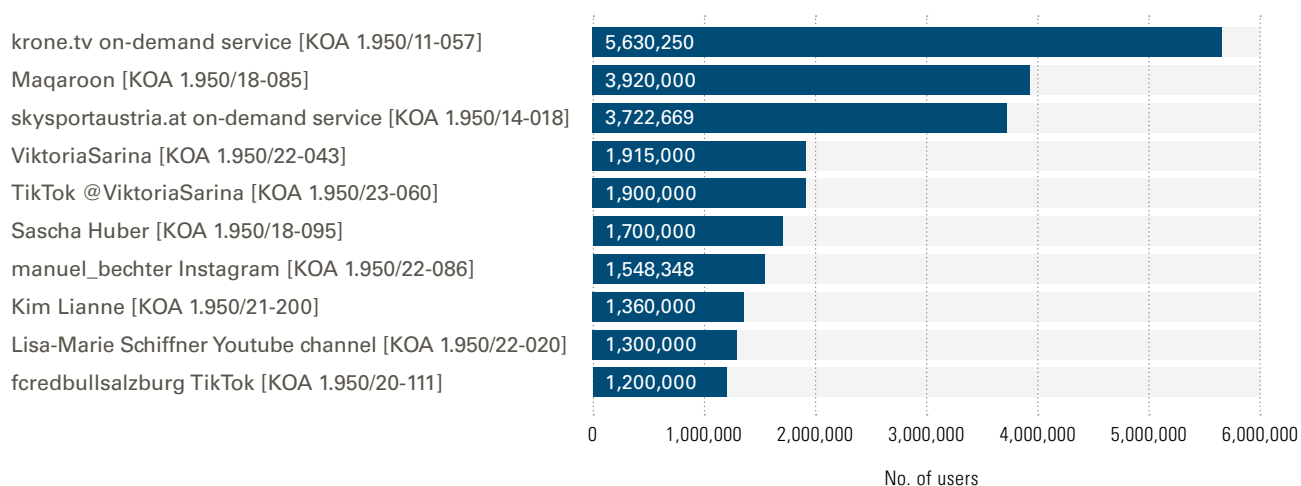


Figure 13: Top 10 on-demand services by service requests in 2023

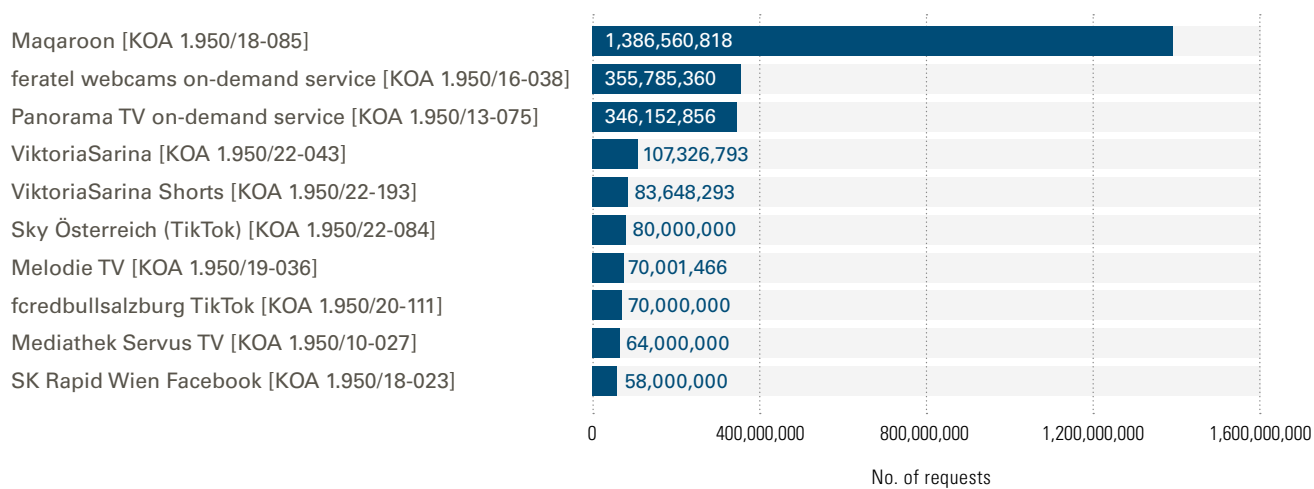


Figure 14: Percentage share of users (subscribers or individual customers) of the top 10 on-demand services compared with the share of users (subscribers or individual customers) of other on-demand services in 2023

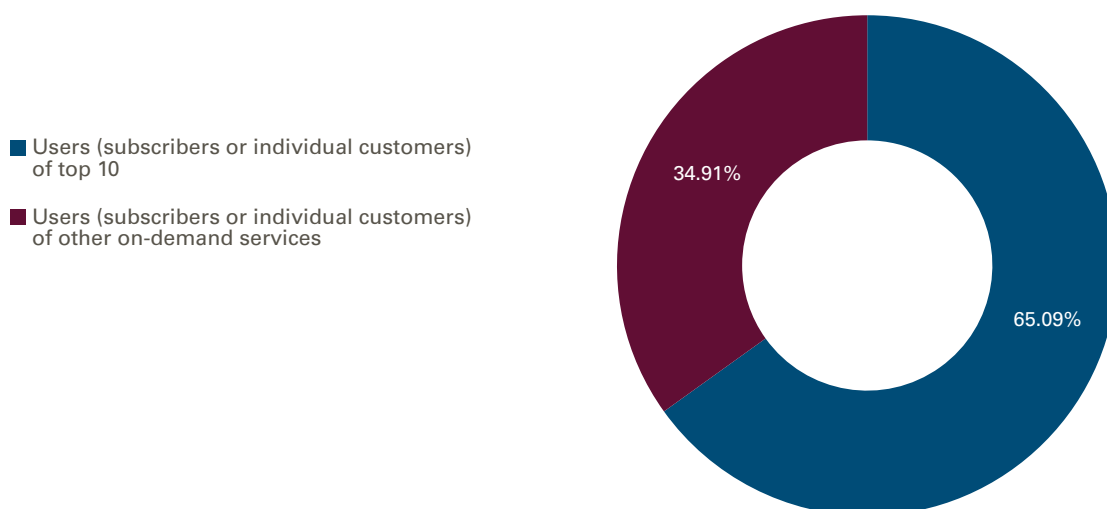
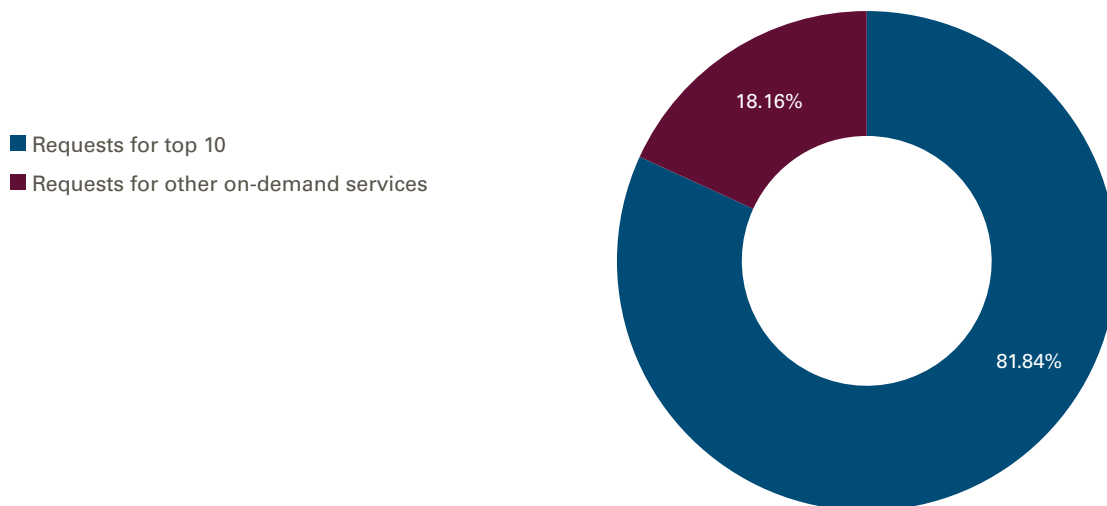


Figure 15: Percentage share of service requests to the top 10 on-demand services compared with requests to other on-demand services in 2023



3.3.4 Link to the overall survey results

All survey results for the categories of television and on-demand services are available (in German) on the RTR website at <https://www.rtr.at/Reichweiten-undMarktanteilerhebung2023>.

The following information is listed:

Television: provider, service, period (from/to), daily reach 12+ (in %), market share 12+ (in %)

On-demand services: provider, service, period (from/to), number of users (subscribers or individual customers), number of requests

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

3.4 Progress of digitisation in broadcasting

3.4.1 Digital linear television

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

In 2023, 7.546 million Austrians aged twelve and over were residing in 3.872¹³ million television households, according to figures from the TELETEST Working Group (AGTT). However, both figures have been 'frozen' by AGTT since the end of 2019. The rationale for this was to achieve a more reliable (average) value reflecting changes in the share of Austrian households with at least one television receiving device.¹⁴ Accordingly, while taking into account the changes among private households is reflected by Statistics Austria, the AGTT assumed there were 4.093 million private households in Austria in the fourth quarter of 2023, with 95% of these TV households. In 2022, around 97% of all Austrian households had also been television households.

AGTT, a merger between Austrian television broadcasters and their advertising slot marketers, commissioned market research institute GfK Austria with evaluating television viewing habits in Austria. GfK Austria's regular market research duties include working together with market research institute IFES to track the changing percentage rate of Austrian households with at least one television reception device (known as television households). Here a downward trend has been observed for years. The quarterly survey findings are volatile and make planning difficult for media agencies. Correspondingly, the number of television households and the people residing in them is now fixed and then compared on a quarterly basis with the steadily increasing total number of households, based on the micro census carried out by Statistics Austria. When thus compared, the proportion of television households and the people residing in them is experiencing a steady decline, reflecting what AGTT believes to be a realistic development.

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

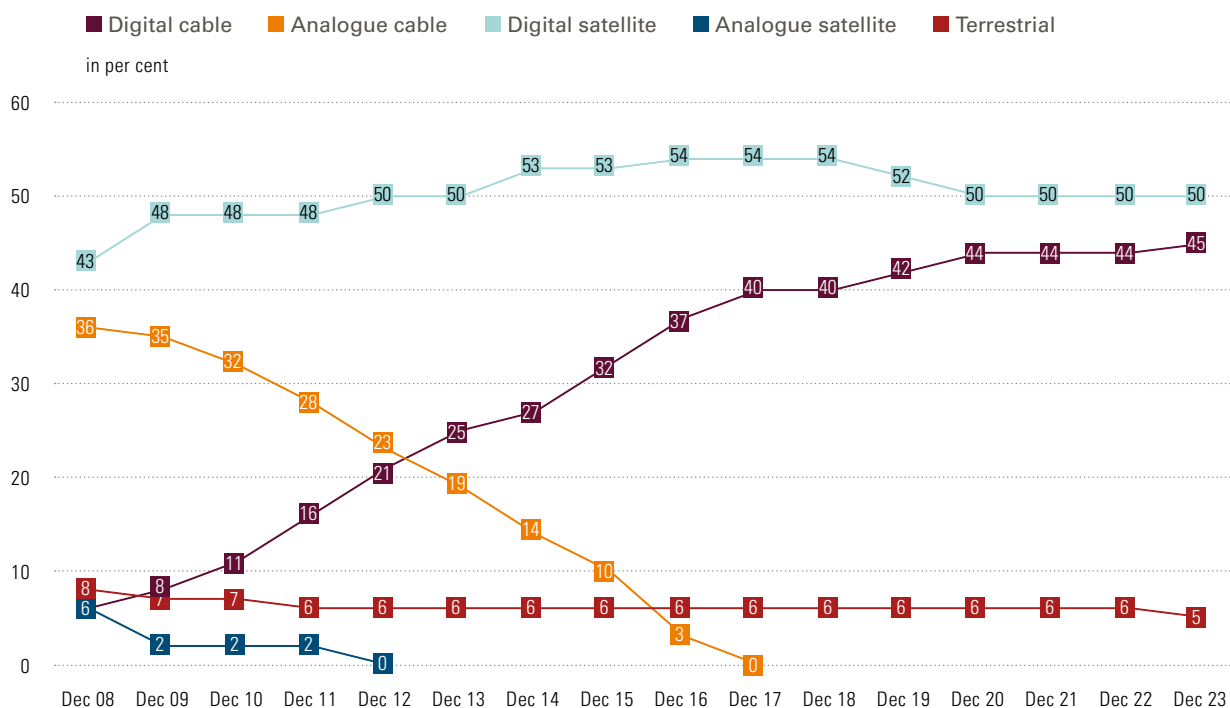
The individual values for cable, satellite and terrestrial households that are presented below in this report are not fixed, but represent current survey results.

3.4.1.1 Distribution of conventional television reception modes among television households

The percentage rate of television households with satellite reception remained the same as the previous year and was at 50% at the end of 2023. The share of TV households with a cable TV provider increased for the first time in three years, increasing to 45% at the end of 2023, one percentage point higher than in 2022. This was at the expense of terrestrial television (DVB-T2/DVB-T, digital terrestrial television), which was consistently used as the primary form of TV reception in around 6% of TV householders between 2011 and 2022, but was the primary or only form of reception in only 5% of TV households by the end of 2023.

¹³ Unless otherwise specified, all data originate from the Teletest Working Group/GfK Austria (2023).

¹⁴ Based on the micro census by Statistics Austria

Figure 16: Distribution of reception modes among Austrian television households 2008–2023

Source: AGTT/GfK Austria

The number of television households with a cable connection as their reception mode fell in absolute terms by 17,000 households to 1.729 million households in December 2023, compared with the same month of the previous year (2022: 1.712 million, -7,000 households; 2021: 1.716 million, -4,000 households).

The satellite platform, on the other hand, hardly benefited from the decline in households with terrestrial television, amounted to 1.938 million households by the end of 2023, an increase of 1,000 households compared with December 2022 (2022: 1.937 million, +9,000 households; 2021: 1.934 million, +3,000 households).

Terrestrial reception – via a room or roof antenna – was used in December 2023 by 205,000 households, around 19,000 fewer than in December 2022 (2022: 224,000, -1,000 households; 2021: 225,000 households, unchanged from 2020).

3.4.1.2 DVB-T/-2 as the primary or secondary type of reception in 7.5% of TV households

At the end of 2023, there had been a slight increase in the number of people aged twelve and over among 205,000 Austrian terrestrial households who used digital terrestrial television as their primary or only form of TV reception. This number decreased by 25,000 people to 354,000 (2022: 379,000, +4,000 people; 2021: 375,000). This corresponds to 5% of the viewing population aged twelve and over.

In addition to the TV households where digital terrestrial television is the only form of TV reception, DVB-T2/ DVB-T is also used in satellite/cable television households as a supplementary reception platform. In most cases, this is due to viewing of local TV programmes, often still transmitted via the dated DVB-T or DVB-T2 standard, or as a simple solution to add a second device to another room. At the end of 2023, this applied to 80,000 satellite households and 6,000 cable households. When added to terrestrial-only television households, a total of 291,000 households with potential terrestrial TV reception results. This translates to 7.5% of the 3.872 million television households.

In addition to the roughly 354,000 viewers aged twelve and over who live in terrestrial-only television households, the overall figure for number of persons reached also includes 157,000 people in satellite households with secondary terrestrial usage (2022: 139,000) as well as 24,000 people in cable households with supplementary terrestrial usage (2022: 44,000).

This makes for 535,000 individuals, or 7.1% of the viewing population aged twelve and over who had access to terrestrial reception via DVB-T/DVB-T2 in their own homes in December 2023. This is a decline of 27,000 people compared with the previous year (2022: 562,000 people or 7.4%; 2021: 7.8%).

3.4.1.3 Technical range of nationwide and regional terrestrial multiplexes (DVB-T/-T2) with a total of 80 TV channels

Multiplexes A, B, D, E and F – nationwide programme portfolio

The technical range of the nationwide multiplex A was unchanged at 98% in 2023. The technical range for the other nationwide multiplexes B, D, E and F was also constant, at 92% of the population.

MUX A and MUX B are used for nationwide transmission of the channels 3sat, ATV, ORF 1, ORF 2 Regional (three editions for each province), ORF III, ORF SPORT + and ServusTV, free of charge¹⁵ and in high definition (HD) resolution, as well as ATV2, PULS 4 and RTL Austria in SD resolution. ORF 1 and ORF 2 (regional addition for Vienna) are also available in standard definition (SD) resolution to ensure freedom of reception without registration.

HGTV, RTL HD Austria and ZDF info are also available on MUX B as part of a comprehensive package available at a surcharge, which also provides access to other channels on the D, E and F multiplexes.

With Puls 24 (in SD), an additional channel of Austrian origin is being broadcast free of charge and nationwide in the station line-up of MUX F, and this can be received following registration. The D, E and F multiplexes encompass a total of 47 TV channels, including most of the widely known public and private offerings from Germany (in HD or SD resolution) as well as a few pay TV channels.¹⁶

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

Multiplex C – regional programme portfolio

The regional channels that are transmitted via the various MUX C broadcasting locations in the provinces supplement the supra-regional and international programme portfolio carried by the A, B, D, E and F multiplexes. With programs largely dedicated to reporting from the respective regions, these channels make an important contribution to democratic discourse.

¹⁵ Registration with the multiplex operator is required.

¹⁶ Separate surcharge

These are as follows:

| | | |
|--------------------|-------------------|-----------------------------|
| ATV - Das Magazin | Kurier TV HD | Okto |
| ATV-Magazin Murtal | LAOLA1.tv | RE/eins Das Außerfernsehen |
| DORF TV | Ländle TV / VOLAT | RTV HD |
| Ennstal TV | LT1 HD | Schladming-Dachstein TV |
| FREIZEITFERNSEHEN | M4TV | ServusTV |
| krone.tv | Oberland TV | STV 1 Regional TV Bad Ischl |
| KULT1 | oe24.TV | W24 |

At some MUX C locations in larger agglomerations, international stations are also broadcast regionally. These include: Bibel TV, Comedy Central, HopeTV, kabel eins Doku, ProSiebenMAXX, TLC Austria, TVP World, SRF 1, SRFzwei and WELT.

Details on the parties licensed to operate the regional multiplexes (MUX C), and the 31 programmes in total broadcast on them, are available (in German) at www.rtr.at/medien/service/verzeichnisse/mux/MUXC.de.html.

3.4.1.4 3.997 million people live in households with satellite reception

At the end of 2023, 1.938 million satellite households (2022: 1.937 million) or 50% of television households using satellite reception were home to 3.997 million people aged twelve and over. This corresponds to a decrease of 34,000 people compared with the previous year. This did not affect the percentage of the TV viewing population living in satellite TV households, however, which remained at 53%.

3.4.1.5 3.195 million people live in households with cable reception (including IPTV)

The percentage of television viewers aged twelve and above living in the 1.729 million cable households (2022: 1.712 million) also increased by three percentage points compared with the previous year to reach 45%. The absolute figure increased by 59,000 to 3.195 million people (2022: 3.136 million).

Households with cable TV include households that are supplied by their cable TV providers via the conventional digital transmission technology DVB-C, as well as those households that stream linear TV via their cable provider on the basis of the internet protocol, that is, IPTV households. In Austria, these are primarily supplied by A1 Telekom Austria (A1 Xplore TV).

3.4.1.6 5G broadcasting trials

Towards further progress in digital broadcasting, and to test broadcasting applications based on the 5G transmission standard, KommAustria had approved in November 2019 an initial related pilot study, to be carried out in the Vienna area by Österreichische Rundfunksender GmbH & Co KG (ORS). After one extension, the trial ended in April 2021. A second phase was started in 2021 and is set to continue on until early 2024. The broadcasting trial was funded by the Digitisation Fund set up by the RTR Media Division.

Users would require 5G broadcast-ready devices to receive linear radio and television programmes transmitted via 5G broadcast. Suitable devices (with a special, integrated antenna and activated firmware) do not require a SIM card or mobile Internet access.¹⁷

The signals are transmitted within broadcasting frequency ranges and not mobile bands. Users' mobile data volumes are not affected through receiving such broadcasts and there is no added traffic within mobile cells. In this way, spectrum is used economically when broadcasting information services to mobile devices. 5G broadcast functionality is specified as part of the 5G mobile communications standard; it is supported by every terminal device that is manufactured in full compliance with the 5G specification standards. Prototypes of smartphones and tablets are being used in the trials.

Broadcasting trials are being performed from two large transmitters in Vienna, Kahlenberg and Liesing. For the tests, KommAustria made available a channel within the 700 MHz band (a broadcasting frequency previously falling within KommAustria's competence), initially for a limited term until 30 June 2020. In the auction in early 2020, that frequency was among the spectrum reassigned for the purpose of setting up and expanding 5G mobile telecommunications, and it has accordingly been allocated for mobile services throughout Europe from 1 July 2020. KommAustria accordingly issued a decision on 25 June 2020, approving extension of the trial broadcasts in the 662–672 MHz range to include the period of 1 July 2020 to 30 June 2021.

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

In October 2021, project funding by the Digitisation Fund was renewed, earmarked as '5G broadcast trial operation in Vienna phase 2'. The project was planned for the period 1 July 2021–31 March 2024. Phase 2 of the project focuses on continuing to examine the suitability of further enhanced Multimedia Broadcast Multicast Service (eMBMS) and on further standardising LTE-based 5G Terrestrial Broadcast for future use as a potential standard for broadcasting terrestrial signals. eMBMS is a technology based on a specification by the 3rd Generation Partnership Project (3GPP).

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

A critical factor affecting opportunities for moving forward 5G broadcast has been and still is the international discussion on the future of the last frequency range also used in Austria for digital terrestrial television, the 470 to 694 MHz range, and its potential reallocation for use in the mobile network, which would bring about an end to television reception via antenna. For this reason, the results of the ITU World Radiocommunication Conference in 2023 (WRC-23), which took place in Dubai between mid-November and mid-December, were eagerly awaited. The WRC-23 resolution revealed that television in the present frequency range continues to be a priority. This result will, however, be reevaluated at the WRC in 2031. In light of this, KommAustria with its 2022 publication entitled [Rundfunk 2030 - Überlebt die Antenne?](https://www.rtr.at/medien/aktuelles/publikationen/Publikationen/Rundfunk_2030.de.html)¹⁸ (Broadcasting in 2030 – Will the Antenna Survive?) made an in-depth contribution to the discussion on the consequences of irrevocably discontinuing terrestrial television, and on the impact for radio, which is also directly affected, as well as on the changes currently taking place in the 470 to 694 MHz frequency range.

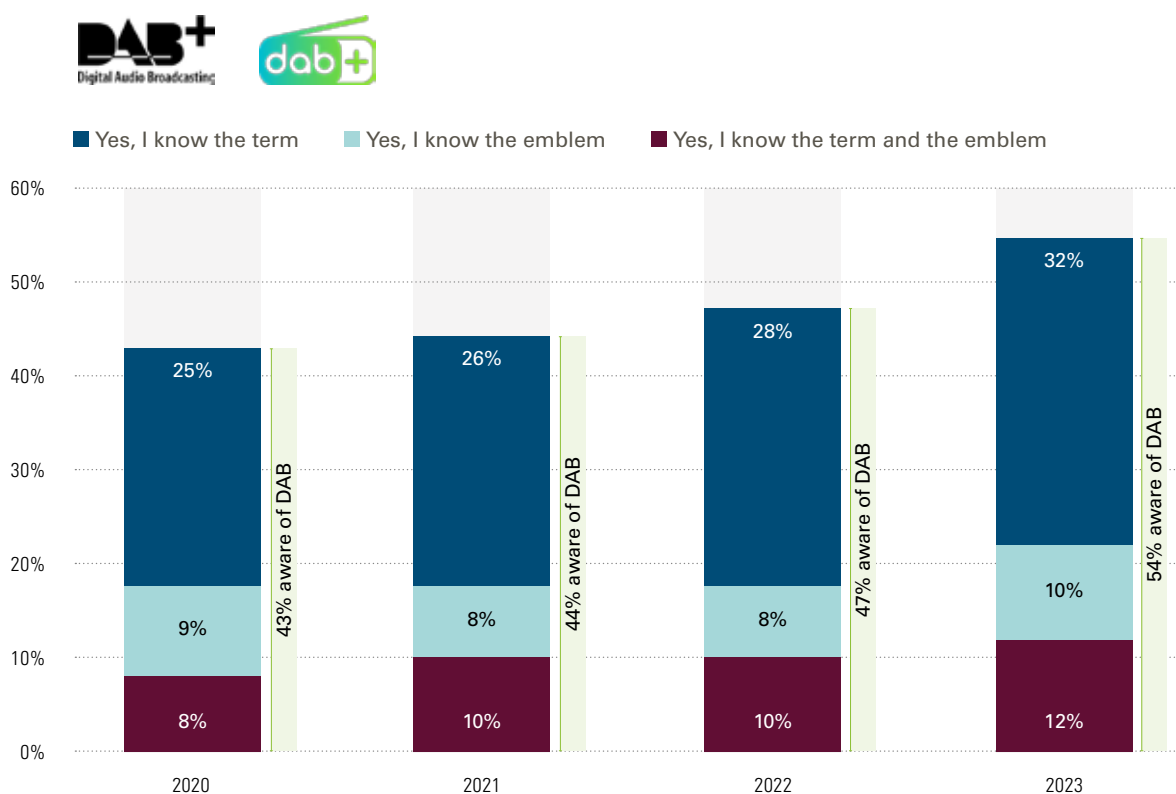
¹⁷ Previous prototypes, developed only for professional purposes, are not yet available commercially.

¹⁸ https://www.rtr.at/medien/aktuelles/publikationen/Publikationen/Rundfunk_2030.de.html

3.4.2 Digital radio

In 2013, KommAustria issued its Digitisation Plan 2013, dedicating seven coverage areas in band III (174–216 MHz range) to the nationwide and regional expansion of digital radio via the DAB+ transmission standard. Following the launch of the first regional DAB+ multiplex in the Vienna region in 2018 and deployment of an initial nationwide DAB+ multiplex beginning in 2019, use and awareness of digital terrestrial DAB+ have continued to grow steadily, as has the number of households in Austria with DAB+-enabled devices. The increasing percentage of households with DAB+-enabled devices is mainly due to the EU Directive on the European Electronic Communications Code (EECC), which has required the installation of DAB+-enabled car radios in new vehicles since the beginning of 2021.

Figure 17: Awareness of DAB+, trend for 2020–2023



Bekanntheits- und Reichweitenmessung DAB+, Digitalradio Österreich 2023 (Awareness and Range Measurement of DAB+ and Digital Radio in Austria 2023), report by Ipsos on behalf of RTR Media

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

At the end of 2023, a total of 30 radio stations were broadcast via the two DAB+ multiplexes. Sixteen DAB+ radio stations are accommodated on the nationwide multiplex (MUX I) that first began transmitting nationwide on 28 May 2019. This multiplex had technically reached 83% of the population by the end of the last expansion stage in August 2020. The network was optimised in 2021, resulting in a technical coverage range of 84% of the population.

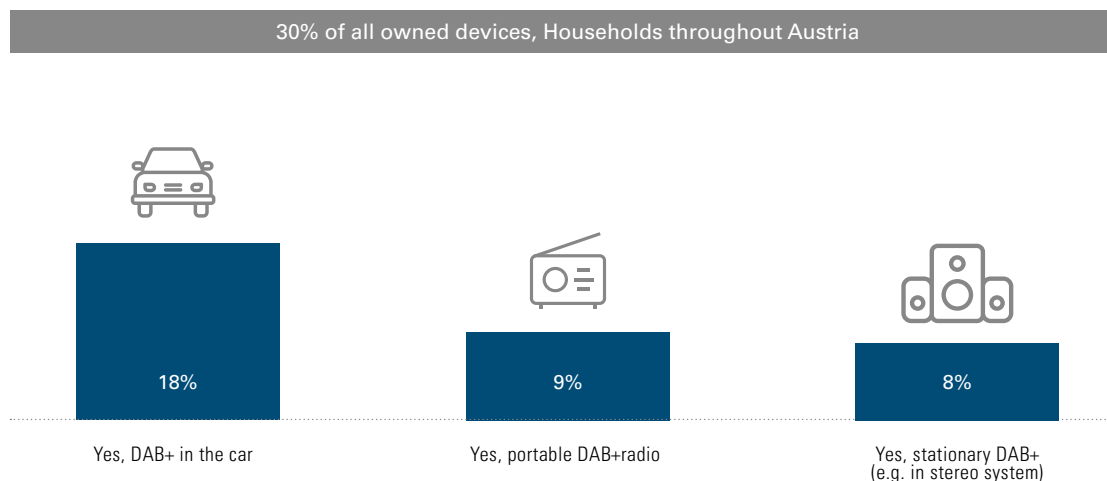
Since April 2018, 14 additional DAB+ radio stations have been broadcast in the Vienna region over what is called MUX II, with a coverage range of 2.3 million people.

Alongside a number of completely new broadcasters, many of the well-known UKW private radio broadcasters previously established in Austria are already broadcasting their programmes in parallel via DAB+ or have developed additional programmes separately for it. The FM private broadcasters Radio Energy, Mein Kinderradio, Radio Klassik Stephansdom and Radio 88.6 also broadcast their regional FM radio programmes nationwide via the DAB+ MUX I. Radio Arabella can be received in Vienna (MUX II) in DAB+/FM simulcast, also offering there arabella GOLD, in addition to the stations arabella HOT and arabella RELAX over the nationwide MUX I. Nationwide extensions of existing regional radio programmes include Antenne Österreich and Radio Flamingo. Among the nationwide FM broadcasters, the private station Radio Austria is also available nationwide on MUX I. ORF and the private channel Kronehit have not yet used the transmission mode DAB+.

3.4.2.1 Already 30% of Austrian households with DAB+ devices

According to the "2023 DAB+ and Digital Radio Awareness and Range Measurement report"¹⁹ which was carried out by market research institute Ipsos on behalf of RTR Media, 30% of Austrian households already had at least one DAB+-enabled device in 2023.²⁰ As in 2022, this is once again a significant, five percentage point gain from the previous year.

Figure 18: DAB+ devices in Austrian households 2023



Basis: total n=2,900, percentages

Ipsos, Verein Digitalradio, DAB+ Digital Radio, Awareness and Range Measurement in Austria 2023

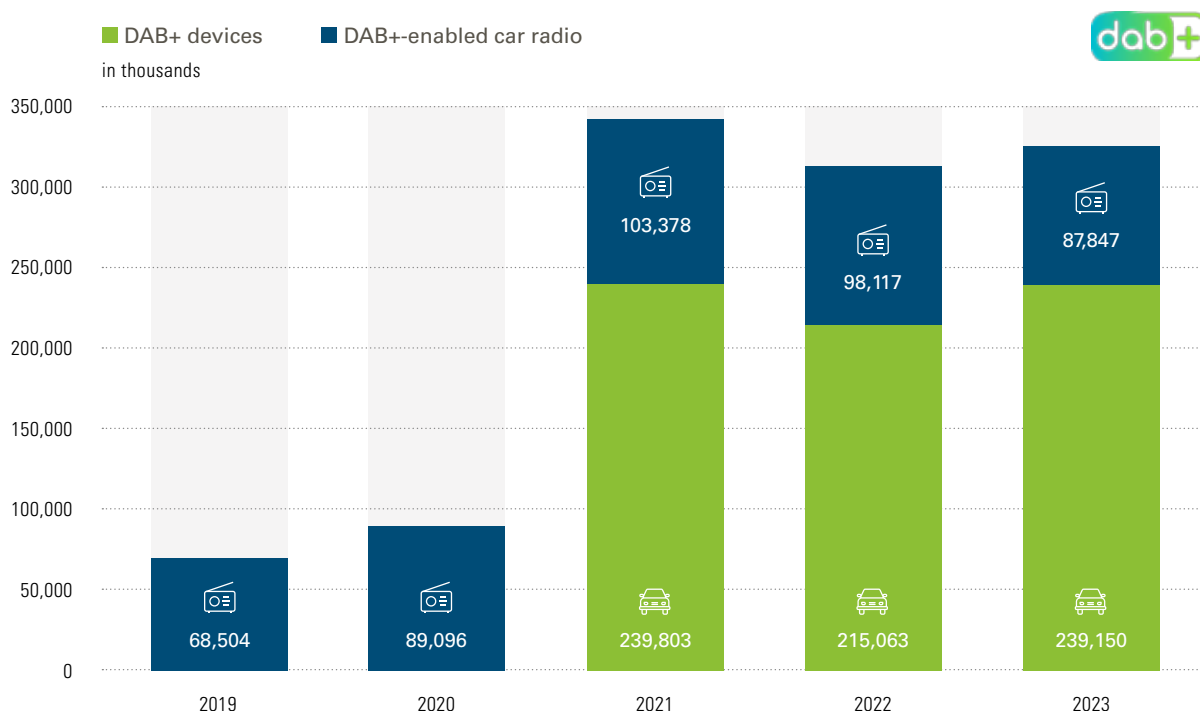
¹⁹ The survey was held between the end of January and the start of March 2023

²⁰ All data: DAB+ Digitalradio. Bekanntheits- und Reichweitenmessung (DAB+ Digital Radio, Awareness and Range Measurement) 2023, RTR Medien/Ipsos

In 2023, 18% of Austrian households had a DAB+ car radio (2022: 14%); 9% of households had a portable DAB+ radio (2022: 6%) and, as in 2022, 8% of households had a DAB+-enabled hi-fi system. This is the result of multiple responses: 5% of households had various or several DAB+-enabled devices.

The high percentage of DAB+ car radios is mainly due to the EU Directive on the European Electronic Communications Code (EECC), which has required the installation of DAB+-enabled car radios in new vehicles since the beginning of 2021. New registrations of passenger vehicles are currently driving the constant increase of DAB+-enabled devices. For many Austrians, car radio provides the first and lasting impression of the sound quality and diversity of content that DAB+ offers. Some 239,000 new passenger vehicles were registered in Austria in 2023 (rounded for 2022: 215,000; 2021: 240,000).²¹

Figure 19: DAB+ device sales per year, home devices and car radios



Source: RTR/GFK Austria – Panelmarkt Radio/Statistics Austria – new vehicle registrations

DAB+ receivers as tabletop radios or as part of music systems have been available in Austria for over ten years. In 2023, almost 88,000 such units were sold in specialist stores in Austria (2022: 98,000; 2021: 103,000; 2020: 89,000; rounded figures). In contrast, sales figures for FM-only receivers (at most supporting also internet radio) are consistently falling. In 2023, just under 206,000 FM-only radios were sold in Austria; in 2022 this figure was approximately 284,000, and in 2021, 318,000 FM radios were sold.

In 2023, 54% of the Austrian population residing within the distribution area of the nationwide DAB+ multiplex (MUX I, 84% population coverage) and the regional multiplex in the Vienna region (MUX II, technical range of 2.3 million persons) were familiar with DAB+ (2022: 47%), while 24% of the population had already listened to DAB+ radio stations (2022: 22%).

²¹ Statistics Austria, new passenger vehicle registrations
<https://www.statistik.at/statistiken/tourismus-und-verkehr/fahrzeuge/kfz-neuzulassungen>

Among DAB+ users, 75% tune into the DAB+ programme portfolio several times a month, 27% even do so (almost) daily, while 32% use it at least once a week and 16% several times a month. Projected for Austria as a whole, this means that 18% of all Austrians listen to DAB+ stations at least several times a month. In 2022, this percentage share was just 16%, after 12% and 9% respectively in 2021 and 2020.

3.4.2.2 Nationwide DAB+ service (MUX I)

The MUX I multiplex, the first nationwide DAB+ broadcasting network, has been rolled out in four phases since 2019. After completion in August 2020 by the operator, Vienna-based ORS comm GmbH & Co KG (ORS comm), the network now achieves a coverage level of 84% of the Austrian population.

MUX I carries 16 radio stations. An electronic programme guide and traffic information are also transmitted via TPEG, a transmission format that was developed for extended traffic and travel information via digital transmission modes.

The channel line-ups on the MUX I (nationwide) as of December 2023 are as follows:

| | | |
|--------------------|---------------------------|------------------------|
| Antenne Österreich | Klassik Radio | Radio Maria Österreich |
| arabella HOT | Mein Kinderradio | Radio ONE |
| arabella RELAX | Radio 88.6 | Rock Antenne |
| ENERGY ÖSTERREICH | radio austria | WELLE 1 |
| ERF Süd | Radio Flamingo | |
| Jö Live | radio klassik Stephansdom | |

3.4.2.3 DAB+ service to the Vienna region (MUX II)

The only digital radio line-up broadcast based on the DAB+ transmission standard to date began service to the Vienna region on 4 April 2018, and 15 stations were broadcasting as of year-end 2023. The operator's licence awarded by KommAustria to RTG Radio Technikum GmbH for MUX II, the Vienna regional multiplex, applies to the broadcasting region referred to as 'Großraum Wien und Teile des Wiener Umlandes' (greater Vienna and parts of neighbouring areas), with technical coverage of roughly 2.3 million people.

The channel lineup on the MUX II (Vienna) as of December 2023:

| | | |
|--------------------|------------------|---|
| ALPHA | MEGA Radio | Radio VM1 |
| arabella GOLD | NOW Radio | Sout al khaleej |
| ARBÖ Verkehrsradio | Radio Arabella | Technikum City |
| City23 | RADIO FANTASY | EWf-Emergency Warning Function (activated only in emergencies) |
| LoungeFM | Radio Radieschen | |
| lulu.fm | Radio SOL | |

3.4.2.4 Emergency warning functionality system via DAB+

In addition to 14 radio stations and one electronic programme guide, the emergency warning functionality (EWF) system that was developed for digital transmission routes is ready for service on the DAB+ MUX II in Vienna. The system, developed for digital transmission modes, immediately switches all of the multiplex programmes to an information channel in the event of a crisis or disaster. The information consists of an audible radio announcement and printed text information that is broadcast to DAB+ receivers with a display. At the same time, EWF-compatible radio receivers also power on automatically if they are in standby mode.

In 2021, RTR Media Division provided from its Digitisation Fund a grant for a project by RTG Radio Technikum GmbH to develop hardware and software enabling the EWF signals that are broadcast over DAB+ to also appear on electronic E-Ink information screens, such as those frequently available on public transport at bus and tram stops for displaying timetables.

3.4.2.5 Digital radio via DVB-T2

Besides the radio (DAB+) transmission standard, radio stations can also still be received in digital terrestrial mode via the DVB-T2 multiplexes A and F, which are used for terrestrial television. Such stations are thus also included in the digital terrestrial programme portfolios marketed in Austria under the name of 'simpliTV'. ORF radio stations Radio Österreich 1 (Ö1), Hitradio Ö3 and radio FM4 are broadcast without encryption via MUX A. Among private radio stations, Radio Maria is broadcast at no charge but with encryption by way of MUX F, which is also nationwide. Initial registration at no cost is required in order to receive the station.

3.4.3 Expansion of digital broadcasting (Digitisation Plan)

In 2022 and 2023, key points were implemented from the ordinance regarding a digitisation plan for the introduction, deployment and expansion of digital broadcasting and other media services (Digitisation Plan 2021), originally issued by KommAustria back in June 2021.

The second section of the 2021 Digitisation Plan addresses preparation of the tender for the licenses of local and regional multiplex platforms for digital terrestrial television (MUX C licenses), due to expire in 2022. In June 2022, two licences were granted (MUX C-Strudengau and MUX C-Turracher Höhe/Hirschenkogel); another four licences were granted in late 2022 (C multiplexes in Vienna, Vorarlberg, Tyrol and Ennstal).

The nationwide licenses for operating the D, E and F multiplexes for digital terrestrial television will expire in 2023. In this connection, KommAustria launched in April 2022 a consultation on an ordinance covering the principles for selecting operators, and, in July 2022, put the D, E and F multiplexes out to tender. KommAustria granted ORS comm GmbH & Co KG licences to operate the D and E multiplexes on 27 March 2023, and a licence to operate the F multiplex on 27 April 2023.

An opening for new standards beyond DVB-T2 and HD has been envisaged, in line with the objectives defined in the sixth section of the AMD-G: to support, enable and introduce, as well as deploy and expand digital broadcasting via all transmission platforms, while considering technical progress in transmission technologies. This move relates not only to tenders in the context of digital terrestrial television under the 2021 Digitisation Plan, but includes the use of new standards, even with existing licences. The 2021 Digitisation Plan is thus paving the way for new technologies in signal transmission (by means of 5G broadcast, for example) and also in the field of video transmission (such as in UHD quality).

Beyond this, the 2021 Digitisation Plan is continuing along the path that was forged by previous digitisation plans and is aligning itself with the market's requirements for the introduction, deployment and expansion of digital terrestrial radio based on the DAB+ standard. KommAustria therefore included in the plan the option of conducting an additional survey to sound out demand for additional DAB+ station slots, so that tenders for additional multiplex platforms can subsequently be issued in the event of corresponding demand. The survey was carried out in the period between 30 September 2021 and 28 October 2021. The assessment and, therefore, the results of the survey were published on 28 February 2022. The report highlighted the need for additional DAB+ transmission capacities. On 1 February 2023, KommAustria started the four-week consultation period for an ordinance on the principles for selecting offers to set up and operate additional multiplex platforms for the transmission of digital terrestrial radio programmes, in preparation for putting corresponding licences out to tender. As part of the tenders for the digital terrestrial multiplex platforms, the authorities have to issue an ordinance that defines the selection criteria that will be used in the event that several applicants apply.

On 21 April 2023, KommAustria published a 2023 ordinance on more detailed provisions of the selection criteria for issuing terrestrial multiplex licences for digital radio in the DAB+ standard (MUX-Auswahlgrundsätzeverordnung DAB+ 2023/MUXAGV DAB+ 2023). Between 30 June 2023 and 2 October 2023, KommAustria called for tenders for the planning, the technical set-up and operation of multiplex platforms for digital terrestrial radio based on the DAB+ standard. The invitation to tender included:

- a nationwide multiplex platform (MUX III) able to be customised for regions;
- local and regional multiplex platforms throughout Austria (with the exception of Vienna) that could be applied for in order to create new and expand existing local and regional coverage areas, and for which spectrum resources are available with nationwide coverage.

KommAustria announced the corresponding licence decisions for the first quarter of 2024.

3.5 Report on self-regulation of commercial communication in 2023

3.5.1 General information: legal framework of self-regulation

The Fund for the Promotion of Self-Regulation in Commercial Communication was established at the Austrian Communications Authority (KommAustria) in 2009. The fund has been allocated EUR 75,000 annually since 2021 (previously EUR 50,000).

As defined in Art. 33 Par. 2 KOG, KommAustria is to grant, upon application, an annual allowance to a recognised self-regulatory body for commercial communication in media. The purpose is to safeguard the independence of that body and ensure its ability to perform its duties in accordance with its articles of association, and to help the body in effectively implementing its decisions and resolutions.

In the face of changing conditions in the market for commercial communication in audiovisual media services, a number of changes were introduced by Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).

The EU Directive also encouraged Member States to make use of co-regulation and to support the promotion of self-regulation by means of an industry code of conduct when transposing the requirements. To ensure an appropriate level of protection, a uniform set of criteria to be fulfilled by self-regulatory bodies was also defined.

As part of the amendment of the KOG by Federal Law Gazette I No. 150/2020 to implement Art. 4a(1) of Directive (EU) 2018/1808 and the associated deployment of self- and co-regulation in Austria, criteria were specified for the recognition of a self-regulatory body and laid down in catalogue form in Art. 32a Par. 2 to Par. 4 KOG. In accordance with Recital 31 of the Directive, this is intended to ensure the effectiveness of self- and co-regulatory measures, in particular to protect consumers and public health (see explanatory notes to government bill in annex 462, enclosure to stenographic record of National Council, 27th legislative period, regarding No. 19 [Art. 32a, Art. 32b KOG]).

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

“Self-regulatory bodies

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

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

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

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

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

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

Also in implementation of European law requirements, as of 1 January 2021 the scope of duties for a self-regulatory body for commercial communication as defined in Art. 33 Par. 3a KOG was extended to the effect that, in order for the full funding amount to be granted, the conduct guidelines must contain provisions on inappropriate audiovisual communication relating to alcoholic beverages and, with respect to children, inappropriate audiovisual communication on food and beverages containing nutrients or substances with a nutritional or physiological effect, excessive intakes of which are not recommended as part of the overall diet, including in particular fat, trans-fatty acids, salt/sodium and sugar.

The aim of these conduct guidelines is, on the one hand, to effectively reduce the impact of audiovisual commercial communication relating to alcoholic beverages on minors and, on the other, to reduce the impact of the 'unhealthy' foodstuffs listed (known as HFSS: 'high in fat, salt or sugar') on children (see Art. 33 Par. 3b KOG).

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

The effectiveness of this self-regulatory system is then subjected to a subsequent audit by KommAustria. To facilitate such a follow-up audit, the legislation specifies the reporting requirements listed below.

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

As defined in Art. 33 Par.3c KOG, by 31 March of each following year, a recognised self-regulatory body for commercial communication is to submit to KommAustria a report addressing the effectiveness of the provisions of the conduct guidelines, as well as the type, number and outcome of complaints. The regulatory authority must publish an activity report presenting its assessment of and recommendations on effectiveness (effectiveness report).

In spring of 2024, the Austrian Society for the Self-Regulation of the Advertising Industry released the reports for the year 2023 in its role as legal entity for the Austrian Advertising Council.

In the following sections, the regulatory authority provides, on the basis of the reports it has duly received, a short overview of the legal framework for self-regulation in commercial communication, information on the self-regulatory body (Austrian Advertising Council), including its conduct guidelines and rules of procedure and their effectiveness. The authority then presents its assessment of and recommendations for improving the effectiveness of the self-regulation system.

3.5.2 Austrian Advertising Council

According to Art. 32a KOG, a recognised self-regulatory body is defined as a body with legal personality which ensures a broad representation of the providers concerned and fulfils the criteria of Art. 32a KOG.

Under the Society for the Self-Regulation of the Advertising Industry as its managing entity, the Austrian Advertising Council (ÖWR) represents such a recognised institution of self-regulation of commercial communication and has been receiving subsidies from KommAustria's fund earmarked for these goals since 2009.

According to the articles of association, the society's objective is to manage the self-regulation of the advertising industry in Austria, in order to ensure that the industry exceeds the statutory requirements for adherence to ethical and moral principles, in particular with the goals of protecting consumers from abuse in advertising and of promoting business ethics in general, while at the same time maintaining a commitment to competition and to the free expression of ideas. This overarching objective is supported by the society's wider goals, as described below.

- a. Strengthening the acceptance of self-regulation of the Austrian advertising industry, by means of a trustworthy self-regulation institution for the advertising industry in Austria that is accepted at the national and international levels.
- b. Establishing executive self-regulation in the form of the 'Austrian Advertising Council' as an independent assessment body and through a balanced membership structure for this body that reflects its purpose and a wide range of political interests.
- c. Establishing an avenue for consumers to lodge complaints.
- d. Further improvement of self-regulation based on ethical and moral criteria.
- e. Promoting the image of advertising in Austria.
- f. Protecting the freedom to engage in legally compliant, inoffensive and honest advertising.
- g. Promoting communication in times of economic and social change.
- h. Avoiding state-imposed advertising restrictions through close cooperation and coordination with the respective industry representatives and significant communication associations in Austria as well as through dialogue with stakeholders.

The members of the legal entity 'Society for the Self-Regulation of the Advertising Industry' of the Austrian Advertising Council are:

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

The ÖWR had an election year in 2023. The management board and the executive committee were affirmed unanimously. The management board of the legal entity comprises President Michael Straberger, Vice President (Ethics) Roswitha Hasslinger and Vice President Gerald Grünberger as well as 17 additional board members.

Additional bodies of the society are the general assembly, which serves as an assembly of members within the meaning of the Associations Act (Vereinsgesetz), the Austrian Advertising Council (ÖWR), which carries out the self-regulation of the Austrian advertising industry as an independently acting body, the Ethics Senate as an independently appointed council for evaluating the decisions of the ÖWR, the auditors and the society's internal arbitration tribunal for settlement of all disputes arising within the society.

The ÖWR itself consists, on the one hand, of roughly 242 experienced and representative individuals from the three core segments of the advertising industry (media, agencies, clients), as well as experts in other disciplines and specialist fields, such as lawyers, doctors and psychologists. The members were most recently selected in November 2023 through a two-tier selection process, which calls for the members of the ÖWR to be proposed by groups and finally elected by the general assembly for a term of three years.

Managing Director Andrea Stoidl is responsible for overall management of the administrative office.

3.5.3 Conduct guidelines (Code of Ethics)

The ÖWR's conduct guidelines in the form of the [Code of Ethics](#)²² (as amended in November 2023), including annexes, were revised with participation of the sector and have been generally accepted as a basis for decision-making and procedures by the main stakeholders, in particular the members of the responsible association who represent media, agencies, clients and higher-level institutions.

The members of the council decide on submitted complaints based on the Code of Ethics.

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

Within the Code of Ethics, the Basic Rules of Conduct set out general advertising principles as listed below.

"Advertising thus bears social responsibility and must take into account the rights, interests and feelings of individuals and groups of people.

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

²² <https://www.werberat.at/selbstdisziplin.aspx>

Additional basic rules of conduct exist for the areas of ethics and morality, violence, health, safety, the environment, illegal advertising practices and influencer marketing.

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

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

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

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

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

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

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

As of February 2021, the Code of Ethics now also includes guidelines concerning inappropriate audiovisual commercial communication during children’s programmes that relates to food products (see in particular point 2.2.1.4. together with the explanatory notes on the Code of Ethics). The guidelines now also apply to providers of video-on-demand services and video-sharing platforms and have been extended to other audiovisual channels, such as video clips and user-generated content.

“2.2.1.4. Inappropriate audiovisual commercial communication in the context of children’s programmes:

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

Audiovisual commercial communication means images (with or without sound) which are designed to promote, directly or indirectly, the sales of food products and which are included in, or accompany, a broadcast or a user-generated video in return for payment or for similar consideration or as self-promotion.

These include, but are not limited to, television advertising and on-demand audiovisual media service advertising, sponsorship, teleshopping and product placement.

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

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

2.2.1.4.1. General principles

- a) *Audiovisual commercial communication for such foods shall be designed in such a way that children's confidence in the quality of the products advertised is not abused.*
- b) *Audiovisual commercial communication for such foods shall not discourage a healthy, active lifestyle. In particular, it shall not suggest that an inactive lifestyle is preferable to physical activity.*
- c) *Audiovisual commercial communication for such foods shall not oppose or disparage a balanced and healthy diet. In particular, it shall not advise against or discourage the consumption of fresh fruit or vegetables.*
- d) *Audiovisual commercial communication for such foods shall not incite to excessive or exclusive consumption of the products advertised. Compulsive or pathological eating habits shall not be depicted in a favourable light.*
- e) *Audiovisual commercial communication for such foods shall not depict as inferior persons who refrain from consuming the advertised products.*
- f) *When advertising foods and beverages the excessive intake of which is not recommended as part of the overall diet, any favourable properties of such foods must not be emphasised.*

2.2.1.4.2. Special provisions

- a) *Audiovisual commercial communication for such foods shall not establish any link between improved academic performance and the consumption of such foods.*
- b) *Audiovisual commercial communication for such foods shall not create the impression that the possession or consumption of such foods would promote social success or ensure higher status and greater popularity among the children's age peers.*
- c) *Audiovisual commercial communication for such foods must not suggest that they have therapeutic or healing effects or prevent disease.*
- d) *Audiovisual commercial communication for such foods shall not promote immoderate consumption of such foods or negatively depict moderation or abstinence.*
- e) *Audiovisual commercial communication for such foods shall not contain negative statements about persons who, for whatever reason, wish to reduce their consumption of such foods.*
- f) *Audiovisual commercial communication for such foods shall not suggest that they could substitute for a meal. In particular, it shall not suggest that these foods can be a complete substitute for vegetables and/or fruit.*
- g) *Audiovisual commercial communication for reduced-calorie versions of these foods (light versions) shall not encourage excessive consumption of the reduced-calorie food.*
- h) *Audiovisual commercial communication for such foods and the information they provide on taste, portion size and the potential contribution of such foods to a balanced diet shall be truthful, complete and transparent.*
- i) *Audiovisual commercial communication for such foods and the information they contain about the amount of carbohydrate, fat or protein present in those foods shall not misleadingly suggest positive effects for an overall balanced diet (e.g. high carbohydrate foods shall not be promoted by referring to their low-fat or fat-free content and vice versa).*
- j) *Where such foods are directly associated with children's programmes (e.g. licensed products), related audiovisual commercial communication shall not be broadcast immediately before, during or after such programmes.*

- k) *Audiovisual commercial communication for such foods shall not cause physical or psychological harm to children.*
- l) *Audiovisual commercial communication for such foods shall not directly appeal to children to buy those foods by exploiting their inexperience and credulity.*
- m) *Audiovisual commercial communication for such foods shall not directly encourage children to persuade their parents or others to purchase those foods.*
- n) *Audiovisual commercial communication for such foods shall not, through explicit calls for purchasing, inappropriately exploit the special trust that children have in parents, teachers and other persons whom they naturally trust (including 'child idols') and thereby discourage the acquisition of a balanced diet and healthy lifestyle. It must also not suggest that the consumption of such foods directly enables children to gain popularity or social status comparable to that of such persons." (Note: excerpt without footnotes)*

In 2021, additional restrictions and clarifications were provided for audiovisual commercial communication for alcoholic beverages in the youth environment (see in particular point 2.2.2.2. of the Code of Ethics):

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

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

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

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

Audiovisual commercial communication for alcoholic beverages is inappropriate if it contradicts the following criteria:

- a) *Audiovisual commercial communication for alcoholic beverages must not encourage children and adolescents under the age of 18 to drink alcoholic beverages, or show adolescents drinking or encouraging others to drink.*
- b) *Audiovisual commercial communication for alcoholic beverages shall not be made in media where the majority of the editorial content is aimed at young people.*
- c) *Audiovisual commercial communication for alcoholic beverages shall not contain statements that refer to young people as not yet old enough to consume alcoholic beverages, thereby provoking them to drink.*
- d) *Audiovisual commercial communication for alcoholic beverages shall not depict persons claiming to have consumed alcoholic beverages already as an under-age person.*
- e) *If persons are shown in audiovisual commercial communication for alcoholic beverages, they must at least be young adults and appear as such." (Note: excerpt without footnotes)*

Stricter rules were also generally established for the areas of 'health' and 'alcohol' (see here point 1.4. and 2.4. of the Code of Ethics). Furthermore, the Appendix to the Code of Ethics contains under 'Alcohol' specific self-restrictions for the brewing and distilling industries.

Furthermore, a Food Review Board was established in 2021 to assist the ÖWR with complaints regarding inappropriate audiovisual commercial communication in the context of children's programmes, within the meaning of section 2.2.1.4. of the Code of Ethics of the advertising industry in its current version, by providing recommendations on the assessment of foods based on recognised nutritional guidelines.

The Anti-Sexism Advisory Board was established as early as 2012 and has since become integrated into the complaints procedure of the Austrian Advertising Council to share its opinions on complaints dealing with gender-discriminatory advertising.

Following a process involving broad discussion and consensus-seeking, the Code of Ethics was revised once again in 2023 and the section on the 'environment' was updated. These new guidelines set clear ethical standards for the advertising industry with regard to the environment and thus contribute towards ensuring the accuracy and credibility of advertising claims relating to the environment (see section 1.6. "ENVIRONMENT" of the Code of Ethics).

In addition, a voluntary self-regulatory framework was set out for 'tobacco-free nicotine pouches' with the content included in full as an annex to the Austrian Advertising Council's Code of Ethics.

3.5.4 Rules of procedure

The rules of procedure (as of 16 December 2022) define the responsibilities of the Advertising Council, the right to appeal and the course of the procedure as well as the possible sanctions in the event of failure to comply with the rules of conduct.

The [rules of procedure](#)²³ were revised with participation of the sector and are generally accepted as a basis for decision-making and procedures by the main stakeholders, in particular the members of the responsible association working in media, as well as by agencies, clients and higher-level institutions.

In accordance with Article 13 of the rules of procedure, the ÖWR issues decisions that essentially fall into three categories:

1. No grounds for intervention
2. Raising awareness – request to proceed more sensitively in future when designing advertising measures or individual subjects
3. Request to immediately stop the campaign or immediately change the subject

Furthermore, the rules of procedure provide for a graduated catalogue of sanctions:

"Article 15 Sanctions"

In accordance with the requirements of the KommAustria Act amended at the end of 2020, based on the new version of the applicable EU Audiovisual Media Services Directive (EU AVMSD) which entered into force in December 2018, a graduated catalogue of sanctions with escalation levels is provided for the enforcement of stop decisions. The client and/or the agency shall be informed in advance of the possible sanctions in writing.

- (1) *If the party in question fails to comply in due time with the request to amend or discontinue the advertising measure and to submit the required proof pursuant to Article 14 (2), (3) and (4), the Austrian Advertising Council may:*
 - a) *Withdraw the Advertising Council Quality Seal ("Pro-Ethik seal") and for one year block the client and the agency from (re-)applying for the seal.*
 - b) *Issue a public warning: the decision is communicated by means of a press release to trade and business media, media editors from the general media and, if applicable, regional media.*

²³ <https://www.werberat.at/verfahrensordnung.aspx>

- (2) *In the event of a repetition of a stopped subject, the client of the advertising measure and/or the agency shall be requested in writing to change or stop the advertising measure within a period of two working days. In the event of failure to comply with the request to amend or discontinue the advertising measure, the Austrian Advertising Council may:*
- a) *Implement sanctions in accordance with Article 15 (1) and (2).*
 - b) *In addition to this, regional interest groups from advertising, trade, industry and commerce as well as media as advertising media and the corresponding media associations may also be informed.*
- (3) *In the event of a second repetition of a stopped subject, the client of the advertising measure and/or the agency shall be requested in writing to change or stop the advertising measure immediately (without setting a further deadline). In the event of failure to comply with the request to amend or discontinue the advertising measure, the Austrian Advertising Council may:*
- a) *Implement sanctions in accordance with Article 15 (1) and (2).*
 - b) *Furthermore, the Austrian Advertising Council may draft a press release in coordination with the Schutzverband gegen unlauteren Wettbewerb (Association Against Unfair Competition) and send this to the specialist and business media, media editorial offices of the general media and, if applicable, the regional media.*
- (4) *In the event of a second stop decision against an undertaking (in relation to a different campaign), action shall be taken by the business office in accordance with Article 14 (1), (2), (3), (4) and (6). In the event of failure to comply in due time with the request to amend or discontinue the advertising measure and to submit the required proof pursuant to Article 14 (2), (3) and (4), the Austrian Advertising Council may:*
- a) *Implement sanctions in accordance with Article 15 (1), (2) and (3).*
- (5) *Third stop decision against an undertaking: In the event that the Austrian Advertising Council pronounces within one year a third stop decision on advertising measures taken by an undertaking, the following procedure shall be followed:*
- a) *The stop decision shall be handled by the business office in accordance with Article 14 (1), (2), (3), (4) and (6). In the event of failure to comply in due time with the request to amend or modify the advertising measure, the business office shall proceed in accordance with Article 15 (1), (2), (3) and (4).*
 - b) *Furthermore, the Austrian Advertising Council may in coordination with the Association Against Unfair Competition draft a press release under the assumption of 'unfair business practices' and distribute it to the specialist and business media, media editorial offices of the general media and, if applicable, the regional media."*

In December 2022, the rules of procedure of the ÖWR were amended with the unanimous approval of the management board.

Article 2 (2) of the rules of procedure was detailed as follows: "The Austrian Advertising Council's scope of competence is limited to commercial advertising, subject to the provisions of (3) lit. b."

Furthermore, Article 2 (3) lit. b of the rules of procedure was modified as follows:

"The Austrian Advertising Council is responsible [...]

- b) *for professional communication to inform citizens (public information) via public federal and provincial agencies as well as municipal and civic authorities (expanded scope of responsibility)."*

Pursuant to Article 16 of the rules of procedure, the Ethics Senate decides on any written objections to a 'stop request'.

3.5.5 2023 Annual Report

In the [annual report of the ÖWR](#)²⁴ (see Art. 32a Par. 2 No. 5 KOG), which is published (in German) on the website of the ÖWR, all activities, objectives as well as the complaint scorecards are discussed in detail and clearly presented.

3.5.5.1 2023 complaints scorecard

With regard to complaints procedures, the 2023 annual report shows that in 2023, 334 complaints were lodged with the ÖWR, resulting in 235 decisions (2022: 503 complaints, 264 decisions; 2021: 413/258, 2020: 411/241; 2019: 338/206; 2018: 316/194).

In 15 cases, a request was made to stop the subject or campaign immediately in 2023 (2022: 9, 2021: 11; 2020: 11; 2019: 22; 2018: 12). In eight cases, this request was complied with immediately or within the first extended deadline.

In 18 cases, the ÖWR handed down decisions involving "raising awareness – request to proceed more sensitively in future when designing advertising measures or individual subjects".

As in previous years, the companies receiving these decisions showed a willingness to cooperate with the ÖWR, as is reflected in the high number of subjects that were withdrawn immediately. In the end, 20 companies (2022: 38) withdrew or changed their advertising measures immediately after initially being contacted by the ÖWR business office.

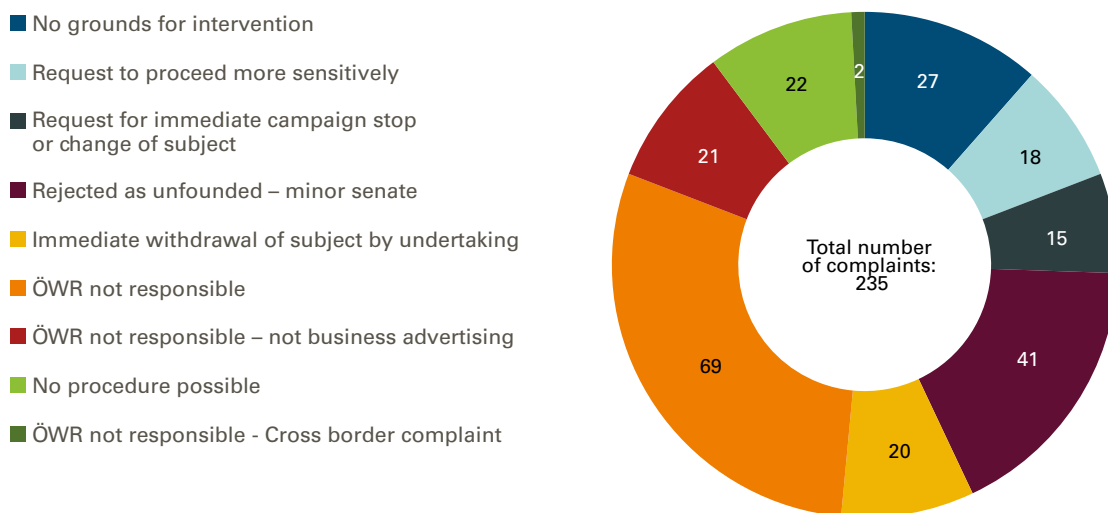
The ÖWR determined that it was not responsible in 69 cases. These complaints were evaluated by the administrative office with regard to competence and some were forwarded, with the consent of the complainants, for further examination to the competent bodies, such as the Unfair Competition Supervisory Association, the Federal Office for Safety in Healthcare, the Federal Ministry of Health and the PR Ethics Council or Press Council.

The ÖWR was not able to act in 21 cases not involving commercial advertising. Two cases were forwarded to the competent institutions in other countries since they were 'cross-border complaints.'

In 22 cases, the procedure could not be concluded because the required documents and information were not provided by the complainants even after multiple requests.

24 <https://werberat.at/layout/Geschaeftsbericht%202020.pdf>

Figure 20: Summary of ÖWR Decisions in 2023

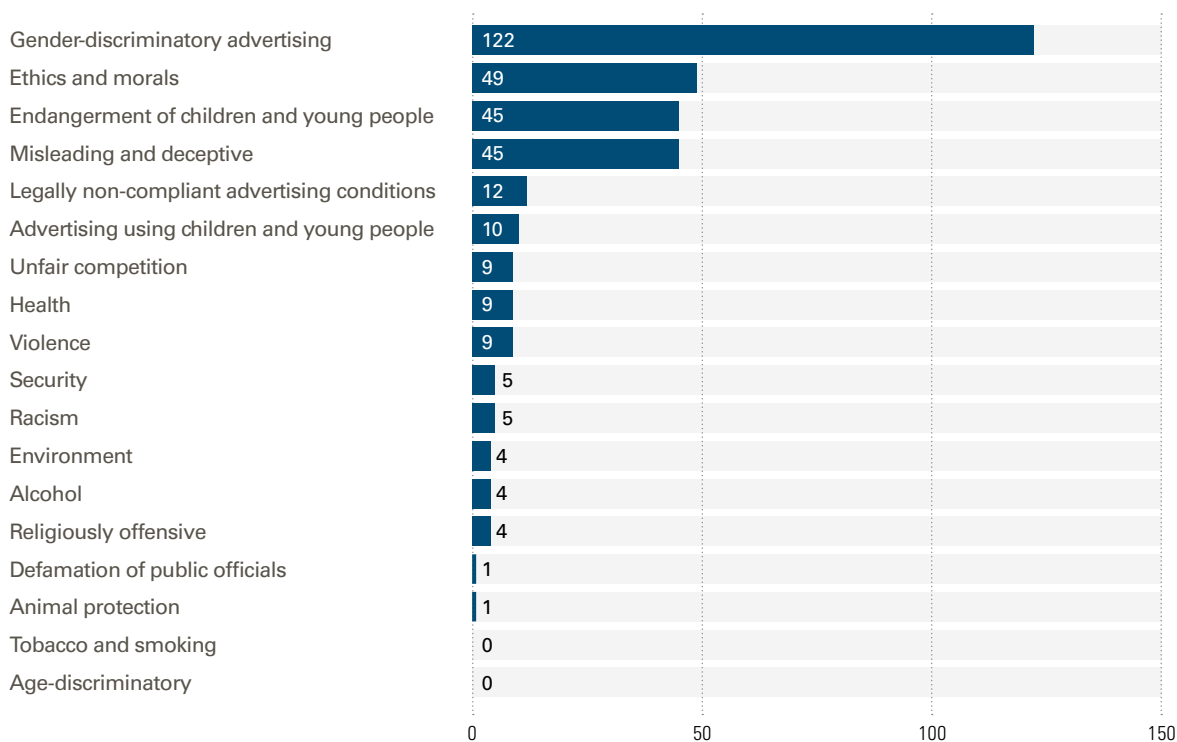


Source: 2023 ÖWR Annual Report

The annual comparison reveals that significantly fewer complaints were received in 2023 than in the previous year (-169) and fewer decisions (-29) were accordingly also issued. The number of decisions has risen steadily in recent years. As a result, it is still too early to predict how the complaint volumes will develop over time.

In 2023, complaints were lodged for reasons as follows:

Figure 21: Grounds for complaints in 2023



Source: 2023 ÖWR Annual Report

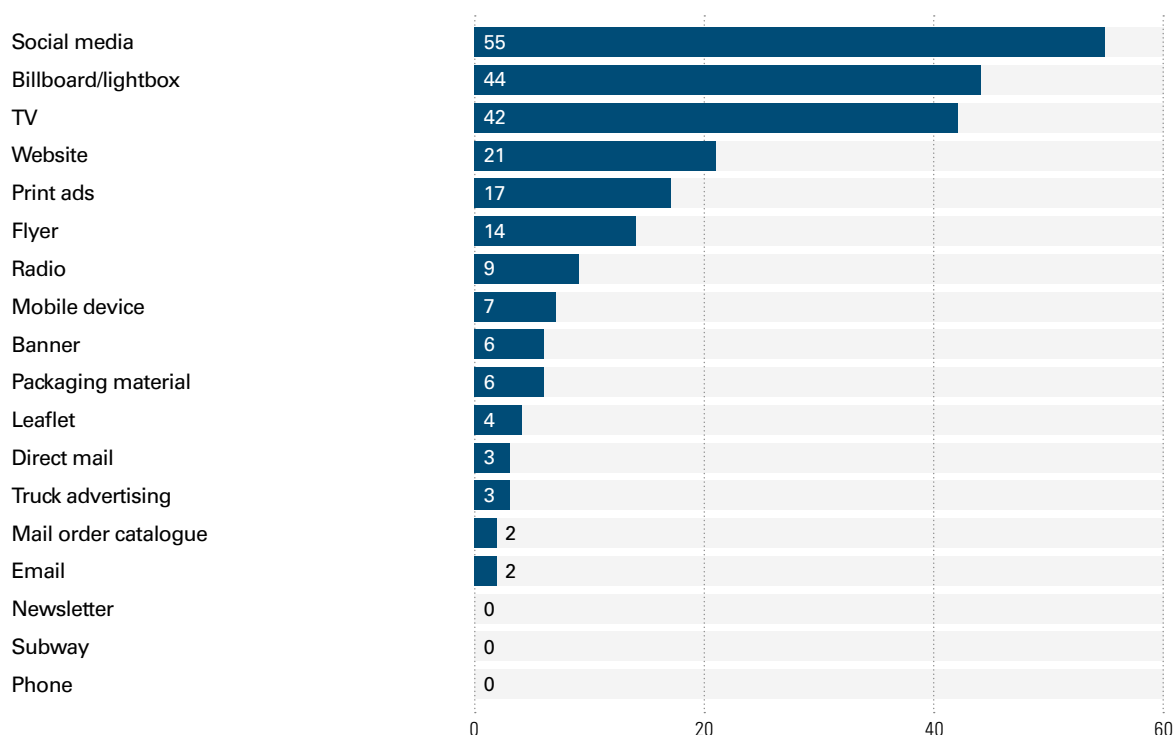
This shows that the largest volumes of complaints received in 2023 fell into the categories of 'gender-discriminatory advertising' at 122 complaints (2022: 117) and 'ethics and morals' at 49 complaints (2022: 146). As reasons for complaints, 'misleading and deceptive advertising' and 'endangerment of children and young people' were in third place in 2023 at 45 complaints each (2022: 38).

It can be seen in the annual comparison that the two most common grounds for complaint remained the same over the last four years. The complaint category 'gender-discriminatory advertising' held the top place in 2023, taking over from 'ethics and morals', which was the leading category in the previous year.

A total of twelve complaints were received in the category 'legally non-compliant advertising conditions' (2022: 2). 'Advertising using children and young people' as a reason for complaint has become less common with just ten complaints (2022: 16). Nine complaints fell into the categories of 'health' (2022: 19), 'unfair competition' (2022: 6) and 'violence' (2022: 73). This was thus a significant decline in the number of complaints alleging 'violence'. The categories 'safety' (2022: 2) and 'racism' (2022: 6) were targeted by five complaints each. A total of four complaints fell into the categories 'environment' (2022: 1), 'alcohol' (2022: 1) and 'religiously offensive' (2022: 2).

All of the other complaint categories received just one complaint or no complaints at all.

Figure 22: Advertising media 2023



Source: 2023 ÖWR Annual Report

With regard to the advertising media involved, the most decisions made in 2023 concerned 'social media ads'. In total, 55 decisions related to advertising measures in social media (2022: 34). The advertising media category of 'poster/citylight' once again took second place at 44 decisions (2022: 49). A total of 42 decisions (2022: 77) related to TV spots. There were significantly fewer decisions in the 'TV' media category than in previous years, putting it at third place.

3.5.5.2 Additional activities

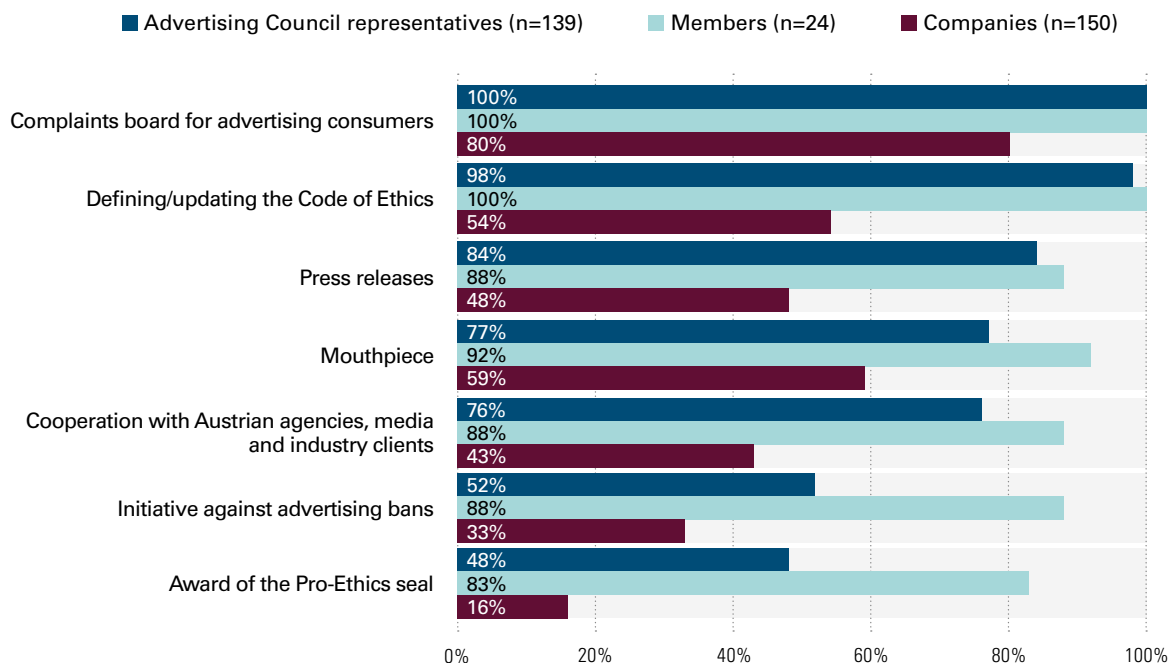
In 2023, the ÖWR held a B2B survey on awareness throughout the industry. The aim of this B2B survey was to gain further insight into the fulfilment of objectives and the effectiveness of the association, supplementing the consumer survey that is conducted every three years.

In detail, representatives who are themselves active on the Advertising Council or who are members of it (self-assessment), and advertising companies (external assessment) took part in a B2B survey (online or by telephone) that ascertained, among other things, their level of awareness of the ÖWR, their attitude towards self-regulation, the importance of self-regulation, the role of the Advertising Council, and the public profile and assessment of the Code of Ethics as well as of the services offered by the Advertising Council.

The survey shows that the Austrian Advertising Council is primarily considered as a 'self-regulatory authority' or as a contact point for 'consumer complaints'. Correspondingly, there is a high level of awareness of the council's responsibilities as 'complaints board for advertising consumers' and for 'updating and drafting the Code of Ethics'. 'Press release' and the 'mouthpiece function' score highly among both representatives and members of the council, as does national cooperation with agencies, clients, media and industry clients. These are tasks that are little known among those companies from outside the industry that were surveyed. Council representatives and members are very aware of the Code of Ethics, the online complaint tool and even the homepage, while companies outside the industry are less aware of these.

The Austrian Advertising Council is perceived similarly by all target groups. The Austrian Advertising Council is considered to be extremely 'reputable' and 'competent'. Within the industry, it is also referred to using terms including 'recognised', 'friendly' and 'contemporary'. Among all target groups, self-regulation of the industry and the ethics and morals within the advertising industry are considered to be very important. The respondents expect the Austrian Advertising Council to continue to grow in importance in future.

Figure 23: Results of B2B survey on awareness of tasks
Which of the following Advertising Council tasks are you aware of?



Source: 2023 ÖWR Annual Report

In line with the results of the survey, the ÖWR implemented initial continued development measures in late 2023. In detail, this involved preparatory work to revise the online decision-making tool, with the focus on improving operability on mobile devices, more practicable decision entry and improving the space for dialogue. The inclusion of AI systems, which are primarily intended to make the complaint handling process in the administrative office more efficient, is also under consideration.

In terms of communication, the main focus for the coming year will be to increase awareness of the services offered. As a result, the Pro-Ethics seal, the Pre-Copy-Advice and even the results of the reports and Advertising Council Insights ("Do's & Don'ts in Advertising") are increasingly being communicated externally.

The ÖWR had an election year in 2023. The management board and the executive committee were affirmed unanimously. The new decision-making body for the Austrian Advertising Council was elected for the term of office from 2023 to 2026: as part of a two-stage selection procedure, 242 communications experts from agencies, media, advertising businesses and top representatives of educational centres, NGOs and communication associations were nominated and appointed by the general assembly of the ÖWR association.

'Young Advertising Council members' play an important role in the ÖWR. The young generation showed continued interest in the ÖWR in 2023. New members are being invited to the committee on an ongoing basis. By the end of 2023, there were just over 100 members.

3.5.5.3 ÖWR's outlook for 2024

In 2024, the ÖWR will focus its work on influencers and content creators, revising the online complaint and decision-making tool, and on the consumer survey for 2024. Furthermore, 2024 is the ÖWR's anniversary year.

The responsibility of influencers or content creators over children and young people, as well society as a whole, will play a key role in the expansion of the self-regulation concept. The starting point for this is a report that was commissioned by the St. Pölten University of Applied Sciences.

The online complaint and decision-making tool has been in use for over 15 years and has been gradually revised over time. The objective is to optimise the tool, to make it user-friendly for members of the council on, as well as to enhance efficiency of the complaint process within the administrative office. It will be switched over mid-summer of 2024.

The fourth issue of the consumer survey on the attitudes of the Austrian population towards advertising will be issued in 2024. This long-term, comparative report provides information about how advertising is perceived by consumers and examines the direct correlation between design factors in advertising and actual purchasing behaviour.

3.5.6 Evaluation, assessment and recommendations by KommAustria to improve effectiveness

In an evaluation report to assess the fulfilment of objectives by the ÖWR – Austrian Advertising Council in accordance with Art. 32a KOG, dated 15 March 2024, external expert Prof. Dieter Scharitzer states that the ÖWR fulfils the requirements set out in Art. 32a KOG for a recognised self-regulatory body. KommAustria shares this assessment.

The objectives of self-regulation (in particular protecting consumers from abuse in advertising, preserving ethical and moral principles, promoting ethics in business in general) are reflected both in the articles of association (see Art. 2 Objectives of the Association) and in the Code of Ethics. Based on the membership of the professional associations and federations, broad representation of providers concerned obviously exists. All relevant interest groups in the field of commercial communication in media are represented. Both the self-regulatory body and the Code of Ethics and rules of procedure of the ÖWR are generally recognised.

All information can be found on the ÖWR website in an easily accessible and easy-to-understand form. Full transparency in respect of decision-making criteria, procedures and the enforcement of decisions is guaranteed.

The Code of Ethics also contains the provisions required under Art. 33 Par. 3a and Par. 3b KOG concerning inappropriate commercial communication for alcoholic beverages and 'unhealthy' foods. The necessary expertise is provided by the Food Review Board.

The rules of procedure available on the website provide a regulated framework for the effective handling of complaints (Articles 1 to 13 of the rules of procedure) and the enforcement of decisions based on these, including the imposition of the above-mentioned sanctions (Articles 14 to 17 of the rules of procedure). In accordance with the objective of the amendment to the KOG, the sanctions by the ÖWR were supplemented and specified within the framework of the rules of procedure, in particular within the framework of a graduated catalogue of sanctions for enforcement in the case of 'stop decisions' (Article 15 of the rules of procedure).

The Code of Ethics and the rules of procedure ensure that the ÖWR is able to effectively handle complaints and enforce its decisions, including by imposing effective and proportionate sanctions in the event of breaches of the conduct guidelines as defined in Art. 32a Par. 2 No. 4 and Par. 3 KOG.

The 2023 annual report also attests to the effective handling of complaints. The 15 requests by the ÖWR to 'immediately stop the subject or campaign' were largely complied with promptly or within the first extended deadline.

Also worth mentioning is the strong willingness to cooperate with the ÖWR. In 2023, 20 companies withdrew or changed their advertising measures immediately after initially being contacted by the ÖWR business office (2022: 38).

Overall, a considerably lower volume of complaints was received by the ÖWR in 2023 compared with the previous year. The decline in complaints (-169) from 2022 (503) to 2023 (334) interrupted the previous steady increase in decisions for the first time in eight years. The 334 complaints led to 235 decisions (-29).

No complaints have been submitted to the ÖWR so far with regard to the regulations of the Code of Ethics introduced in 2021, concerning inappropriate audiovisual commercial communication for certain foods in children's programmes as well as inappropriate audiovisual commercial communication for alcoholic beverages in the youth environment (see point 3). Against this backdrop, it appears worthwhile and necessary to continue raising awareness in this area.

With regard to the effectiveness of the conduct guidelines, further attention needs to be focused on preventive measures such as positive certification with the 'Pro-Ethics seal' and the 'Pre-Copy Advice' service (advance check of unreleased advertising based on the Code of Ethics) as well as awareness-raising measures at the level of consumers and throughout the advertising industry in general.

In summary, KommAustria is of the opinion that – based on the reports and documents submitted – the present system of self-monitoring by the ÖWR is generally an effective system within the meaning of the legal requirements. The fulfilment of the legal prerequisites of Art. 32a Par. 2 and Par. 3 KOG, the number of complaints brought before the ÖWR and the decisions taken, as well as the high level of awareness attributed to it warrant the conclusion that the ÖWR fulfils its duties effectively.

The Code of Ethics and the rules of procedure have generally proven themselves as practical tools and have been further improved as necessary. The Code of Ethics of the ÖWR in the area of environment were updated in December 2023. The new guidelines set ethical standards for the advertising industry with regard to the environment and thus contribute towards ensuring the accuracy and credibility of advertising claims relating to the environment. Furthermore, a voluntary self-regulation framework for tobacco-free nicotine pouches were defined.

KommAustria generally welcomes the planned focus topics for 2024 ('influencers', a 'revision of the online complaint and decision-making tool', and a 'consumer survey for 2024').

3.6 Report on major online platforms (Art. 89c UrhG)

3.6.1 EU legal framework

The amended 2021 Copyright Act (UrhG), Federal Law Gazette (FLG) I No. 244/2021, entered into force in full on 1 March 2022. This amendment transposed into national law Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (DSM Directive).

In Art. 17, the DSM Directive regulates the “use of protected content by online content-sharing service providers”, the latter being understood to mean major online platforms such as YouTube, who facilitate the sharing of content protected by copyright or related rights by their users. In a departure from previous EU legislation in this area, this provision envisages holding these kinds of service providers responsible for legal infringements perpetrated by their users in certain circumstances. This is the case if, in the event of no authorisation from a rights holder being granted, these providers do not make their best efforts to ensure that the specific works for which the rights holders have provided the necessary information remain unavailable on their platform and if, following a substantiated notice from the rights holders, the providers do not disable access to the affected content or remove this content from their platforms (‘take down’) and prevent future uploads of the same (‘stay down’).

This new responsibility for such platforms therefore essentially depends on cooperation between these platforms and the rights holders. To ensure that the interests of platform users are also taken into account, Art. 17 of the DSM Directive also envisages that content uploaded by users which does not constitute an infringement of copyright or related rights must remain available. Uses expressly permitted by the text of the law include quotation, criticism, review, use for the purpose of caricature, parody or pastiche. Service providers are also to establish an internal complaints procedure: these platforms are to provide their users with an effective procedure for lodging complaints about the unjustified disabling of access to or removal of content. In their terms and conditions, platforms are also to inform their users that they can use content under exceptions to copyright and related rights provided for in EU law.

The provisions of Art 17 of the DSM Directive were not only a highly disputed issue during the legislative procedure but also triggered an action for annulment brought before the European Court of Justice (ECJ). In this action, it is argued that these provisions de facto oblige platforms to conduct preliminary checks and filtering of content, and therefore limit the rights of users to freedom of expression and information as guaranteed by Art. 11 of the Charter of Fundamental Rights of the European Union. Furthermore, the claimant submits that this limitation is disproportionate, particularly in light of the obligations to protect the interests of users as contained within these same provisions (ECJ, Case C-401/19, *Republic of Poland v European Parliament and Council of the European Union*, note 84 ff.). Accordingly, Member States are to especially focus on the effective implementation of these obligations when transposing Art. 17 of the DSM Directive.

3.6.2 Transposition in Austria

In amending the existing legislation, Austrian lawmakers included liability for “providers of major online platforms” (Art. 18c UrhG) in Art. 89a UrhG and protection for the interests of users in Art. 89b UrhG. To additionally monitor compliance with certain obligations contained within these provisions, Art 89c UrhG mandates KommAustria with a supervisory role.

This applies to:

- the obligation of platform providers, as part of their cooperation with rights holders, to introduce no measures that work to achieve the systematic and large-scale disabling of access to content uploaded by users, where such content involves no infringement of copyright or related rights;
- the obligation to provide users with information about the measures adopted in the course of cooperation with rights holders;
- the obligation to provide users with online forms that can be used as part of the content upload process itself to state that their usage is legally permitted – because the content constitutes a quotation, criticism, review, caricature, parody or pastiche, for example;
- the obligation to establish an effective procedure for submitting complaints about the unjustified blocking or removal of content uploaded to the platform by its users.

Austrian policymakers have therefore decided not to rely on the enforcement of these obligations by individual users pursuing suits under civil law but, in light of their importance for all users of such platforms (systemic relevance), to establish a regulatory oversight role for KommAustria. With the powers granted by this role, KommAustria can require platforms to establish legal compliance and take corresponding precautions to avoid future legal infringements. In the event of a repeat offence, the regulator may also impose fines of up to EUR 1 million.

Supervision by KommAustria presupposes, however, that users have first made use of the internal procedure to submit a complaint to the platform provider. If this complaints procedure is unsuccessful, users are then required to appeal to the complaints board as set up by RTR. KommAustria can only take action as a supervisory authority in the context of these appeals – details of which are reported to KommAustria regularly by RTR. Accordingly, KommAustria is therefore granted powers to intervene in matters that have been brought before the complaints board once these cases have taken on systemic relevance.

With this approach to transposition, Austrian policymakers have therefore decided to adopt a graded system of co-regulation, as previously with the KoPI-G in another context.

3.6.3 Evaluation

Pursuant to Art. 89c Par. 8 UrhG, KommAustria, in its role as a supervisory authority, is to evaluate the effectiveness of the measures and duties of conduct as well as related developments during the two preceding calendar years, within the framework of the activity report to be prepared for 2023 and with the support of the complaints board. This evaluation is also to include the availability of uploaded works or other protected items that do not involve an infringement of copyright law or related rights and, in particular, must also assess any systematic and large-scale impairments that act to oppose such availability.

As can be ascertained from the activity reports of the complaints board, no appeals were lodged with the board in relation to providers of major online platforms during the evaluation period.²⁵ Given these data, no evaluations are possible in terms of the efficiency of the measures and duties of conduct or in terms of the availability of content uploaded by users that does not involve an infringement of copyright or related rights.

25 See 2022 Activity Report and this Activity Report.



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Activities of RTR Media Division

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04 Activities of RTR Media Division

4.1 Complaints board annual report

4.1.1 Summary for 2023 – the four types of complaints procedure

By way of an overview of 2023: a total of 18 complaints procedures were initiated, all of them involving communications platforms.

Table 36: Submitted complaints in 2023

| Topic | Number of complaints submitted (18 in total) |
|--------------------------|--|
| Communications platforms | 18 |
| Video sharing platforms | 0 |
| Major online platforms | 0 |
| Accessibility problems | 0 |

4.1.1.1 Process flow for a conciliation procedure

Conciliation procedures are initiated at the request of end users.

A written request must be submitted in German and, if feasible, using the e-government application. Procedures are handled using a digital process.

Users can apply to the complaints board in the cases listed below. The dispute must relate to one of the following:

- A reporting and/or review procedure utilised by a communications platform (disputes between a user and a service provider)
- A reporting and assessment system, the deployed parental control system, the tools used for marking commercial audiovisual communications or the complaints system utilised by a video sharing platform (disputes between a user and a service provider)
- Accessibility problems affecting the content of an audiovisual media service

Any dispute must directly involve Austrian (domestic) users.

If the conciliation request is unclear or inconsistent, or lacking important documents or statements, the complaints board has the option of granting the applicant a grace period of at least five working days to submit a revised application or to provide any such documents or statements that may have been omitted.

Both the participation in the complaints procedure and an acceptance of the proposed solution are voluntary.

The complaints board is tasked with mediating between the parties and identifying satisfactory solutions. As per the explanatory notes to the government bill,²⁶ items addressed may include:

- Proposed solutions for accelerating the procedure at the platform provider
- Guidance on usability requirements
- Requirements relating to decisions taken by service providers to classify or handle a specific content item, e.g.:
- Level of information detail
- Content of such items

To date, cases with successful outcomes have been decided in favour of the complainant.

4.1.1.2 Procedural rules

The complaints board's procedural rules can be accessed from the following link on the RTR website (in German): https://www.rtr.at/medien/aktuelles/veroeffentlichungen/Veroeffentlichungen/Sonstiges/verfahrensrichtlinien_beschwerdestelle/Verfahrensrichtlinien.de.html

The procedural rules must be aligned with the basic principles of Art. 6 Par. 2 and Par. 6 No. 1, Art. 7 Par. 1, Art. 8 Par. 1 No. 1 and 2, and Par. 2 of the Alternative Dispute Resolution Act (ASTG, Federal Law Gazette I No. 105/2015).

4.1.1.3 Complaints procedures relating to communications platforms

Pursuant to Art. 3 Par. 1 of the Communications Platforms Act (KoPI-G), users can address the complaints board with alleged deficiencies in the reporting procedure as referred to in Art. 3 Par. 2 No. 1 to 3 KoPI-G, or in the review procedure referred to in Art. 3 Par. 4 KoPI-G.

While most of the complaints received by the complaints board did indeed concern communications platforms as defined by the KoPI-G, the body itself was not in fact competent in most cases.

The complaints board was not competent in nine cases. In those cases, the requests were dismissed and either forwarded to the competent authority or the complainants were directly referred to other authorities.

One complaint involved videos on a communications platform that also constitutes a video sharing platform within the meaning of the Audiovisual Media Services Act (AMD-G). Pursuant to Art. 1 Par. 4 KoPI-G, providers of video sharing platform services (Art. 2 No. 12) are exempted from the obligations relating to broadcasts (Art. 2 No. 9) and to user-generated videos (Art. 2 No. 7) as set out in the Communications Platforms Act. The complaint was therefore dismissed.

In the case of two complaints, the issue was resolved before the complaints board became involved. In both procedures, the request was subsequently withdrawn by the complainant.

In one case, the complainant failed to comply with instructions to revise their request and the request was therefore dismissed after the expiry of a two-week grace period.

Two cases were concluded with a positive outcome following the intervention of the complaints board.

²⁶ Explanatory notes to government bill 463, enclosure to stenographic record of National Council, 27th legislative period, 11.

One complaint was dismissed in accordance with the complaints board rules of procedure. Specifically, Art. 6 Par. 1 states that the board may not accept a conciliation request if the complaint or corresponding claim is being or has already been considered by a court or an alternative dispute resolution body within the meaning of Art. 4 Par. 1 of the Alternative Dispute Resolution Act (AStG).

In one case, the service provider declined to participate in the procedure and the procedure was consequently dropped.

One request was made anonymously, seeking to air grievances about the ORF. This case could not be referred back to the complainant due to a lack of contact details.

4.1.1.4 Complaints procedures relating to video sharing platforms

The provisions of Art. 54c ff. of the AMD-G apply to video sharing platforms run by providers domiciled in Austria within the meaning of Art. 3 No. 3 of the E-Commerce Act (ECG).

In 2023, no complaints were received concerning video sharing platforms.

4.1.1.5 Complaints procedures relating to accessibility issues

During the reporting period, the complaints board received no complaints alleging a lack of accessibility of content provided by audiovisual media services.

4.1.1.6 Complaints procedures relating to major online platforms

No complaints were received in relation to major online platforms during the period under review.

4.1.2 Events

During the reporting period, the event 'Media literacy – "education" as a key factor and a task for society as a whole' was organised jointly with the Austrian Communications Authority.

On 9 November 2023, using two separate formats (presentation and panel discussion), industry experts and authors of the media literacy report introduced and discussed wide-ranging aspects of this issue. Guest speakers also contributed their professional experience and insights. The event was attended by Maren Beaufort (Austrian Academy of Sciences), Michaela Dallinger BEd (Vienna Department of Education), Sabine Frank (Head of Governmental Affairs and Public Policy YouTube DACH & CEE, Google), Sonja Gabriel (Krems University College of Teacher Education), Idan Hanin (ORF), Andreas Huber-Marx (secondary school teacher), Claudia Isep (UNESCO), Leopold Lugmayr (Democracy Workshop, Austrian Parliament), Helga Schwarzwald (Association of Austrian Community Broadcasters) and Stefan Vater (Association of Austrian Adult Education Centres).

4.2 Management of funds and grants

4.2.1 Digitisation Fund

The Digitisation Fund is allocated EUR 0.5 million each year. The purpose of the fund is to promote digital transmission technologies and digital applications based on European standards relating to broadcasting. Funding is derived from those broadcasting fees which, while collected jointly with ORF programme fees, are primarily allocated to the federal budget.

4.2.1.1 DAB+ grants

This type of grant is aimed at the introduction of regular digital broadcasting service for radio programmes using the DAB+ standard. The funding provided covers a maximum of 50% of the planning, procurement and setup costs for technical infrastructure (technical broadcasting costs), or broadcasters' share of the fees required to be paid to cover the technical costs of broadcasting DAB+ radio programmes. The latter portion refers to the fees that the multiplex operators charge to broadcasters of digital terrestrial radio for technical broadcasting of the respective radio programmes.

Funding of the rollout of regular DAB+ service that began in 2018 was continued in the reporting period, with a total of five stations collectively receiving EUR 276,733 during 2023.

In the course of 2023, Welle Salzburg GmbH, Radio Austria GmbH and Antenne Salzburg GmbH applied for funding to support the broadcasting of their stations via the national MUX I multiplex platform, while Radio Event GmbH and Planet SOL applied for funding to support the broadcasting of their stations via the regional multiplex platforms.

4.2.1.2 Grant for a nationwide media and public relations project to promote the 2023 Digital Future of Radio

The Verein Digitalradio Österreich association submitted a project for measures aimed at raising public awareness about the digital transmission of radio broadcasts.

This project aims to introduce the concepts behind the DAB+ digital radio standard to as many people in Austria as possible, while informing about all of the options and benefits available to them by switching to terrestrial digital radio reception. Funding was approved to cover 50% of the costs.

4.2.1.3 Notes on the 2023 annual accounts

Based on the statement for the trustee account as at 31 December 2022, and considering the credits and disbursements as well as the grants already approved but not yet disbursed, EUR 429,278.79 was available in the fund as at 31 December 2023 (see the table below for details).

Table 37: Digitisation Fund – excerpt from the 2023 annual accounts

| Austrian Digitisation Fund | (EUR) | (EUR) |
|--|-------------|---------------------|
| Trustee account balance as at 31 December 2022 | | 1,738,296.60 |
| Credits | | |
| Revenues received in 2023 | 500,000.00 | |
| Deferred payment/repayment of administrative expenses from 2022 | 42,883.56 | 542,883.56 |
| Grant repayments | 0.00 | |
| Debits | | |
| Interest/fees | 16,738.12 | |
| Administrative expenses and RTR participation in projects in 2023 | -165,600.00 | |
| Grant disbursements in 2023 | -522,423.92 | -671,285.80 |
| Balance resulting from initial amount, credits and debits in 2023 = Trustee account balance as at 31 December 2023 | | 1,609,894.36 |
| Outstanding administrative expenses in 2023 and RTR participation in projects in 2023, for repayment in 2024 | | 74,133.65 |
| Balance of trustee obligations as at 31 December 2023 | | 1,684,028.01 |
| Approved grants pending disbursement | | |
| Committed funds from 2020 | -4,287.12 | |
| Committed funds from 2021 | -449,577.25 | |
| Committed funds from 2022 | -646,267.93 | |
| Committed funds from 2023 | -154,616.92 | -1,254,749.22 |
| Funds available in 2024 | | 429,278.79 |

4.2.2 Austrian Television Fund

The Austrian Television Fund provides funding for Austrian television productions. Funding supports the production and commercial exploitation of television films, series and documentaries. It was set up at RTR in 2004 by the Austrian federal government to provide support to the Austrian film industry and promote Austria's attractiveness for the media industry. RTR manages the available budget which amounts to EUR 13.5 million each year. Grants are awarded from this fund based on guidelines, as well as on Articles 26 to 28 and Articles 23 to 25 of the KommAustria Act (KOG), which together constitute the legal basis for the activities of the Austrian Television Fund. A new set of guidelines was published on 23 January 2023.

The Austrian Television Fund's statutory remit includes financial support for independent Austrian producers, thereby stimulating the productivity of the domestic production sector and creating long-term employment in the film industry. Another objective is to improve the quality of television productions, thereby preserving Austria's rich cultural landscape and making a vital contribution towards strengthening the audiovisual sector in Europe. Key criteria considered in the grant award process include value creation and spending in Austria.

4.2.2.1 Excellence bonus and production grants

The 2023 Film Location Act ('Filmstandortgesetz') redefined the competencies of the Austrian Television Fund for television productions. In conjunction with the FISA+ film promotion model, an incentive model has been created with the aim of attracting international productions to Austria while strengthening national productions by independent producers.

Since the start of the year, the Austrian Television Fund is now also funding projects with its **excellence bonus** scheme. Television productions with an overall budget of EUR 1.8 million or higher are eligible to apply for coverage of up to 10% of costs incurred in Austria, assuming the fulfilment of the criteria set out in the guidelines. Those criteria include requirements for Austrian costs to make up at least 50% of the total budget, for most of the film to be shot on location in Austria or for the majority of the film crew to be employed in Austria. The list of criteria comprises around twelve such conditions, of which at least four must be satisfied. Payment of the excellence bonus is also conditional on the applicant having received FISA+ grant approval.

Television productions with an overall budget of less than EUR 1.8 million may continue to apply for 'conventional' **production grants**, which cover up to 20% of the total budget. If certain criteria are fulfilled as set out by the provisions of Art. 27 Par. 6 of the KommAustria Act (KOG), the grant can be increased to cover up to 30% of the total budget. A list of criteria is once again specified, with funding applicants needing to satisfy at least four such criteria. This incentive scheme has had a clearly positive effect on documentaries.

4.2.2.2 Projects funded in 2023

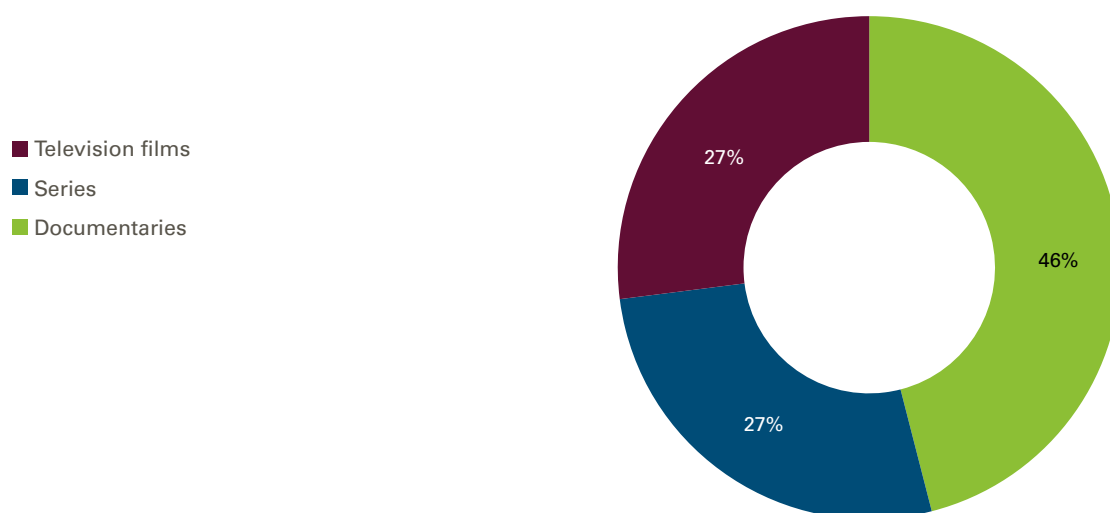
Of the 144 applications that were submitted in 2023, 117 productions were approved for funding amounting to EUR 13,849,812.

Funding was approved to cover roughly EUR 126.1 million of planned total production costs. Spending in Austria in connection with these television productions is expected to amount to EUR 101.57 million. The latter figure represents 7.3 times the amount of total funding awarded by the Austrian Television Fund. In 2022, spending was only around 3.9 times the amount of total funding awarded by the Austrian Television Fund. This increase has resulted from the awarding of the new excellence bonus, with the grant amount relating specifically to expenditure in Austria and not to total production costs.

Details of submitted projects

The 117 grants approved provided support to 17 television films (excellence bonus), seven series (excellence bonus) and 93 documentaries (production grants). The figure below gives details on how the funding shares were distributed:

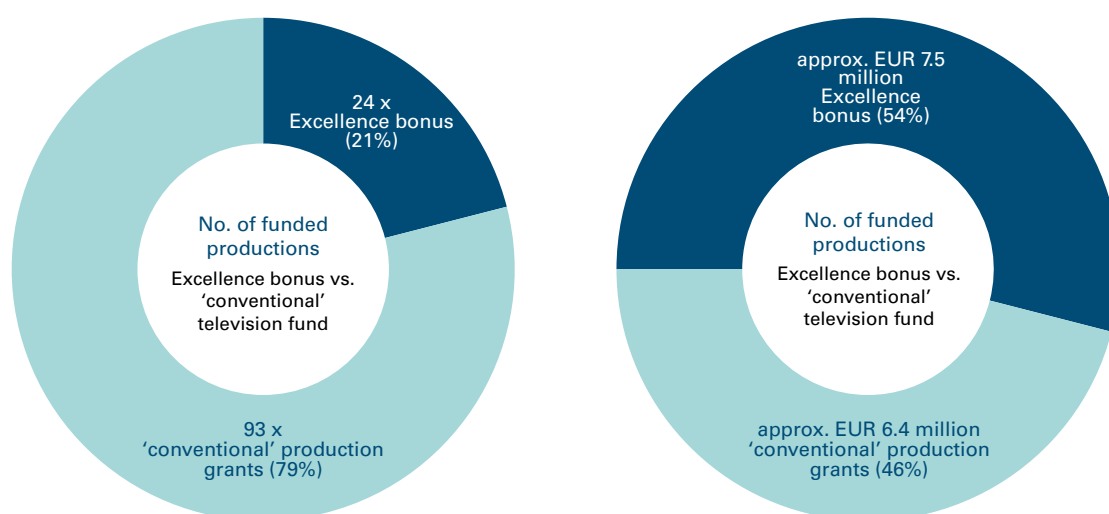
Figure 24: Austrian Television Fund – grants approved in 2023



The proportion of funding awarded to television films and TV series dropped from 42 to 27% compared year on year. This contrasts with the increase in grant share for series, which dropped from 39 to 27%. Meanwhile, the proportion of funding awarded to documentaries grew from 19% to 46%.

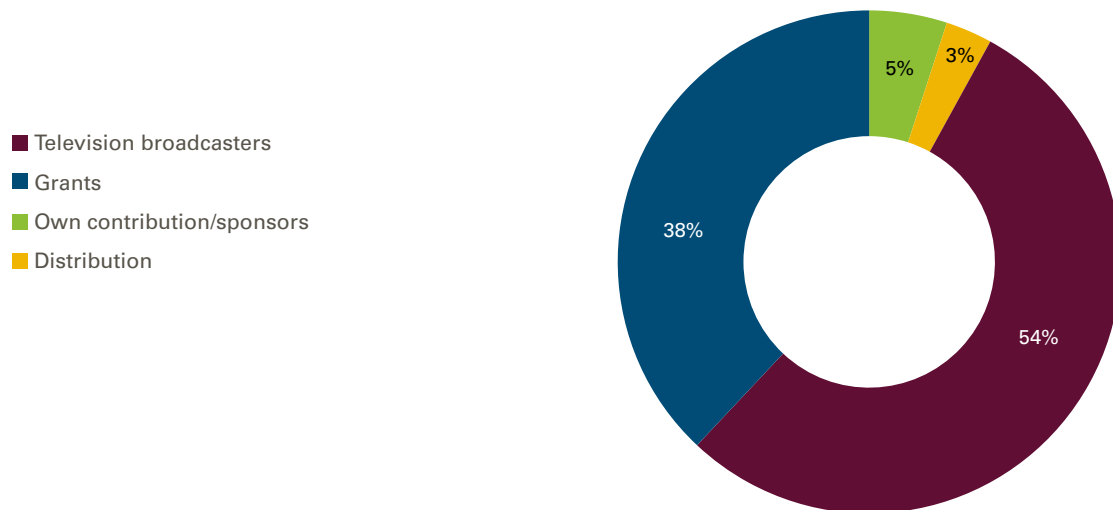
Figure 25: Austrian Television Fund – excellence bonus/production grants

- Productions with total budget under EUR 1.8 million
- Productions with total budget over EUR 1.8 million



Of the submissions made during 2023, 24 projects received funding from the excellence bonus (21%), with 93 projects receiving production grants (79%). The funds disbursed for excellence bonus grants amounted to around EUR 7.5 million (54%), with 'conventional' production grants totalling around EUR 6.4 million (46%).

Figure 26: Austrian Television Fund – shares of financing contributed to TV projects funded in 2023



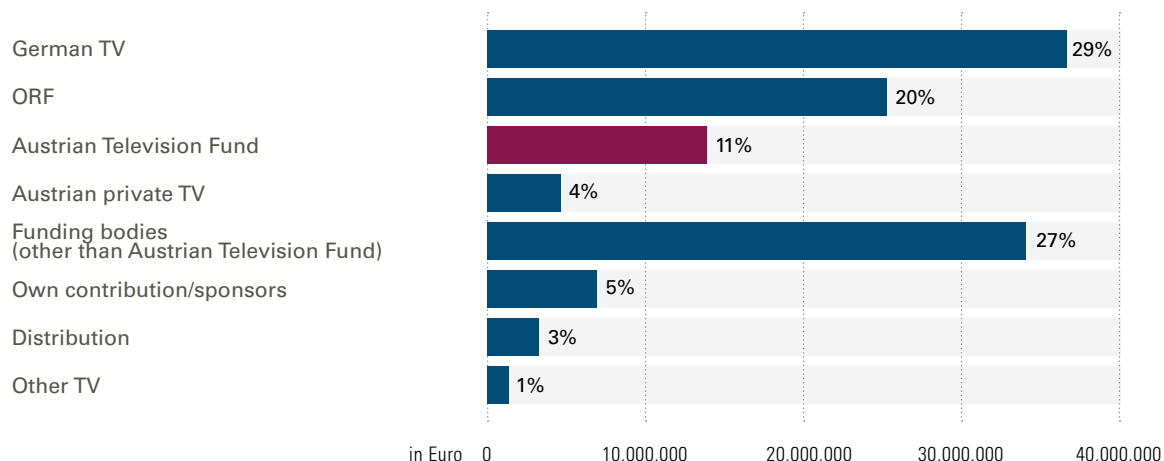
The productions supported in 2023 sourced 54% of their funding from television broadcasters, 38% from grants, 5% from own funds and sponsoring, and 3% via distribution agreements.

Compared with the previous year, the proportion of television broadcasters dropped from 63% to 54%, but their share of grants rose to 38% from 23%.

Co-financing provided by funding bodies other than the Austrian Television Fund accounted for 27% of the total in 2023. Of a total of 117 television productions funded last year, Austrian funding bodies were exclusively involved in the financing of 64 productions; 18 projects were also supported by European funding bodies.

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

Figure 27: Austrian Television Fund – share of financing contributed to projects funded in 2023



Participation by television broadcasters

From the total number of 117 funded projects, 97 television productions were co-financed by the ORF. The number of productions receiving funding from Austrian private television broadcasters increased from eight to 15 compared with the year before, while the share of production costs covered falling from 5% to 4%.

German television broadcasters participated in a total of 37 projects. Eighteen productions listed participations by European broadcasters (excluding Germany) – from Denmark, Czechia, France, Greece, Italy, Sweden, Switzerland and United Kingdom – in their financing operations.

As in previous years, the majority of productions co-financed by European broadcasters were documentaries. Germany was the main European country whose broadcasters contributed to funding films or series.

Participation from broadcasters based outside Europe was observed in the case of two documentaries in 2023, with an Australian and an Israeli broadcaster being involved in these productions.

Women's share in the funded projects

In terms of appointments to senior management positions – production, direction and screenplay – patterns shifted compared with the previous year. The percentage of women among producers rose from 16% to 18%. The share of female directors grew from 36% to 52%. The proportion of female screenwriters also augmented, from 38% to 50%.

Table 38: Austrian Television Fund – gender statistics for funded projects

| 2023 | Women | | Men | |
|-------------------------------|--------|------------|--------|------------|
| | Number | Percentage | Number | Percentage |
| Executive producers/producers | 14 | 18% | 62 | 82% |
| Directors | 58 | 52% | 54 | 48% |
| Screenwriters | 72 | 50% | 71 | 50% |

4.2.2.3 Exploitation grants

To support the broader distribution of their film projects, producers received Austrian Television Fund grants to produce versions for the hearing and visually impaired, as well as versions in other languages and for submission to film festivals. Grants totalling EUR 177,096 were approved in 17 cases in 2023.

Full details of the projects supported and the grant award guidelines are published on the website of the Austrian Television Fund (www.fernsehfonds.at).

4.2.2.4 Notes on the 2023 annual accounts

Based on the statement for the trustee account as at 31 December 2022, and considering the credits and disbursements as well as the grants already approved but not yet disbursed, EUR 230,883.43 was available in the fund as at 31 December 2023 (see the table below for details).

Table 39: Austrian Television Fund – excerpt from the 2023 annual accounts

| Austrian Television Fund | (EUR) | (EUR) |
|---|----------------|---------------------|
| Trustee account balance as at 31 December 2022 | | 6,104,027.45 |
| Credits | | |
| Revenues received in 2023 | 13,500,000.00 | |
| Administrative expenses carried over from 2022 | 17,920.92 | |
| Grant repayments | 50,541.46 | 13,568,462.38 |
| Debits | | |
| Interest/fees | 105,806.15 | |
| Administrative expenses in 2023 | -730,400.00 | |
| Grant disbursements | -12,373,741.20 | -12,998,335.05 |
| Balance resulting from initial amount, credits and debits in 2023 | | |
| = Trustee account balance as at 31 December 2023 | | 6,674,154.78 |
| Outstanding administrative expenses from 2023 for repayment in 2024 | | 73,203.80 |
| Balance of trustee obligations as at 31 December 2023 | | 6,747,358.58 |
| Approved grants pending disbursement Grants | | |
| Committed funds from 2020 | 56,542.00 | |
| Committed funds from 2021 | 230,442.00 | |
| Committed funds from 2022 | 748,637.33 | |
| Committed funds from 2023 | 5,480,853.82 | 6,516,475.15 |
| Funds available in 2024 | | 230,883.43 |

4.2.3 Broadcasting funds

The Fund for the Promotion of Private Broadcasting (Private Broadcasting Fund) and the Fund for the Promotion of Non-Commercial Broadcasting (Non-Commercial Broadcasting Fund) were set up in 2009 with the amendment of the KommAustria Act (KOG). A total of EUR 6 million was originally allocated to the two funds, with funding continually increased each year to finally EUR 18 million in 2013, the level at which it remained until 2018. In 2019, the Private Broadcasting Fund received an additional EUR 5 million, which increased the annual fund budget to EUR 23 million. The Non-Commercial Broadcasting Fund was topped up by EUR 5 million in 2022, taking the total fund volume to EUR 25 million per year. Despite funds being stocked up over the last few years, 2023 once again demonstrated the need for a larger funding volume. In 2023, applications to the Private Broadcasting Fund exceeded available funding by around EUR 15 million, while the volume of submissions to the Non-Commercial Broadcasting Fund exceeded the available grant budget by EUR 1.5 million.

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

Funding is awarded on the basis of applicable provisions of law and approved guidelines.

4.2.3.1 Non-Commercial Broadcasting Fund

A total of about EUR 5 million was available in the Non-Commercial Broadcasting Fund in 2023.

4.2.3.1.1 Submission deadlines in 2023

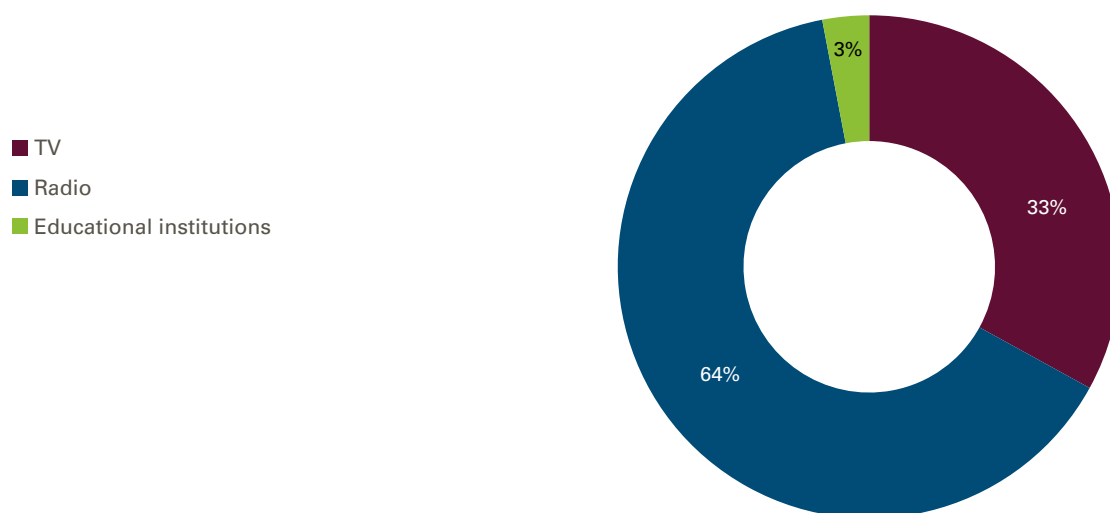
In the **first round of submissions** (3–31 October 2022), 70 requests were submitted by radio broadcasters, two by education and training initiatives, and nine by television broadcasters. The fund awarded grants to 14 non-commercial radio stations, three community television stations and two educational institutions in radio broadcasting.

A total of EUR 4,796,742 was awarded. Of the funding, 33% (EUR 1,574,690) went to television, 64% (EUR 3,082,652) went to radio and 3% (EUR 139,400) was disbursed to educational institutions.

In the **second round of submissions** (1–31 May 2023), 21 requests were submitted by radio broadcasters and four by television broadcasters. In all, 13 non-commercial radio stations and three community television stations received funding.

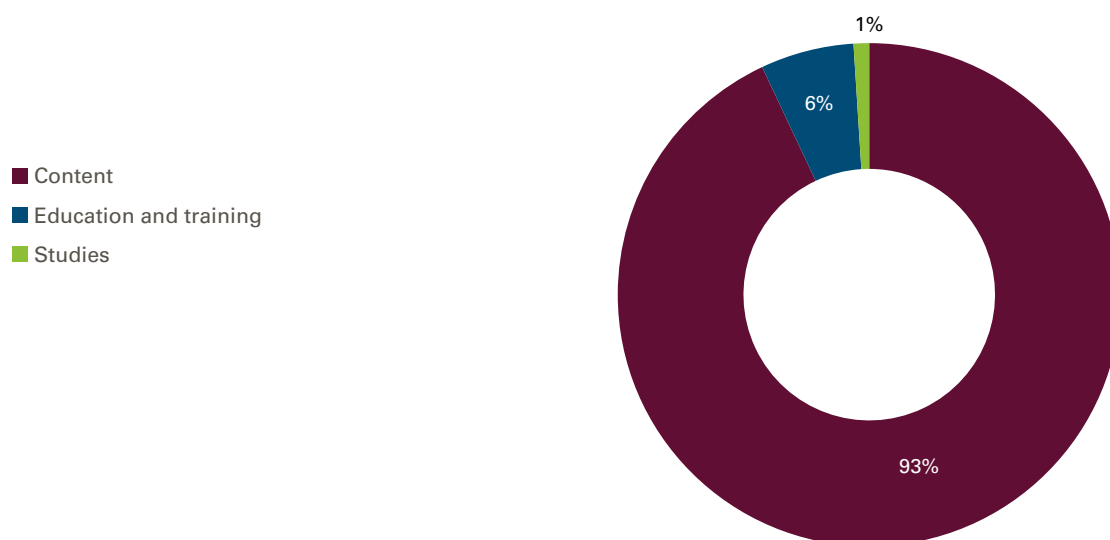
A total of EUR 149,353 was awarded. Overall, 58% (EUR 86,397) was allocated to radio and 42% (EUR 62,956) to television broadcasting.

Figure 28: Non-Commercial Broadcasting Fund – grants approved in 2023



Total grant funding amounted to EUR 4,946,095 in 2023, of which EUR 3,169,049 (64%) was awarded to radio, EUR 1,637,646 (33%) to television and EUR 139,400 (3%) to educational institutions.

Figure 29: Non-Commercial Broadcasting Fund – breakdown of grants by funding category 2023



Of total funding awarded, EUR 4,589,062 (93%) went to content, EUR 332,033 (6%) to education and training, and EUR 25,000 (1%) to studies.

Full details of the projects supported and the grant award guidelines are published on the RTR website at www.rtr.at/rundfunkfonds-nichtkommerziell.

4.2.3.2 Notes on the 2023 annual accounts

Based on the statement for the trustee account as at 31 December 2022, and considering the credits and disbursements as well as the grants already approved but not yet disbursed, EUR 28,224.38 was available in the fund as at 31 December 2023 (see the table below for details).

Table 40: Non-Commercial Broadcasting Fund – excerpt from the 2023 annual accounts

| Non-Commercial Broadcasting Fund | (EUR) | (EUR) |
|--|---------------|-------------------|
| Trustee account balance as at 31 December 2022 | | 1,692,880.61 |
| Credits | | |
| Allocation of revenues received in 2023 | 5,000,000.00 | |
| Administrative expenses carried over from 2022 | 5,146.84 | |
| Grant repayments | 2,600.84 | |
| Interest on grand repayments | 14.44 | 5,007,762.12 |
| Debits | | |
| Interest/fees | -4,695.10 | |
| Administrative expenses in 2023 | -158,000.00 | |
| Grant disbursements in 2023 | -5,841,332.63 | -6,004,027.73 |
| Balance resulting after initial amount, credits and debits in 2023 | | |
| = Trustee account balance as at 31 December 2023 | | 696,615.00 |
| Share of custodian fees in 2023 | | |
| Outstanding repayment in 2024 of administrative expenses from 2023 | | 13,918.71 |
| Balance of trustee obligations as at 31 December 2023 | | 710,533.71 |
| Approved grants pending disbursement Grants | | |
| Committed funds from 2022 | -145,872.13 | |
| Committed funds from 2023 | -536,437.20 | -682,309.33 |
| Funds available in 2024 | | 28,224.38 |

4.2.3.3 Private Broadcasting Fund

4.2.3.3.1 Submission deadlines in 2023

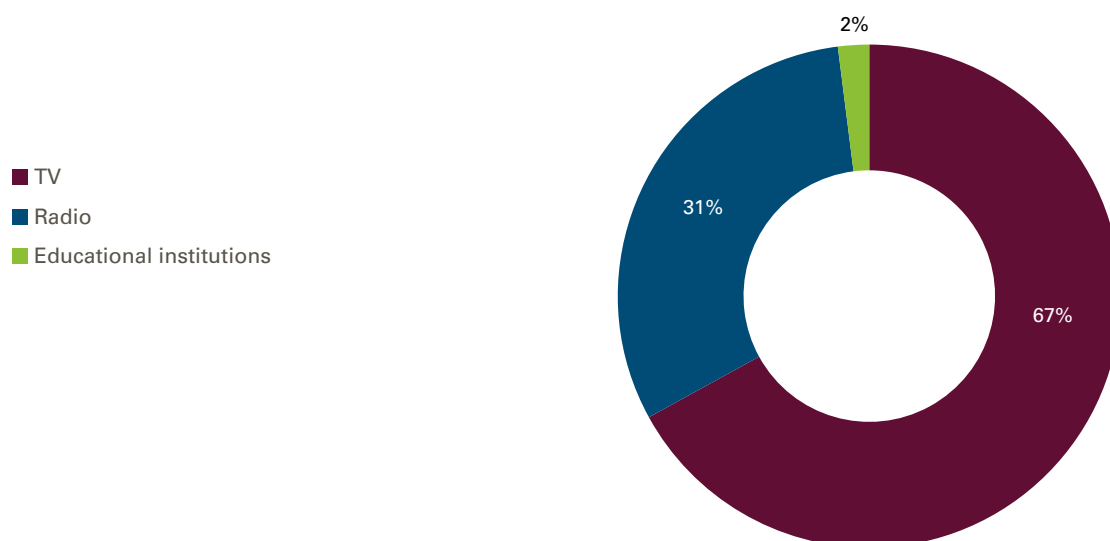
During the first application period (3–31 October 2022), 189 requests were submitted for television grants, 253 for radio grants and two for the funding of educational institutions.

For this round, a total of EUR 18,912,902 was awarded to 59 private television broadcasters, 42 private radio broadcasters and two educational institutions. Of this funding, EUR 12,856,736 (68%) went to television broadcasters, EUR 5,711,725 (30%) to private radio broadcasters and EUR 344,441 (2%) to the educational institutions Privatsenderpraxis and Forum Journalismus TV/Radio.

During the second application period (1–31 May 2023), 69 requests were submitted for television grants, 79 for radio grants and one for the funding of an educational institution. The fund awarded grants to 29 television broadcasters and 25 radio broadcasters.

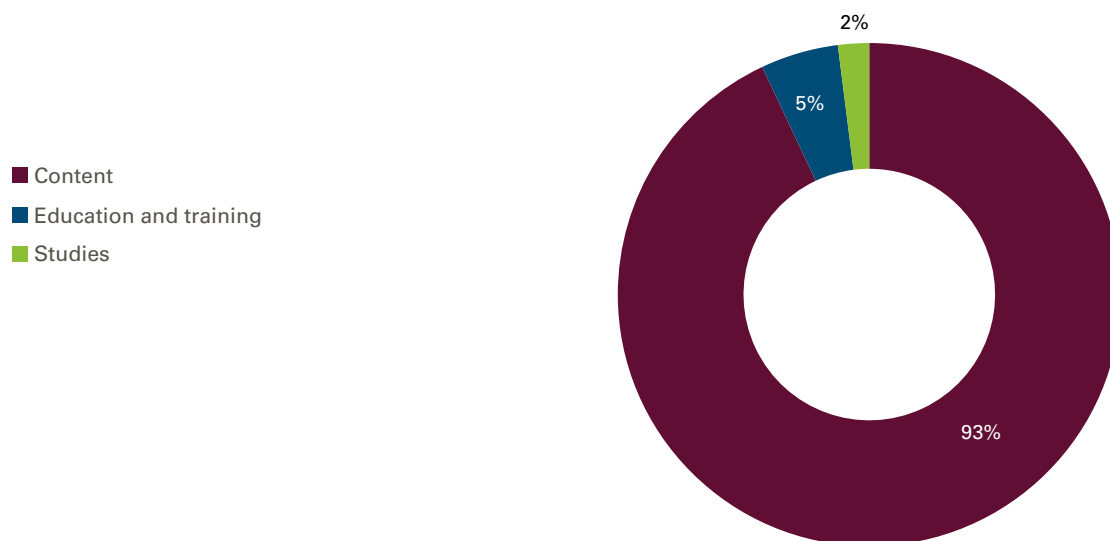
A total of EUR 1,399,999 was awarded, with 61% (EUR 848,227) disbursed to television, 35% (EUR 495,575) to radio and 4% (EUR 56,197) to educational institutions.

Figure 30: Private Broadcasting Fund – grants approved in 2023



Total grant funding thus amounted to EUR 20,312,901 in 2023, of which EUR 13,704,963 (67%) was awarded to television, EUR 6,207,300 (31%) to radio and EUR 400,638 (2%) to educational institutions.

Figure 31: Private Broadcasting Fund – breakdown of grants by funding category 2023



If the funding volume hereby awarded is considered by funding category, a total of EUR 18,826,976 (93%) went to content, EUR 1,126,111 (5%) to education and training, and EUR 359,814 (2%) to reach surveys and quality studies.

Full details of the projects supported and the grant award guidelines are published on the RTR website at www.rtr.at/privatrundfunkfonds.

4.2.3.3.2 Notes on the 2023 annual accounts

Based on the statement for the trustee account as at 31 December 2022, and considering the credits and disbursements as well as the grants already approved but not yet disbursed, EUR 736,347.16 was available in the fund as at 31 December 2023 (see the table below for details).

Table 41: Private Broadcasting Fund – excerpt from 2023 annual accounts

| Private Broadcasting Fund | (EUR) | (EUR) |
|--|----------------|----------------------|
| Trustee account balance as at 31 December 2022 | | 17,457,392.20 |
| Credits | | |
| Revenues received in 2023 | 20,000,000.00 | |
| Grant repayments | 342,746.29 | |
| Administrative expenses carried over from 2022 | 110,391.36 | |
| Erroneous transfers in 2023 | 13,247.40 | 20,466,385.05 |
| Debits | | |
| Interest/fees | 91,975.64 | |
| Administrative expenses in 2023 | -700,000.00 | |
| Grant disbursements in 2023 | -23,569,182.18 | -24,177,206.54 |
| Balance resulting after initial amount, credits and debits in 2023 | | |
| = Trustee account balance as at 31 December 2023 | | 13,746,570.71 |
| Repayment of erroneous transfers in 2023 | | -13,247.40 |
| Outstanding repayment in 2024 of administrative expenses from 2023 | | 68,402.32 |
| Balance of trustee obligations as at 31 December 2023 | | 13,801,725.63 |
| Approved grants pending disbursement | | |
| Committed funds from 2021 | -126,250.00 | |
| Committed funds from 2022 | -1,986,436.70 | |
| Committed funds from 2023 | -10,952,691.77 | -13,065,378.47 |
| Funds available in 2024 | | 736,347.16 |

4.2.4 Fund for the Promotion of Digital Transformation

Established by law on 13 April 2022, the Fund for the Promotion of Digital Transformation provides the Austrian media market with a new source of funding towards maintaining the diversity of providers. At the same time, private media companies with media content oriented towards the Austrian public are supported in the establishment and expansion of digital services.

The available funding is intended to strengthen Austrian media companies and their digital portfolios while generally reinforcing the central role played by media in a modern, democratic society.

This programme helps maintain and promote the diversity and pluralism of the news media sector, as well as strengthen the professional journalism, a factor crucial to the long-term development of news media as a whole. Austrian media content – and regional content in particular – should continue to be made available to Austrian consumers.

The Fund for the Promotion of Digital Transformation has a budget of EUR 20 million and is managed by RTR.

The fund offers two separate funding tracks. Incentive funding is aimed at project development, and applications for fund grants are accepted only from daily and weekly newspapers. The project funding track, in contrast, allows applications to be submitted for digital transformation, digital journalism, or youth protection and accessibility.

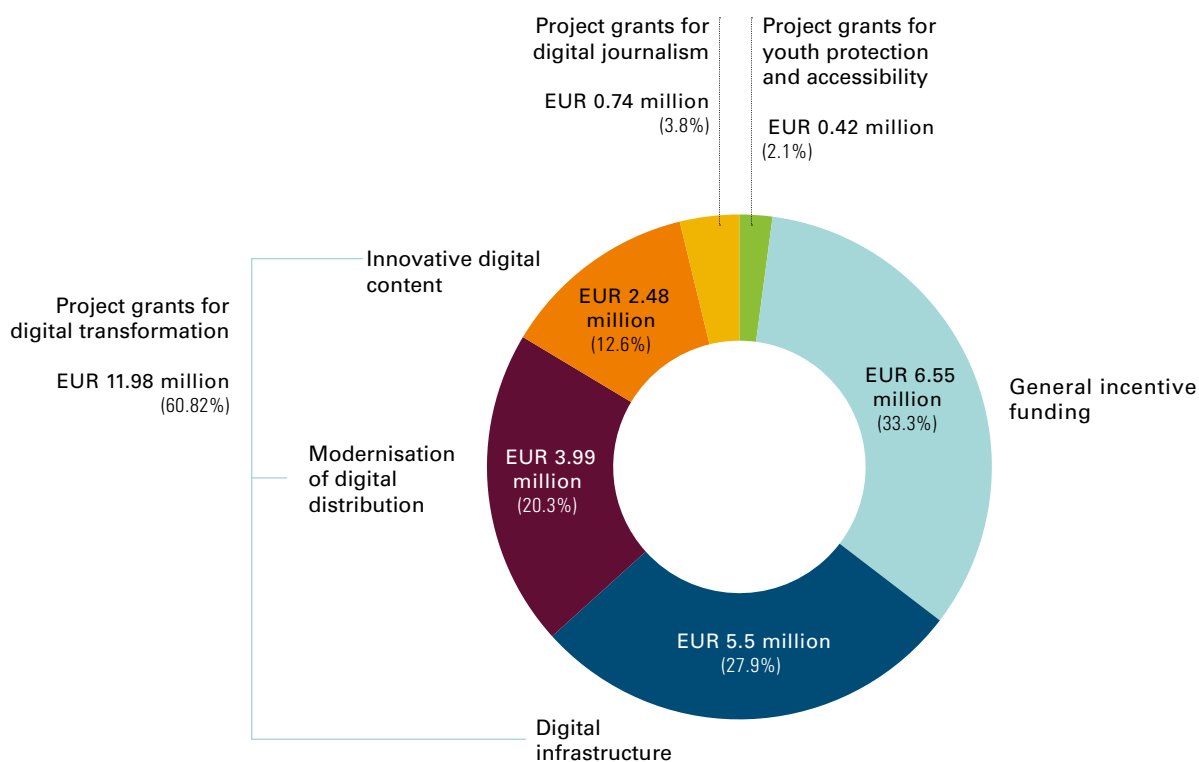
4.2.4.1 Submission deadline in 2023

Projects requesting total funding of EUR 48 million were submitted for the 2023 application period (23 November 2022–15 December 2022), a volume that was more than twice the available funding. Grants were awarded to 115 requests from television broadcasters and print companies, of which 38 projects received incentive funding, while project funding was awarded to eleven digital journalism projects, 60 digital transformation projects, and six youth protection and accessibility projects.

Funds totalling EUR 19,698,851 were awarded. Of this amount, 33.3% (EUR 6,552,241) was awarded to incentive funding projects, 3.8% (EUR 743,688) for digital journalism, 60.8% (EUR 11,981,201) to digital transformation projects, and 2.1% (EUR 421,721) to projects involving youth protection and accessibility.

The figure below clarifies the distribution of the funds awarded:

Figure 32: Distribution of grant funds in 2023



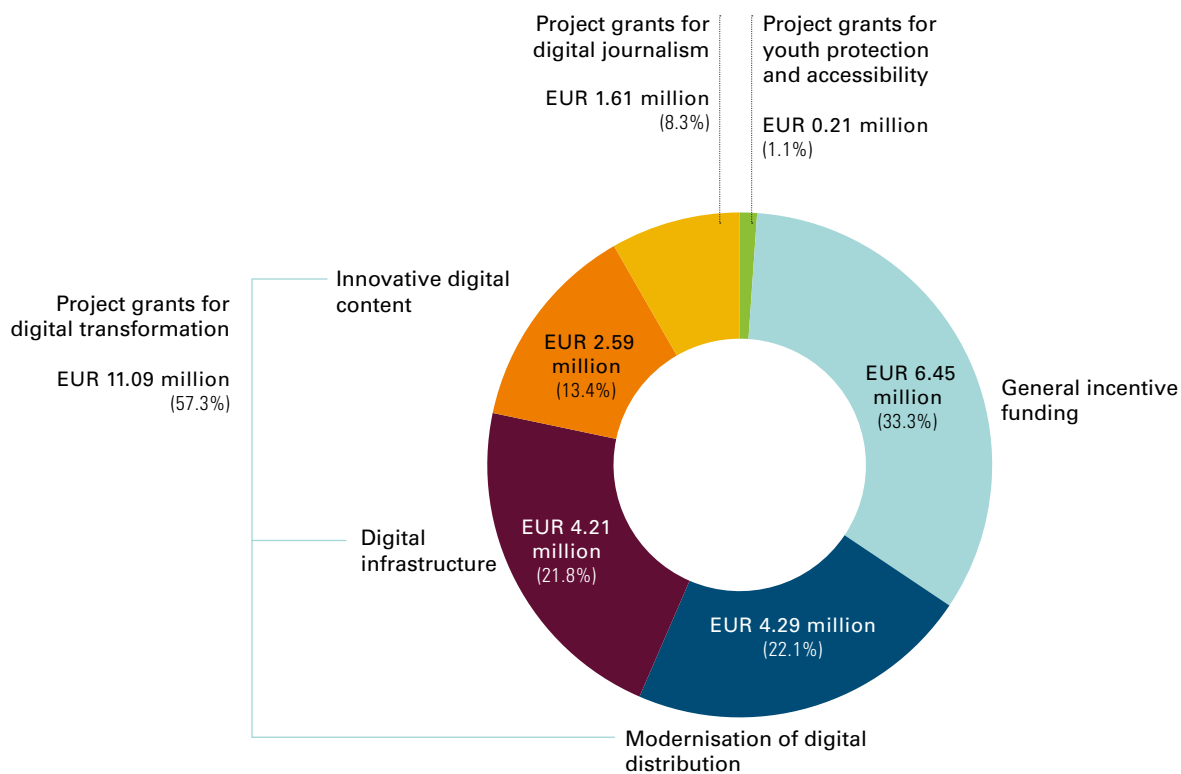
4.2.4.2 Submission deadline in 2024

To make it easier for media companies to plan their budgetary activities, the submission period for 2024 was scheduled from 1 June 2023 to 30 June 2023. The volume of funding requested in this period – the third since the fund's inception – was again more than double that of the available funds. Grants were awarded to 241 requests from television broadcasters and print companies, of which 37 projects received incentive funding, while project funding was awarded to 33 digital journalism projects, 168 digital transformation projects, and three youth protection and accessibility projects.

Funds totalling EUR 19,364,620 were awarded. Of this amount, 33.3% (EUR 6,454,895) was awarded to incentive funding projects, 8.3% (EUR 1,613,708) for digital transformation, 57.3% (EUR 11,090,832) to digital journalism projects, and 1.1% (EUR 205,185) to projects involving youth protection and accessibility.

The figure below clarifies the distribution of the funds awarded:

Figure 33: Distribution of grant funding in 2024



It is noteworthy that the number of projects relating to digital journalism has tripled since the launch of the fund, with an increasing number of projects now also targeting the use of artificial intelligence. Qualitative effects from past funding periods can now be observed from the funding requests received.

The popularity of this funding vehicle once again demonstrates how important it is to safeguard an independent Austrian media industry in the digital age and therefore provide an assured level of quality for consumers. Austrian media content, especially regional programming, must continue to remain available and be able to compete effectively in a digital media landscape. The competitiveness of Austrian media offerings is essential for securing their future, as well as a continued democratic discourse that is characterised by a diversity of opinions.

Full details of the projects supported and the grant award guidelines are published on the RTR website at www.rtr.at/fonds-digitale-transformation.

4.2.4.3 Notes on the 2023 annual accounts

Based on the statement for the trustee account as at 31 December 2022, and considering the credits and disbursements as well as the grants already approved but not yet disbursed, EUR 2,474,068.91 was available in the fund as at 31 December 2023 (see the table below for details).

Table 42: Fund for the Promotion of Digital Transformation – excerpt from the 2023 annual accounts

| Fund for the Promotion of Digital Transformation | (EUR) | (EUR) |
|--|----------------|----------------------|
| Trustee account balance as at 31 December 2022 | | 19,953,878.29 |
| Credits | | |
| Allocation of revenues received in 2023 | 20,000,000.00 | |
| Administrative expenses carried over from 2022 | 30,374.30 | |
| Grant repayments | 189,325.00 | 20,219,699.30 |
| Debits | | |
| Interest/fees | 267,169.35 | |
| Administrative expenses in 2023 | -959,600.00 | |
| Grant disbursements in 2023 | -26,692,986.82 | -27,385,417.47 |
| Balance resulting after initial amount, credits and debits in 2023 | | |
| = Trustee account balance as at 31 December 2023 | | 12,788,160.12 |
| Share of interest earned in 2023 | | 15,306.24 |
| Outstanding administrative expenses from 2023 for deferred payment in 2024 | | 151,644.05 |
| Balance of trustee obligations as at 31 December 2023 | | 12,955,110.41 |
| Approved grants pending disbursement Grants | | |
| Committed funds from 2022 | -16,762,574.50 | |
| Committed funds from 2023 | -7,120,763.50 | |
| Funds allocated in 2024 | 20,000,000.00 | |
| Committed funds from 2024 | -6,597,703.50 | -10,481,041.50 |
| Funds available in 2024 | | 2,474,068.91 |

Figures given for available funds result from the submission deadline for 2024 according to funding guidelines and the associated payment date in 2023, pursuant to the KOG.

As a result, committed funds from 2024 already exist as of the reporting date.



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Regulatory activities of the TKK

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05 Regulatory activities of the TKK

The Telekom-Control-Kommission (TKK), as an autonomous authority not subject to external control, has been responsible for regulating the telecommunications market in Austria since 1997. Its tasks and responsibilities are specified in detail by law. In accordance with the Signature and Trust Services Act (SVG), it is also the supervisory body for trust services. An overview of the main areas of regulatory activity in the 2023 reporting year follows below.

5.1 Measures to ensure competition

5.1.1 Market analysis procedure

One of the instruments provided for in the Telecommunications Act to ensure competition on the Austrian telecommunications markets is to conduct procedures for market analyses at intervals of no more than five years. Such procedures are intended to identify relevant markets subject to regulation and to determine whether any one or more undertakings possess significant market power; they also serve to identify any (potential) difficulties that may exist in maintaining competition or whether effective competition exists in the markets under investigation. Where the particular market lacks effective competition, appropriate obligations are to be imposed on the company with significant market power. Based on a corresponding recommendation issued by the European Commission in 2020, only the wholesale markets for local and central access (formerly referred to as 'unbundling' and 'bitstreaming') and for high-quality access (formerly 'leased lines') are still considered relevant markets for sector regulation.

In the course of the market analysis procedure initiated by the TKK in 2020, a sub-procedure focusing on the wholesale market for high-quality access at fixed locations was separated from the main procedure in early 2022. Other such sub-procedures – which have since been concluded – addressed the retail market for access to the public telephone service at fixed locations, the wholesale market for local and central access and the wholesale markets for termination in individual fixed and mobile communications networks.

Concurrently with the separation of these sub-procedures, RTR experts submitted extensive reviews on the two aforementioned markets, to define and analyse them as well as to recommend specific obligations. All reviews were discussed with the parties to the procedures in public oral negotiations.

In concrete terms, the market in question includes Ethernet services with guaranteed bandwidth and dark fibre.

In their report dated February 2022, the official experts divided the market into two areas. This was due to marked regional differences in the market shares of A1 and the presence of alternative operators with their own infrastructures. Area 1 comprises 1,087 municipalities in which A1 has a market share of less than 50%, and in which at least one additional infrastructure operator is active in addition to A1 and at least 25% of buildings can be supplied by an alternative network operator with its own infrastructure; all other municipalities (1,030) are located in area 2. In the municipalities belonging to area 1, A1's existing specific obligations applying to lines within or between these municipalities were to be lifted. For high-quality access within the municipalities belonging to area 2, or between the municipalities from area 1 and area 2, specific obligations were to continue to apply to A1.

Following an oral hearing in May 2022 and the submission of a supplementary expert opinion by the official experts, a new oral hearing was held in March 2023 because of the new members of the Telekom-Control-Kommission holding seats since November 2022. In May 2023, a draft measure adopted by the TKK was

consulted nationally and coordinated with the European Commission in June/July 2023. After obtaining a further supplementary expert opinion from the official experts, the TKK issued the final decision on 28 August 2023.

With this decision, A1 was obliged to grant access to Ethernet services and dark fibre in the case of the lines in and between the 1,010 municipalities belonging to area 2, still under regulation. In addition, an obligation was imposed on A1 to limit fees, meaning, in relation to wholesale Ethernet services, cost-related prices including specified price caps (discounts of 15% on A1 retail prices within six months and by February 2024 at the latest and a further 10% by February 2026). Two specific fee variants were also required for dark fibre (depending on the length either EUR 0.174 per linear meter and month for built-up areas and EUR 0.094 per linear meter and month for non-built-up areas and/or 'active-minus', meaning for A1's 1 Gbit/s Ethernet service a discount of EUR 407.69/month from the connection and monthly fee for active equipment). Further obligations include equal treatment and transparency through the publication of reference offers for Ethernet services and dark fibre as well as the quarterly publication of key performance indicators.

5.1.2 Competition in the mobile telecommunications market

Furthermore, the TKK had decided in February 2022 to carry out a detailed analysis of competition in the mobile telecommunications sector. In 2020 and 2021, the Federal Competition Authority and RTR GmbH had regularly received complaints concerning uncompetitive wholesale prices, pressure on mobile virtual network operators (MVNOs) and other wholesale customers to change their business models, and cases of access refusal. The original obligation imposed on Hutchison Drei Austria GmbH, deriving from the proceedings before the European Commission for the merger with Orange, involving the granting of access at wholesale service level two potential MVNOs expired at the end of 2022. Since then a review has been underway to determine whether competition in the mobile wholesale market, and therefore ultimately in the mobile retail market as well, can be successfully continued in future, or whether trends exist that may affect in the long term the advantages achieved for the market as a whole to date. As part of the procedure, the TKK receives regular reports on market developments. The review was still in progress at the time this report was prepared.

5.1.3 Arbitration between operators

As part of its role as an arbitrator, the regulatory authority ensures a fair balance of interests among operators of public communications networks. If a settlement under private law in the form of a network access or interconnection agreement is not reached, each participant has the option of applying to the regulatory authority for a decision in lieu of such an agreement.

In July 2022, in a pending procedure the TKK issued a decision on the conditions for the reciprocal termination of text messages. Since the provision of text message termination services is not assigned to any market relevant for sector-specific regulation and no business entity here enjoys significant market power as defined by telecommunications law, an 'appropriate' scope of the conditions in dispute had to be set. Specified fee amounts are in line with earlier rulings by the TKK. one of the parties to the procedure lodged an appeal against this decision, which was rejected by the Federal Administrative Court in October 2023.

In another procedure, in November 2022 a party filed a complaint objecting to unequal treatment in the upload and download rates of the wholesale SIM cards provided to it compared to the upload and download rates that the wholesale supplier charged end users for SIM cards belonging to its own retail brands. In a letter dated July 2023, the procedure was discontinued due to a withdrawal of the claim.

In yet another procedure, a complainant objected to the lack of an option for using multi-wire connections to provide copper-based wholesale broadband services to private customers as part of virtual unbundling. This procedure was still pending at the end of 2023.

5.2 Net neutrality

5.2.1 General information

Net neutrality refers to the equal treatment of all data transmitted via the internet. Equal treatment is independent of the sender, recipient, location, content, service or application. Net neutrality is important because it allows every internet user to retrieve and share information, content as well as services and applications. This helps ensure freedom of expression, economic growth and innovation through the internet. Working to protect net neutrality, the Telecoms Single Market (NN) Regulation has been in force at EU level since November 2015. The associated BEREC guidelines, which were adopted in August 2016 and first amended in June 2022, aim to ensure uniform implementation of the Regulation across Europe.

Work in the field of net neutrality was once again strongly informed in 2023 by international cooperation in the BEREC Open Internet Expert Working Group and by national procedures and advisory activities conducted in order to ensure the fulfilment of net neutrality standards. As in previous years, market developments were observed and internet access products reviewed. At the end of June, the regulatory authority published its Net Neutrality Report covering the period May 2022–April 2023. With the aid of the aforementioned measures, the results are intended to ensure the continued availability of internet access services at a level of quality that properly reflects advances in technology. In keeping with the school, dialogue has been maintained with all market participants. Providers regularly sought the advice of experts from RTR before the introduction of new products or services that could affect aspects of net neutrality. This approach often allowed any related concerns to be resolved in advance.

5.2.2 Fair share

One long-standing issue in this context is how to ensure (fair) participation of all actors in the internet ecosystem. Even prior to 2015 while the Net Neutrality Regulation was being drafted, demands were raised to commit over the top players (OTTs) to contribute towards the cost of expanding infrastructure. Back then, arguments such as ‘more fairness’ and ensuring a ‘level playing field’ in relations between access networks (internet service providers or ISPs) and OTTs were discussed intensively, as is still the case today. As recently as the previous reporting period, one of the potentially key issues appearing on the EU horizon was whether to require content providers to share in the costs of using the networks operated by ISPs (i.e. ‘fair share’ or ‘sending party network pays’ models). Discussions culminated in a consultation announced by the European Commission on 17 February 2023. RTR’s Telecommunications and Postal Services Division held a workshop on 14 March 2023, inviting representatives from all stakeholder businesses and organisations, as well as from interest groups and other authorities. The regulatory authority contributed the information it had gathered to a statement published on 19 May 2023 by BEREC in response to the consultation by the European Commission. RTR is rather critical of the introduction of traffic-linked charges, as proposed by operators, but is nonetheless keen on continuing the discussion of alternative incentives to support infrastructure expansion goals, and is continuing to play an active role here.

5.2.3 End of the line for zero-rating in Austria

By the end of summer 2022, all providers had taken the proactive step of ceasing all advertising of zero-rated products, thus removing the possibility of signing up to new subscriptions featuring zero-rating. All providers also submitted timely confirmation that the measures required by the decisions had been implemented in November 2022 and that no zero-rated products were now being offered. Zero-rated products for existing customers were also discontinued by March 2023, and the removal of zero-rating from contracts with end users, which RTR actively monitors, has finally been completed.

5.2.4 War in Ukraine: Internet blocking

The war in Ukraine and the EU's response, namely to adopt new sanctions against state-affiliated Russian media, preoccupied national and EU regulatory authorities in 2023 as well, specifically due to mandatory internet blocks of the websites run by various Russian media.

Internet blocking has in general become an ongoing concern in recent years. The mechanism is being applied in a growing number of areas: copyright law, consumer protection law, as a wartime sanctions measure or even as a market surveillance tool for products offered in the EU. As a result, ISPs are being held accountable with increasing frequency for enforcing legislation relating to online activities. The current legislative framework faces national regulatory authorities, providers and internet users with a dilemma, raising the question of how to strike a balance between legal certainty, legal protection and the fundamental rights of all stakeholders concerned.

5.2.5 Copyright law: internet blockingn

Internet blocks were also a frequent issue for the regulatory authority in 2023, not least because any such block – regardless of its basis – touches on the core principle of net neutrality, and forces providers into the unwelcome role of judges. The aim here must be to identify ways and means of maximising the legal protection and certainty enjoyed by all stakeholders. To this end, a detailed observation was made of legislative activities at national and European level with the resulting insights actively applied when transposing EU-level provisions into national law. These activities included the analysis of accompanying measures to enforce the EU Market Surveillance Regulation or other directly applicable European legal acts, insofar as they affected the legal position of access providers.

The numerous supervisory procedures initiated in late 2022 by the regulatory authority against providers of internet access services were fully concluded in the course of 2023. This occurred after warning several rights owners and subsequently blocking a number of domains and IP addresses in Austria. However, some of the IP addresses were assigned to CloudFlare, which meant that various third-party services were only partially accessible at times. The review of the legitimacy of the internet blocking measures revealed the following insights. Internet blocking based on the domain name system (DNS) is appropriate and generally sufficient for protecting the rights of third parties. Blocking based on IP addresses that go beyond DNS blocks are not necessary and are hence inappropriate. The regulatory authority correspondingly identified violations of net neutrality due to IP blocking and ordered the removal of these IP blocks where they were still in place. The decisions in procedures concerning the lifting of IP blocks are not yet final.

5.2.6 Responsibilities as part of cooperation with consumer protection authorities

In the area of consumer protection, the Consumer Protection Cooperation Regulation (CPC Regulation) specifies various measures to block, remove or restrict content. These can be imposed towards the cross-border enforcement of consumer rights where no other effective means are available to prevent the risk of serious harm to the collective interests of consumers. The consumer rights to be protected derive from the guidelines listed in the Annex to the CPC Regulation.

In accordance with the national Consumer Protection Cooperation Act (VBKG), the TTK is responsible for ordering the providers of internet access services, hosting services, caching services, search engines or registration offices to take such measures in the event of a breach of the CPC Regulation. To this end, the authority responsible for enforcing the VBKG can submit a request to the TTK. If a breach falls within the scope of responsibility of multiple authorities, they must mutually coordinate their further course of action. When ordering measures, the TTK must take into account the principle of proportionality. While there were no related formal procedures during the reporting period, the authorities concerned exchange information regularly, specifically also with the Federal Ministry of Social Affairs, Health, Care and Consumer Protection.

5.2.7 Responsibilities related to EU market surveillance

At the end of 2022, the TTK was given new competence in relation to EU market surveillance. The new EU Market Surveillance Regulation intends to provide a better response to new economic developments, especially in international trade, and to close existing loopholes through which goods from third countries that do not comply with EU laws and cannot be traced back to a tangible responsible economic operator are brought into the EU market via online platforms. To effectively remedy such breaches in the digital environment, the EU Market Surveillance Regulation envisages various online access restrictions by providers of information society services, provided no other option exists for eliminating a serious risk. Requests can be made by the market surveillance authority to have incriminated online content restricted. These restriction measures must then be taken by access providers and other intermediaries. The regulatory authority acts in such cases as an enforcement body if the immediate offenders cannot be identified. No procedures were conducted in this area in 2023.

5.3 Mobile and broadband spectrum

5.3.1 Preparation of the spectrum auction in the 3600 MHz and 26 GHz ranges

Preparatory work for the award of spectrum in the 3600 MHz and 26 GHz bands in 2024 already began back in 2022. Plans call for the award to comprise both the (regional) spectrum in the 3410 to 3470 MHz range remaining from the 2019 auction and frequencies from the 26 GHz range. This is also how the information was presented in 2022 in the Spectrum Release Plan 2022 to 2026. This award is the first to be conducted on the basis of the new Telecommunications Act 2021 (TKG) spectrum regime (see article in the 4/2023 newsletter published by the Telecommunications and Postal Services Division²⁷).

In Q4 2022, an extensive public TTK/RTR consultation was held. Among other things, the consultation resulted in important findings concerning the two ordinances issued by RTR and TTK in 2023 (see below). Award objectives, competition, product and auction design and local frequency assignments were also addressed.

With the entry into force of the 2013 amendment to the Frequency Utilisation Ordinance (FNV) of the Federal Ministry of Finance in March 2023, responsibility for the allocation of frequencies in the 26 GHz range was

²⁷ https://www.rtr.at/TKP/aktuelles/publikationen/publikationen/Newsletter/rtr.telekom.post-newsletter_04_2023/frequenzauktion.de.html

formally transferred to the regulatory authority.

At the end of March 2023, RTR published for consultation the draft ordinance on frequency assignment limited in number (ZaBe-V 2023) pursuant to Art. 14 TKG 2021. RTR's ZaBe-V 2023 entered into force at the end of April 2023. The ordinance specifying the selection procedure pursuant to Art. 15 TKG 2021 (Auswahl-V 2023) was published for consultation in May 2023. The TKK's Auswahl-V 2023 entered into force at the end of June 2023.

The public tender procedure for the award of spectrum in the 3600 MHz and 26 GHz ranges, which was also subject to a public consultation, took place in December 2023²⁸ (end of the tender submission period is 12 February 2024).

For details of the Spectrum Release Plan published by the regulatory authority and the responsible ministry in February 2022, please refer to last year's report.

5.3.2 Review of the requirements regarding mobile service sites in the 700 MHz range

The initial band-specific conditions for the 700 MHz range became effective at the end of 2022. Hutchison Drei Austria GmbH and T-Mobile Austria GmbH were each assigned several frequency packages from the 700 MHz range. As of 31 December 2022, both companies each have 500 locations to operate with these frequencies (band-specific coverage obligation). The corresponding review procedure was initiated at the end of 2022 and was completed in April 2023, so that both companies have fulfilled their obligations.

5.3.3 Review of level of coverage of poorly served cadastral municipalities

During the second 5G auction in 2020, involving the 700, 1500 and 2100 MHz bands, the regulatory authority assigned to operators 1,702 of the 2,100 poorly served cadastral municipalities, as part of extended coverage obligations to ensure wide-area coverage.²⁹ The conditions related that operators may decide as flexibly as possible which cadastral municipalities they supply with service. However, this applies under the condition that in fulfilment of the coverage obligation a cadastral municipality can be accepted by only one operator. Operators can exchange cadastral municipalities for ones that are still available until the respective deadline. They also have the option of exchanging deadlines and trading cadastral municipalities among one other. In order to facilitate this process as well as possible, the regulatory authority has developed a portal that allows cadastral municipalities to be nominated and exchanged in accordance with the rules under the decision.

The first phase of the extended coverage obligation involving 185 cadastral municipalities in total had to be fulfilled by A1 Telekom (113 cadastral municipalities) and Hutchison (72 cadastral municipalities) as of three deadlines in 2022. The corresponding review procedure was initiated in 2022 and work started on the review (data requests, simulations, measurement arrangements). In the coming years, there will be a steady flow of new deadlines from which certain cadastral municipalities will have to be covered.

Prior to the first deadline, a review plan was drafted and sent to the operators for their opinions.

²⁸ https://www.rtr.at/ausschreibung_f1_22

²⁹ For information relating to the second 5G auction and the innovative auction design ('incentive auction'), see article (in German): Regulatorisches: Zweite 5G-Auktion: Flächendeckende Mobilfunk-Breitbandversorgung für Österreich (Second 5G auction-wide-area mobile telecommunications broadband coverage for Austria) in the TKP newsletter February 2020 at https://www.rtr.at/TKP/aktuelles/publikationen/publikationen/Newsletter/Telekom_und_Post_Newsletter_TK_02-2020.de.html.

5.3.4 Review of the additional coverage-level requirements to be fulfilled after 31 December 2023

In addition to the obligation to supply additional cadastral municipalities, the 'basic' coverage requirement also became effective on 31 December 2023. This obligation applies to those operators who have been allocated usage rights in the 700 MHz or 2100 MHz frequency range and depends on the acquired frequency spectrum. These obligations do not need to be met solely by using frequencies from the 2020 award. The basic coverage obligations include:

- Obligation to provide coverage to the general population
- Coverage of cities (population and area coverage)
- Coverage of federal and regional roads
- Coverage of motorways and other limited-access highways
- Coverage of selected railway lines

The latter two requirements are to be met on the basis of a cooperation model with the respective infrastructure operator (ÖBB or ASFINAG). This coverage obligation applies only to those track or road sections along which the company under obligation already operated mobile network infrastructure on the effective date of 31 December 2019 or which the respective infrastructure operator makes available to fulfil the coverage obligation.

On 31 December 2023, a further 450 poorly served cadastral municipalities were to be provided with wide-area coverage.

A detailed description of the specific coverage obligations as well as chart maps of the coverage areas can be found on the regulatory authority's website.^{30, 31}

In 2023, plans for a review or possible measurements were drawn up and sent to the companies concerned for statement. The corresponding review procedures were initiated at the end of 2023 and the first step was taken with the request for the corresponding coverage data.

5.3.5 Request to amend assignment in the 3410–3800 MHz range

In the reporting year, a holder of spectrum usage rights submitted an application pursuant to Art. 21 Par. 5 TKG 2021 to amend a spectrum assignment, specifically an assignment in the 3410 to 3800 MHz range from 2019. The TTK was requested to amend the official decision assigning spectrum usage rights in the 3410–3800 MHz range dated 8 April 2019 to the effect that, at a location relevant for the fulfilment of the coverage obligation, measures can be implemented to reduce energy consumption during the hours 00:00 to 05:00, as long as this does not result in a drop, for any individual user, in the downlink or uplink data transmission rates in this location's coverage area below the 95th percentile of data transmission rates during the period 08:00 to 22:00.

However, an adjustment of coverage obligations imposed as part of spectrum assignments does not fall within the scope of the provision of Art. 21 TKG 2021. The rule is instead focused on changes that are necessary due to technical developments. Amending or supplementing any obligations that were imposed as part of assignment and were already known at the time of the call for tenders would also be a sensitive issue because it would mean changing the auction rules ex post. The request therefore had to be rejected.³²

30 https://www.rtr.at/TKP/was_wir_tun/telekommunikation/spectrum/procedures/Multibandauktion_700-1500-2100MHz_2020/cov_basic/Basic_coverage_obligations.de.html

31 <https://frq.rtr.at/de/>

32 https://www.rtr.at/TKP/aktuelles/entscheidungen/entscheidungen/f5_23.de.html

5.3.6 Spectrum transfer pursuant to Art. 20 TKG 2021

Since the transfer of spectrum can be an effective means of increasing the efficient use of frequencies, companies that have been assigned spectrum usage rights by the regulatory authority should be permitted to transfer these frequencies to third parties. To protect the public interest, such a transfer of spectrum requires the approval of the regulatory authority. To this end, Art. 20 TKG 2021 also specifies that the TKK as competent authority must consider the transfer's technical implications on a case-by-case basis and the impact on competition in particular. The authorisation may include any ancillary provisions as are considered necessary in order to avoid adverse effects on competition. Authorisation is to be refused in all cases where, despite the imposition of ancillary provisions, an adverse effect on competition is likely as a result of the transfer.

If an request for spectrum transfer within the meaning of this provision is received, the regulatory authority is required to publish it on its website (https://www.rtr.at/TKP/was_wir_tun/telekommunikation/spectrum/trade/FRQ_trading.de.html). As competitors also have the right to express a view, the TKK referred to the provisions for large-scale procedures as set out in Art. 202 TKG 2021 and published these procedures in the official bulletin.

In the reporting period, four requests were made to the TKK for transfer of spectrum, described below.

Procedure F 1/23

In January 2023, in accordance with Art. 20 Par. 1 TKG 2021, a joint application was submitted by Holding Graz – Kommunale Dienstleistungen GmbH and Salzburg AG für Energie, Verkehr und Telekommunikation for approval of the transfer of usage rights for spectrum in the 3410–3490 MHz range.

The application was for approval – without imposing ancillary provisions – of the transfer of 40 MHz (3410 MHz–3450 MHz) in the Styria region (excluding Graz) for the period from the approval until 31 December 2039 from Holding Graz – Kommunale Dienstleistungen GmbH to Salzburg AG für Energie, Verkehr und Telekommunikation as well as the approval of the transfer of 40 MHz (3450 MHz to 3490 MHz) in the same region from Salzburg AG für Energie, Verkehr und Telekommunikation to Holding Graz – Kommunale Dienstleistungen GmbH for the period from the approval to 31 December 2039.

As it was determined that the transfer of the right of use had no negative technical effects and that there was no impairment of competition, the approval for the reciprocal spectrum transfer was granted by decision of the TKK dated 15 May 2023.

Procedure F 3/23 and F 10/23

On 26 June 2023, an approval for the transfer of usage rights for spectrum (40 MHz in the 3410 MHz–3490 MHz range) assigned to Liwest Kabelmedien GmbH was granted to TTControl GmbH as the requirements for an approval pursuant to Art. 20 TKG 2021 were also met in this case. The approval was granted – as requested in the application – for the very short period from approval until 30 September 2023 (procedure F 3/23).

On 27 September 2023, Liwest Kabelmedien GmbH and TTControl GmbH submitted a (further) joint application for (extension of) approval of the transfer of usage rights with regard to the spectrum referred to above. The application is again for approval – without imposing any ancillary provisions – of the transfer of 40 MHz for the period from the approval until 31 March 2024 from Liwest Kabelmedien GmbH to TTControl GmbH. The spectrum in question will continue to be made available for tests and trials with the 5G spectrum at a contractually defined operating site in Steyr. In January 2024, this spectrum transfer was also approved by the TKK (procedure F 10/23).

Procedure F 7/23

In July 2023, a joint application was submitted by Hutchison Drei Austria GmbH and T-Mobile Austria GmbH for approval to transfer spectrum usage rights – in addition to cooperating on active network components within the meaning of Art. 85 TKG 2021 (procedure C 1/23). Specifically, the application was for approval to transfer to T-Mobile Austria GmbH spectrum usage rights originally assigned to Hutchison Drei Austria GmbH to the following extent:

- Transfer of 2 x 10 MHz (in the 700 MHz range) in the period from the approval until 31 December 2044
- Transfer of 2 x 5 MHz (in the 900 MHz range) in the period from approval until 31 December 2034
- Transfer of 25 MHz (in the 1500 MHz range) in the period from the approval until 31 December 2044
- Transfer of 2 x 20 MHz (in the 1800 MHz range) in the period from approval until 31 December 2034

The applicants intend to 'pool' frequencies at a maximum of 400 locations assigned to T-Mobile Austria GmbH throughout Austria (with the exception of Vienna, Linz and Graz) in order to use the entire dynamically assigned spectrum available as a result to supply their own customers (see also the comments on network cooperation within the meaning of Art. 85 TKG 2021 between these two companies).

Negative technical effects were not to be expected, as the terms and conditions of use of the transferred spectrum and the identity of the licence holder remain unchanged. The spectrum transfer also does not change any coverage obligations that the applicants have to fulfil. Rather, the spectrum transfer leads to a more efficient use of the available frequency spectrum, as both companies always have at least half of the capacity of the jointly used frequency spectrum at their disposal (*'dynamically assigned'*).

In terms of competition, no negative effects were identified as a result of the requested spectrum transfer. The aim of the envisaged spectrum transfer is to provide coverage to specific rural regions in previously poorly served cadastral municipalities, and along remote roads and other traffic routes. The requested spectrum transfer will result in an expansion of Hutchison Drei Austria GmbH's network coverage in primarily rural areas with no or little coverage previously (network expansion) and potentially in the fulfilment of coverage obligations. T-Mobile Austria GmbH will also see an improvement in its network due to increased (shared) capacity.

Based on these considerations, approval was granted in December 2023 for the transfer of the aforementioned spectrum usage rights from Hutchison Drei Austria GmbH to T-Mobile Austria GmbH, whereby this transfer of spectrum usage rights was limited (in accordance with the application) to a maximum of 400 locations assigned to T-Mobile Austria GmbH.

5.4 Network cooperation

A major innovation of the TKG 2021 concerns the cooperation on active network components between providers of public communications networks used to provide mobile communications services to the public. This provision covers agreements on the use of active network components and on access to the functionalities of active network components. 'Active network elements' means such elements that are "operated using electrical power, and which are deployed for the generation, processing and amplification of signals, and for network control".

The central provision is Art. 85 TKG 2021, which provides for a two-phase approval procedure for such 'sharing agreements'. This gives the TKK a formal procedure for the ex-ante review of such network cooperation agreements, thus increasing legal certainty for the cooperation partners involved. It represents a paradigm shift, as illegitimate network collaborations could previously only be addressed ex post, in a supervisory procedure (in connection with spectrum assignment decisions) or through an appeal to the Cartel Court.

The procedure is initiated by the contracting parties, who report the complete cooperation agreement to the TKK. In the first phase, the TKK will examine within a period of eight weeks whether potential competition concerns require an 'in-depth review' of the cooperation. The Federal Competition Authority and the Federal Public Attorney for Cartel Matters are also to be involved in this decision, with "utmost account to be taken" of their opinions. If no in-depth review is required, the agreement is deemed to have been approved as described in the notification. If, on the other hand, the regulatory authority decides that such an in-depth review is necessary, it must conclude this four-month second phase with a decision.

Procedure C 1/23

In early 2023, Hutchison Drei Austria GmbH and T-Mobile Austria GmbH submitted notification of an intended cooperation on active network components pursuant to Art. 85 TKG 2021; this notification was preceded by several months of pre-notification talks.

The cooperation consists of 'active sharing' and 'regional roaming' and aims to improve network coverage, support the fulfilment of coverage obligations (of the TKK), reduce the costs of deployment and achieve cost synergies. In addition, 5G deployment is to be accelerated and the use of frequency spectrum optimised to the benefit of end users and wholesale customers.

One part of the agreement limits cooperation primarily to areas in which only insignificant infrastructure competition is expected for the duration of the cooperation. Another part ensures that Hutchison Drei Austria GmbH maintains blanket coverage.

In the course of the procedure, opinions were obtained from the Federal Competition Authority and the Federal Public Attorney for Cartel Matters. The official parties acknowledged the additional coverage provided by the cooperation, but pointed out that the benefits of the cooperation would have to be passed on to the virtual mobile telecoms providers (mobile virtual network operators or MVNOs).

The two applicants have agreed to pass on this additional coverage to MVNOs and have also agreed not to consolidate the networks or dismantle any sites directly related to the active sharing agreement.

After conducting a competitive review of the potential effects of the envisaged cooperation and taking the opinions of the official parties into account as far as possible, the TKK approved the notified cooperation in a second phase, subject to conditions (decision of 26 June 2023).

5.5 Electronic signatures and trust services

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

5.5.1 Procedures before the TKK

All procedures initiated in 2022 or earlier were concluded in 2023. A total of 32 additional procedures were initiated in 2023, 29 of which could not be concluded by the end of 2023. In 2023, four qualified TSPs were active in Austria. All qualified TSPs offered qualified certificates for electronic signatures or seals, three of them also offered qualified time stamps and two of them qualified certificates for website authentication.

Qualified TSPs are required to undergo a conformity assessment by an accredited conformity assessment body every two years. In 2023, all four qualified TSPs submitted conformity assessment reports, which were then evaluated by the supervisory body.

Once the required conformity assessment report had been evaluated, the TKK attested one provider an initial qualification to issue qualified certificates for electronic seals.

One of the above-mentioned conformity assessment reports also included new certificates for trust services due to a change in the name of the TSP, which were included in the Austrian trust list by decision of the supervisory body. While the qualified trust services had to be added to the list ex officio, another non-qualified trust service was added to the list at the request of the TSP.

Thirteen procedures related to modifications of qualified trust services. Four of these procedures concerned minor changes to certificate policies, certification practice statements and/or lists of used, provided and recommended signature products. Two procedures concerned the support of foreign electronic identification systems in connection with the issuing of qualified certificates. Two procedures dealt with the use of new versions of qualified signature or seal creation devices. One procedure examined conceptual changes to a procedure for creating remote signatures. In four procedures, the supervisory body examined the integration of additional methods for the remote identification of certificate applicants, including adapted methods for triggering the creation of signatures.

The supervisory body also verified two additional instances of confirmation relating to the security of identification methods whose previous confirmation had expired. In addition, the TKK dealt with the extension of the legal recognition of video identification is used in Germany in the context of issuing qualified certificates, since Austrian TSPs also use identification services provided by suppliers in Germany.

In three cases, the supervisory body took action as part of official duties in response to reported potential security breaches. Two of these procedures concerned identity theft and one concerned an access authorisation erroneously granted by a TSP.

5.5.2 Infrastructure

In supervisory operations, the TKK works through RTR, with the latter separately responsible for specified tasks. This applies especially to the infrastructure required to verify certificates, electronic signatures, electronic seals and electronic timestamps, all of which is operated by RTR. This includes:

- The 'trusted list' made available at www.signatur.rtr.at/currenttl.xml (a list of information related to TSPs and the trust services they provide, which is required to be made available in a standardised format by each Member State).
- The signature verification service made available at www.signaturpruefung.gv.at, which allows verification of electronic signatures, electronic seals and electronic certificates from other EU and EEA countries, where these items are listed in the trusted list for the particular country.
- A 'trust infrastructure', enabling the supervisory body to adopt the certificate database of a TSP that discontinues service.



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Activities of RTR Telecommunications and Postal Services Division

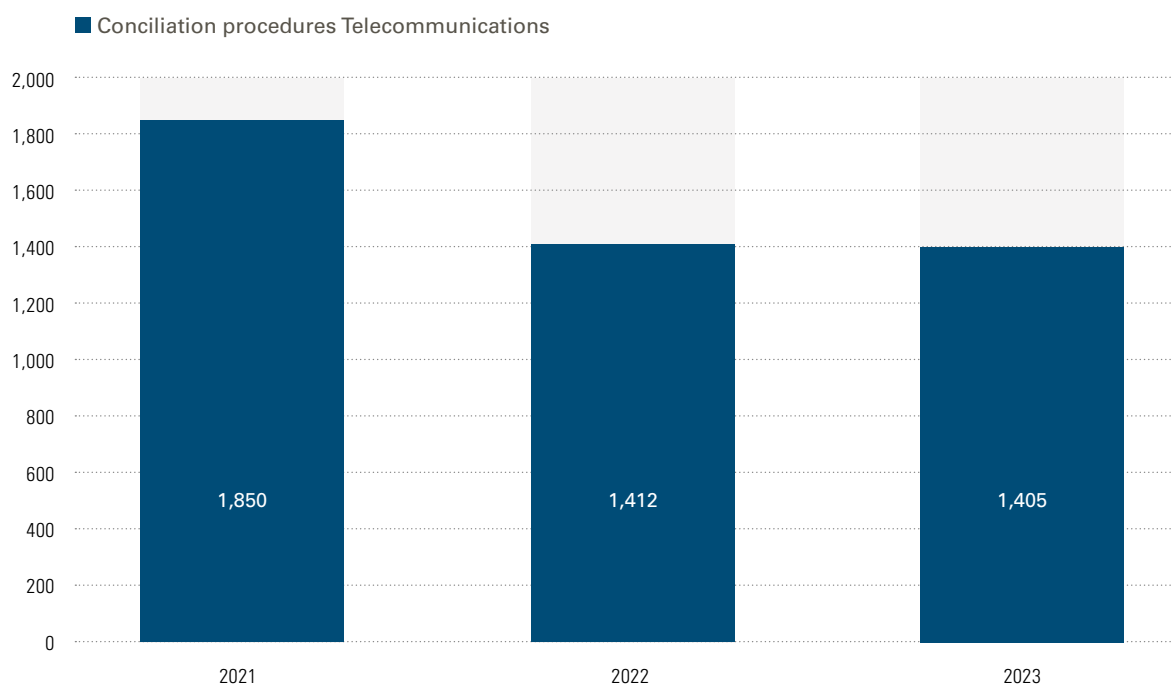
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06 Activities of RTR Telecommunications and Postal Services Division

6.1 An alternative to the courts for end users

The telecom conciliation bodies continued to observe a positive trend throughout 2023. A further, marginal decline in cases was seen compared with previous years, with the number falling from 1,412 in 2022 to 1,405 in 2023. Since there were no urgent problem scenarios that had led to an increase in complaints, the number of procedures remained stable at a low level. Hardly any changes were seen in terms of complaint topics. As in previous years, most cases fell under the category of 'contractual issues' – a term that covers a wide range of contract-related problems. An increase was seen in conciliation cases relating to mobile phone number porting.

Figure 34: Conciliation procedures involving telecoms, 2021-2023



Source: RTR

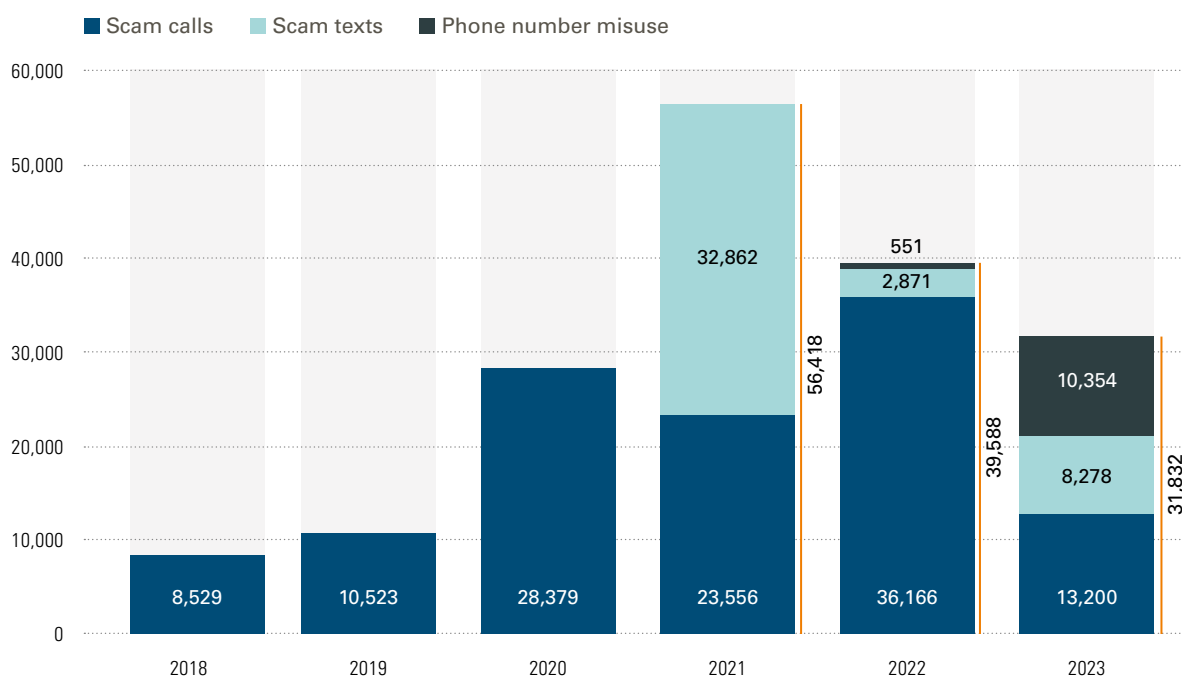
Comprehensive details about conciliation activities can be found in the 2023 annual report for the conciliation bodies (see www.rtr.at/schlichtungsbericht_2023).

6.2 Reporting phone number misuse

As seen in previous years, fraudulent calls related to spoofing, especially those using 'normal' Austrian phone numbers, were a key point of focus for the complaints received by the contact point for reporting phone number misuse. It is only possible to hazard a guess at the actual number of fraudulent calls made last year in Austria. The real figure is certainly likely to be very high, with essentially the large majority of users in Austria affected by this kind of phone-based scam.

Another issue closely related to spoofing is the misuse of users' phone numbers, with more than 10,000 reports received here (2022: 551). These complaints concern attempts at fraud that misuse phone numbers from uninvolved private individuals. Those affected only become aware of this when they receive calls from complete strangers who ring them back using the caller ID number to express their anger at receiving the original call. The 10,000 reports mentioned above were therefore made by people who had discovered their own phone number was being misused. This development was instrumental in triggering regulatory intervention in the form of an ordinance. This ordinance, issued by RTR, aims to put a stop to spoofing with Austrian phone numbers by the end of 2024 at the latest (see [Section 6.7.1](#) for further information).

Figure 35: Reports of scam calls (incl. one-ring calls) and scam texts, 2018–2023



Source: RTR

6.3 Review of the practical effectiveness of contract summaries pursuant to Art. 185 Par. 3 of the Telecommunications Act 2021 (TKG 2021)

In compliance with the Directive on the European Electronic Communications Code (EECC), providers must make available to consumers “clear and easily legible contract summaries” before these parties conclude a contract. In this case, a template supplied by the European Commission is to be used, which specifies a certain minimum level of detail, such as information about the services included, the price, the term and the termination mechanisms. Ideally, the contract summary should fit on a single A4 page.

Even before the official transposition of the contract summary provisions into Austrian law, RTR's Telecommunications and Postal Services Division realised that this detailed piece of EU legislation would generate a large volume of enquiries. Following a consultation period, the division therefore produced a ‘Practical guide to contract summaries’ in 2020, which discussed the kinds of problems and issues expected to be encountered in practice, and offered potential solutions to ensure that providers would be able to meet legal requirements properly during their day-to-day business.

This practical guide was subsequently amended to reflect the final text of the TKG 2021. Following further consultation on amendments, the guide has been made available on the RTR website since March 2022: www.rtr.at/praxishandbuch_vertragszusammenfassung (in German). Alongside considerations relating to the specific points in time, contractual situations and formats at and in which the contract summary must be provided, the practical guide also gives assistance for completing the template and provides a sample contract summary.

To comply with the TKG 2021, the regulatory authority must, on a regular basis and at least every three years, review the “practical effectiveness” of contract summaries in terms of the goal of enabling end users to make informed decisions. The results of this review are to be published on the authority's website. RTR has decided to meet this reporting requirement by including the review in this present report.

To evaluate the contract summaries, the conciliation body of RTR, Telecommunications and Postal Services Division, has collected the contract summaries submitted by complainants and/or providers during the course of conciliation procedures initiated over the last few years, so as to obtain an overview of how these contract summaries have been drafted in response to the individual products as offered by these providers. These contract summaries were then brought up during the routine meetings held with the major providers, and specific feedback given with the aim of improving transparency through a clearer presentation of the key terms of the contract.

Furthermore, individual complainants whose contractual difficulties had formed part of conciliation procedures pursuant to Art. 205 of the TKG 2021 were also invited to fill out a related questionnaire.

A total of 68 questionnaires were sent out in 2023, with 39 responses received. While these completed questionnaires are not representative, they nonetheless provide some insights into how contract summaries are perceived by end users.

Particularly worthy of note is the fact that, of the complainants surveyed, around 30% stated on their questionnaire that they could not remember ever having been provided with a contract summary.

In conciliation activities, however, RTR have not directly encountered situations where providers failed to provide a contract summary. Providers must make a huge volume of information available before contract conclusion (including information pursuant to Art. 5a of the Consumer Protection Act (KSchG), Art. 4 of the Act on Distance Selling and Contracts (FAGG), Annex VIII of the EECC, contract summary, general terms and conditions, service descriptions, fee provisions), while some of this content is redundant. In view of this, end users may presumably not know which of these many documents is the ‘all-important’ one, and there is therefore a risk that they may simply overlook the contract summary.

While some complainants stated on the questionnaire that they had actually received the contract summary only after contract conclusion, this does not match up to the experience gained in conciliation procedures. In this case, RTR believes it to be more likely that the consumer was no longer able to remember exactly when they had received the contract summary or had misunderstood as of what date the contract actually entered into force.

On the other hand, an analysis of the questionnaire data also showed that those complainants surveyed who could remember or knew that they had received a contract summary had read it at least in part and most also found the summary to be useful. For such complainants, the contract summary was also generally comprehensible, and gave these individuals at least in part a better overview of their overall contractual rights and obligations.

In contrast, only a few end users made use of the contract summary to make comparisons between several offers, although this is stated as a reason for the contract summary, both in the EECC as well as in the ordinance prescribing the template to be used by providers for the contract summary. This is probably because end users are often unaware of the fact that they are entitled to actively request a contract summary even if they have no intention of concluding the contract.

Concurrently with the complainant survey, the provincial chambers of the Austrian Chamber of Labour were also invited to share the insights they had gained as part of their advisory work in relation to contract summaries.

In particular, this invitation aimed to obtain feedback on how the contract summary is being received by consumers and whether they are now better informed about their contractual situation as a result of this information being provided to them. The conciliation body of RTR, Telecommunications and Postal Services Division, also wanted to hear about any cases where consumers believe providers are not providing a contract summary, how effective consumers believe the contract summary to be, and which advantages and disadvantages the contract summary is perceived to have.

Encouragingly, the feedback about the contract summary experience has been uniformly positive, with the compact and transparent summary of the key points of the contract in particular being seen as advantageous both for consumers as the contracting party and for the legal advice activities by the provincial chambers.

As with RTR, Telecommunications and Postal Services Division, the Austrian Chamber of Labour did not discover any cases where a provider failed to make a contract summary available, although they did note that consumers were often unaware that there is an actual legal requirement to provide the contract summary. In some cases, the Chamber of Labour assumes that, as with general terms and conditions, consumers just 'give in' to the contract summary without paying any particular attention to it.

The consumer experience as described by the Chamber of Labour closely resembles the observations made by the conciliation body of RTR during its conciliation procedures. Many consumers, as well as the companies and organisations covered by the EECC and the TKG 2021, are often entirely unaware that a provider – and specifically one who is not providing an M2M transmission service – is required to provide a free contract summary before contract conclusion and that this summary, as already mentioned above, may be requested from a provider without any intention to conclude the contract.

It is very likely that consumers, as well as companies and organisations falling under the EECC and the TKG 2021, only start looking through the package of documents provided in relation to contract conclusion when issues actually arise in relation to their contract.

While the contract summary does facilitate a more straightforward comparability of multiple offers from providers, as intended by the EECC, this is, at least in RTR's experience, not being proactively utilised by end users, clearly as a result of their ignorance of the existing legal requirement for this summary. For providers, advising potential customers of the availability of the contract summary – when these interested parties are looking for a certain product in the provider's shop or calling their hotline – could therefore not only serve their interests but even be a competitive differentiator.

In conclusion, it can be said that the contract summary is an effective means of providing end users with a compact and transparent overview of the key points of a contract. However, as a result of the wealth of information that providers have to make available before contract conclusion, this summary can 'slip through the cracks' for end users.

As part of its public relations work, RTR therefore regularly highlights the availability and utility of the contract summary, so as to raise awareness among end users about this useful instrument for both understanding and comparing contracts.

6.4 Third-party services

Trends in complaints for third-party services are observed on a continuing basis. The reason for this is that regulatory interventions can be made in the event of unacceptable developments. Accordingly number-independent third-party services in particular ('pay by mobile phone bill') have been carefully monitored for a number of years now. Number-based services from third parties (traditional value-added services) have been subject to the Communications Parameters, Fees and Value-Added Services Ordinance (KEM-V 2009) for several years, which has resulted in a steady decline in complaints. As of this writing, there is no call for any regulatory intervention. In the opinion of the regulatory authority, Austrian providers have achieved a generally satisfactory situation as a result of self-regulation and complaints handling procedures that cater to user needs.

It should be noted, however, that complaints ticked up again in 2023, although not yet to anything like an alarming level.

During conciliation procedures, it has also been noted that some providers are less inclined to reach agreement in invoice disputes relating to third-party number-independent services. Further developments in this area therefore need to be monitored closely in 2024.

Table 43: Conciliation procedures involving third-party services, 2021–2023

| | 2021 | 2022 | 2023 |
|--|--------------|--------------|--------------|
| Total number of conciliation procedures | 1,850 | 1,412 | 1,405 |
| Procedures involving value-added text messaging | 1 | 0 | 1 |
| Procedures involving value-added voice services | 4 | 11 | 4 |
| Procedures involving number-independent third-party services | 50 | 46 | 68 |

Source: RTR

6.5 Ensuring legally compliant terms of contract

With the TKG 2021, the TKK's task of ensuring that the contractual terms and conditions of telecommunications service providers (including general terms of service, service descriptions and tariff provisions) are legally compliant was transferred to the Telecommunications and Postal Services Division of RTR. Providers must draw up contract terms and notify them to RTR in advance for review. RTR can reject the application of these contract terms to business transactions if the terms infringe any provisions of telecommunications law or certain points of civil or consumer protection law. A number of requirements relating to net neutrality are also reviewed, in this way ensuring compliance with these transparency requirements and thus safeguarding free access to the open internet.

In 2023, 441 objection procedures were carried out. While the new TKG 2021 has made various adjustments necessary, at the same time providers of interpersonal communications services (NIICS) are now also subject to reporting requirements. Numerous enquiries from both end users and providers were also handled on the subject of notifying or reviewing contractual conditions. Content reviews of terms and conditions focus not only on compliance with provisions of telecommunications law but also civil and consumer protection legislation. In detail, it became apparent in 2023 that more and more European and international undertakings are becoming active as providers on the Austrian market. In ensuring that contract terms comply with the law, RTR has been facing a new set of challenges, since some of these providers have only limited knowledge of the relevant substantive and procedural provisions of Austrian and EU law, and may also not have an adequate command of German as Austria's official language.

RTR is primarily concerned with ensuring that telecoms make any necessary changes to contract terms already during procedures: this ensures that legal compliance is established as soon as possible. In every procedure in 2023, the TKK achieved this goal. For end users, checking through contract terms in advance reduces their risk of needing to go to court to clarify the legality of individual clauses once the contract has already been signed. Such legal proceedings are also associated with a very high cost risk. At the same time, end users are often unable to identify potentially unlawful clauses that are in fact unenforceable even though they have been agreed and included in the general terms of service. This practice of vetting contract conditions terms also makes an important contribution to fair competition between telecommunications service providers while also preventing them from gaining a competitive edge by introducing unlawful terms. With a view to net neutrality breaches, the practice also enables monitoring and thus an early warning mechanism.

Alongside the advance checking of the general terms and conditions mentioned earlier, the regulatory authority also monitors activities of telecoms providers in the market and can initiate a supervisory procedure against a telecoms provider in the event of a breach of safeguard requirements, if the provider refuses to act to restore legal compliance in the matter. This offers a way of sanctioning those breaches that cannot be identified during advance checking of general terms and conditions or which first occur after contract conclusion. One supervisory procedure was pending in the reporting period.

In relation to legal obligations concerning roaming, monitoring and enforcement was pursued in the customary way. To this end, the regulatory authority maintained regular dialogue with affected providers, so as to ensure that EU roaming regulations were made an integral part of contracts (general terms and conditions, fee provisions) and could be properly guaranteed. Any legal infringements were addressed with supervisory procedures, with responsibility here being assigned to the TKK, and RTR's Telecommunications and Postal Services Division acting as its operative arm. In the reporting period, the regulatory authority issued one cease order in relation to roaming. In this case, the provider's contracts had breached obligations under the EU's Roaming Regulation by including billing for indirect roaming surcharges. This procedure is not yet final.

Tariff comparison tools make an important contribution to end user protection, helping consumers to make informed decisions about the tariff plan most suited to meeting their needs, based on the contract conditions as published by the telecoms providers. To ensure that consumers can rely on tariff comparison portals to provide them with up to date, impartial and comprehensive information about the tariff plans on offer in Austria, the TKG 2021 envisages issuing certificates to tariff comparison portals that are able to meet the applicable statutory provisions. During 2022 and 2023, the Austrian regulatory authority conducted extensive talks with several providers of tariff comparison tools in order to ascertain whether and under which circumstances their

comparison tools could become certified. Securing compliance with the extensive legal requirements for this kind of certified tariff comparison was given the utmost priority here.

Ultimately, RTR granted two providers this certified status. The provider tarife.at received its certificate in early 2023, while the Federal Chamber of Labour received certification for its tariff comparison tools at the end of 2023.

6.6 Services subject to notification requirements

Pursuant to Art. 6 TKG 2021, the intent to provide a public communications network or to offer a public communications service as well as to modify or terminate such a network or service must be notified to the regulatory authority prior to the start of operation, modification or termination.³³

Table 44: Notified active services 2019–2023

| Service category | 2019-12-31 | 2020-12-31 | 2021-12-31 | 2022-12-31 | 2023-12-31 |
|--|--------------|--------------|--------------|--------------|--------------|
| Public telephone services at fixed locations | 387 | 443 | 531 | 544 | 553 |
| Call shops | 33 | 27 | 26 | 24 | 25 |
| Internet cafés | 42 | 35 | 32 | 28 | 25 |
| Public internet communications services | 413 | 419 | 419 | 413 | 419 |
| Public communications networks | 564 | 582 | 612 | 648 | 660 |
| Public leased-line services | 80 | 82 | 82 | 84 | 84 |
| Other public communications services | 34 | 42 | 43 | 49 | 55 |
| TOTAL services notified | 1,553 | 1,630 | 1,745 | 1,790 | 1,821 |

Source: RTR

As of 31 December 2023, 1,821 active services had been notified by a total of 1,153 operators, of which 33 were operators of call shops and/or internet cafés. Based on a 2011 amendment to the TKG 2003 that has been included in the TKG 2021, such operators are exempt from a large number of obligations arising from the TKG 2021 that apply in general to businesses required to provide notification as defined in Art. 6 TKG 2021 (this includes notification of general terms and conditions).

³³ For further information on notification procedures, please refer to the Communications Reports of the previous years.

6.7 Communications parameters: administration of the Austrian number range

6.7.1 Two amendments to the Communications Parameters, Fees and Value-Added Services Ordinance 2009 (KEM-V 2009)

As part of the eighth amendment to the KEM-V 2009, a hotline for victims of violence against women (116 016) was established and its operation entrusted to the Association of Autonomous Austrian Women's Shelters (AÖF). The service operated under the number 116 016 emotional and legal support to victims of violence against women, informing them of their rights and legal recourse, and referring them to the relevant support organisations.

In another ordinance procedure conducted in 2023, measures targeting the unlawful display of phone numbers (phone number manipulation, spoofing) and aiming to protect Austrian telephone numbers, which are seen as especially 'trustworthy,' were introduced by RTR in KEM-V 2009 shortly before the end of the year, with the cooperation of market participants. This action was taken to put a stop to phone number spoofing, and its associated aspects of fraud and harassment.

The ordinance requires Austrian providers to carry out phone number verification (with flagging) for calls using Austrian phone numbers that are received from outside Austria. If this verification is not possible, then the caller ID for this calling number is suppressed. The provider may terminate the call if the verification reveals that the number is being spoofed.

The ordinance will start to take effect during 2024 and providers must implement this amendment by the end of 2024. An even earlier deadline of 1 September 2024 applies to mobile networks.

6.7.2 Central number database (ZR-DB)

The database has been fully available to market participants since latter 2021, and this has considerably simplified regulatory activities in the areas of telephone number assignment and market supervision.

In 2023, the ZR-DB was also made accessible to administrative authorities, criminal police and law enforcement authorities in Austria, so that these parties can now query the ZR-DB directly to determine which provider is able to carry out a relevant subscriber data search for Austrian phone numbers.

The database will also facilitate the querying of location and subscriber data when responding to emergency calls. Alongside the implementation of mandatory 'direct routing,' other challenges for 2024 include the implementation of de facto porting for fixed-line network numbers (this porting process currently takes place outside of the ZR-DB and is then reported to the database once complete), which is something that has been requested by Austrian operators and providers.

6.7.3 Reports detailing statistics on telephone number administration

In total, 508 applications for the assignment of phone numbers were submitted in the 2023 reporting year. A total of 479 decisions were issued. Applications were either withdrawn or refused in 30 cases. In the 2023 reporting year, 506 applications were processed and completed overall.

Table 45: Decisions on telephone number requests, 2019 to 2023

| | 2019 | 2020 | 2021 | 2022 | 2023 |
|--|------------|------------|------------|------------|------------|
| Number of affirmative decisions | 648 | 664 | 733 | 558 | 476 |
| Geographic numbers | 402 | 422 | 469 | 362 | 301 |
| Non-geographic numbers | 246 | 242 | 264 | 196 | 175 |
| Number of negative decisions | 6 | 3 | 8 | 5 | 3 |
| TOTAL | 654 | 667 | 741 | 563 | 479 |

Source: RTR

In 2023, RTR issued a total of three decisions, all of them positive, in the context of administrating special communications parameters, which include mobile network codes, a basic and essential addressing element for mobile networks.

6.8 Emergency communications

In relation to emergency communications, RTR again fielded enquiries from call handling centres, operators and ministries. This not insignificant aspect of RTR's work involves mediation between several parties and continues to be a challenging role. However, these challenges cannot be resolved by means of conventional regulatory activities. An intuitive approach combined with technical expertise is required instead to ensure that legal provisions are implemented appropriately. In line with this approach, an Emergency Calls Platform was held as a hybrid event in 2023 so that market participants could learn about developments including important new EU-level changes. In particular, these include Commission Delegated Regulation (EU) 2023/444 concerning the continuity of emergency communication in the EU as well as Directive (EU) 2019/882, the 'European Accessibility Act', which aims to improve emergency call access for end users with disabilities.

The requirement for providers to implement a uniform interface as a means of retrieving location and subscriber data – with a transmission now required rather than a query as under previous legislation – constitutes a major challenge for all market participants. Resource-related issues have prevented the implementation of this interface until 2024.

6.8.1 Public warning system (AT-Alert)

In Austria, the obligation to introduce a text-based public warning system is implemented in Art. 125 TKG 2021 with the introduction of a cell broadcast service in all public mobile telecommunications networks. Warnings issued by the competent authorities are then triggered among mobile network operators via the IT systems of the regional warning centres and the federal alarm centre. In this context, RTR is required to publish the issued warnings on a publicly accessible internet page (webpage) (see Art. 125 Par. 4 TKG 2021). RTR has also taken on additional administrative tasks relating to the networking of the participating organisations (federal alarm centre, nine regional warning centres, three mobile network operators and RTR). For example, RTR issues the certificates required for authorisation and therefore acts as a certification authority. Regular planning and coordination meetings on this topic were held with the participating organisations in 2023, and full-scale operations are expected to start by mid-year 2024.

6.9 Network deployment and infrastructure use

To promote the deployment of communications networks, the seventh section of the TKG 2021 sets out various infrastructure rights (wayleave rights, concurrent use rights, location rights and civil works coordination).

When expanding communications networks, operators have to route their infrastructure across private and public property. Operators can claim wayleave rights under these circumstances. Yet another option is to co-use existing infrastructure (masts, ducts, maintenance holes or lines) owned by other businesses, thereby reducing the costs of expanding fixed and mobile networks (co-use rights). Co-installation can also result in cost savings for excavation work (see below). Since November 2021, the Telecommunications Act also includes a location right that enables the establishment of mobile network locations. Mobile network locations are *"antenna masts including all of the site facilities required, such as are necessary regardless of the specific technology deployed for technical operations."*

Parties unable to agree on the contents of infrastructure rights can request the TTK to take a decision. Before making such a decision, RTR chairs an attempt at conciliation (mediation) in the event of an application to initiate proceedings that is not patently unlawful. If conciliation is unsuccessful, RTR issues a decision if all preconditions are met (such as, for example, a timely and complete request, the applicant being a communications network provider as defined in Art. 4 No. 16 or No. 9 of the TKG 2021 and the unambiguous designation of the applicant opponent, etc.) in lieu of an agreement.

In the reporting period, a total of 47 applications to grant wayleave, concurrent use and location rights, and to issue civil works coordination orders were received by RTR; this corresponds to an increase of roughly 27% compared with the previous year (2022).

Twenty procedures were terminated after the application to initiate proceedings was withdrawn. There were several reasons for such application withdrawals. In some procedures, the parties were able to come to an agreement. A sharp rise in applications for co-installation (17 applications) was recorded in the reporting period. Only one application was made for location rights; this procedure was terminated following an amicable settlement and application withdrawal.

The 140 odd completed cases involving queries that did not lead to formal procedures additionally bear witness to the continued importance of infrastructure rights as set out in TKG 2021 Section 7.

Note: decisions of RTR on co-installation

By establishing provisions for co-installation (Art. 68 f. TKG 2021), policymakers are pursuing the goal of promoting the expansion of broadband by reducing its associated costs. However, these provisions give rise to many issues in practice.

Not only have the legislative provisions in the TKG 2021 been specified in general terms (e.g. "expense...to shared proportionately", "[not] economically reasonable"), so that any procedure requires an interpretation of the provisions, but there have also been very few decisions to date on the question of civil works coordination. These circumstances create particular challenges in those procedures where parties have conflicting interests and have previously failed to reach mutual agreement about co-installation based on civil law.

Attention is drawn in particular to the following decisions issued during 2023.

Procedure 1. RDVF 20/23-25:

In procedure RDVF 20/23, the application to initiate proceedings was dismissed, as the request addressed to the application opponent did not comply with legal requirements either in terms of the construction project or the timetable. As the procedural requirements had not been met, no substantial issues could be resolved.

Accordingly, RTR was unable within the framework of the procedure to address key issues, such as interpreting “to be shared proportionately” regarding the expenses (Art. 68 Par. 2 last sentence TKG 2021), or the meaning of “[not] economically reasonable” or “[not] technically feasible” (point (e) of Art. 68 Par. 2 TKG 2021). The applicant has appealed to the Federal Administrative Court to review this decision. The decision is therefore not yet final.

Procedure 2. RDVF 26/23-17:

In this procedure, the application was also rejected, as the request submitted did not meet the criteria already set out by decision RDVF 20/23-25. However, the procedure here was slightly different, as the application opponents stated that they were not engaged in construction work in the area for which co-installation had been requested. According to these uncontested statements, they were still in the ‘request aggregation’ phase at that time. When they received the request, the application opponent was therefore unsure that they would be able to complete expansion work in the area for which co-installation had been requested. In its decision, RTR noted that *“according to Art. 68 of the TKG 2021 [], co-installation is possible only if (direct or indirect) construction work is planned by the developer. In accordance with provisions of law, no-one can be required to prepare an offer for co-installation if they do not (yet) have any plans of their own to carry out (direct or indirect) expansion work in the affected area.”*

Decision RDVF 26/23-17 was not appealed and is therefore final.

Anonymised versions of the above-mentioned decisions are available (in German) from the RTR website.

6.10 Ordinances

The TKG 2021 mandates regulatory authorities RTR and TKK with over 30 competencies for issuing ordinances. Apart from the continuation of a widely known authority to issue ordinances stemming from the TKG 2003, other, new legal foundations were also laid.

As regards the previous ordinances issued on the basis of the TKG 2003, a transitional provision exists allowing all of these ordinances to remain in force until the new ordinances – based on the TKG 2021 – have been duly issued.

In 2023, regulatory authorities issued the following ordinances:

- With the regulatory authority’s ordinance concerning the limitation by number of frequency awards (ZaBe-V 2023, dated 28 April 2023), RTR acted in accordance with Art. 14 of the TKG 2021 to establish whether the award of a frequency sub-range should be limited by number or if such a limitation should not apply.
- Pursuant to Art. 139 Par. 5 of the TKG 2021, the 2023 Information Requirements Ordinance (MitV 2023, dated 15 May 2023) sets out the level of detail, content and form of the notification of changes to general terms of service and fee provisions that are not exclusively beneficial. This amendment to the ordinance has also been based on insights from regulatory activities conducted in recent years. Key changes from the earlier Information Requirements Ordinance include a redefinition of the group of providers subject to the law, a tightening of transparency requirements for unilateral fee increases and accounting for instalment payments made when end users exercise their right to terminate without notice in the context of notification duties on the part of providers subject to the law.
- The ordinance concerning the submission of information to RTR as the single information point for broadband coverage (ZIB-V 2023, dated 17 May 2023) complies with Art. 84 Par. 3 of the TKG 2021 by setting out more detailed provisions concerning the modalities – especially the nature, scope and data

format – of the information to be provided to RTR (information about current and planned broadband coverage for areas, and network expansion plans by private enterprises in particular). The most significant change from the previous version of the law (ZIB-V 2019) is that communications service providers are now also required to submit notifications.

- The RTR ordinance amending the 2009 Communications Parameters, Fees and Value-Added Services Ordinance (KEM-V 2009) was itself amended twice in the course of 2023, not only to introduce a hotline for victims of violence against women (116 016, amendment dated 18 September 2023) but also to set out measures targeting the unlawful display of fake caller IDs (caller ID spoofing, amendment dated 20 December 2023).
- With its 2023 selection procedure ordinance, dated 20 June 2023, the TKG resolved, based on Art. 15 of the TKG 2021, whether the awarding of certain frequency ranges (limited by number and envisaged for awarding by the regulatory authority) should utilise a competitively oriented or a comparative selection procedure.

Note: Evaluation of free choice of router and 'location of network termination point'

RTR has the option of issuing an ordinance to specify the location of the network termination point (Art. 49 TKG 2021, may require consultation with KommAustria). In 2023, RTR conducted an evaluation to determine whether there was any need to issue such an ordinance at that time. This involved holding two rounds of talks with operators and stakeholder representatives. Questionnaires were used to survey the situation in other EU member states, and conciliation applications and end user queries received by RTR were also evaluated. The results of this evaluation showed that the current situation in Austria does not require any official specification of the network termination point. By using the feature known as 'bridge mode', end users have the option of using their own end-user device (router) and connecting this to the operator's device. More detailed information is published on the RTR website at www.rtr.at/nap (in German).

6.11 Security of networks and services

Since November 2011, operators of public communications networks or services have been required to report to RTR, according to a format specified by RTR, any security violation or impairment of integrity that has a considerable impact on network operations or the provision of services. RTR is in turn required to submit an annual report to the European Commission and to the European Union Agency for Cybersecurity (ENISA), describing the notifications received and the measures taken. RTR can also inform regulatory authorities in other Member States, ENISA or the public about certain notifications on an ad hoc basis. Here the goal of transparency nonetheless always needs to be seen in the context of requirements for protecting the privacy of provider data.

With the entry into force of the TKG 2021, regulations for network and service security have also changed. The regulatory scope no longer extends merely to traditional communications services such as voice calls and internet access, but also covers number-based message services (e.g. SMS), number-independent interpersonal communications services (e.g. email, online chat) and signal transmission services (e.g. leased lines). The criteria for notifiable security incidents have also been expanded to include additional criteria.

6.11.1 Reports of network failures

In 2023, twelve notifications of security incidents affecting electronic communications networks or services were submitted to the RTR's reporting portal. One notification was submitted voluntarily, with notification thresholds being exceeded in the case of all other notifications.

A security incident caused by ransomware resulted in one provider's communications services becoming partially unusable for around 60,000 subscribers. Service restoration took several days, with varying amounts of time being required for individual components within the system.

Two security incidents related to malfunctions in number-independent interpersonal communications services. In one case, a DNS outage meant that around 3.3 million users in Austria were unable to access these services for a period of more than two hours. In another case, around 630,000 users in Austria experienced significant delays in sending email for a period lasting more than three hours.

Three reports involved regional unavailability of one or more emergency telephone numbers. The fault was resolved in less than an hour in two cases. In a third case, however, the general availability of short (public emergency) numbers via the 2G and 3G network was affected for a period lasting eight hours.

Another five notifications concerned various interruptions to communications services of varying magnitude as a result of hardware defects or other malfunctions.

6.11.2 Security of 5G networks

Once again in 2023, ensuring the security of 5G networks was a focal point of RTR's activities in network security. The foundation is provided at European level through the EU Toolbox for 5G cybersecurity³⁴ published by the NIS Cooperation Group, the majority of whose measures are implemented in Austria by the Telecommunications Network Security Ordinance 2020 (TK-NSiV 2020). Alongside general regulations applicable to all communications networks and services, the Ordinance envisages specific security measures for operators of 5G networks with a mobile subscriber base of more than 100,000 customers. This includes the following notification obligations:

- Evidence of the existence of an information security management system (ISMS)
- Submission of a declaration of conformity regarding the fulfilment of telecommunications-specific security standards
- Regular submission of an overview in terms of function and manufacturer of the security-relevant components deployed to operate the 5G network

RTR received the required information from the affected network operators again in 2023.

At European level, RTR continues to assist the Federal Chancellery with its tasks in the NIS Cooperation Group, providing technical expertise on 5G networks in particular. RTR also participates in a working group on cybersecurity at BEREC, which communicates regularly with the European Commission and the NIS Cooperation Group and contributes to a shared understanding of the measures in the EU Toolbox while striving for the harmonised application of these standards throughout most EU Member States.

6.11.3 Cybersecurity in the context of the war in Ukraine

The acts of war in Ukraine have created the need for a re-evaluation of the general security situation in the EU Member States. In relation to telecommunications networks and digital services, this means an in-depth review of the cybersecurity situation and more careful risk assessment in the Member States. RTR is supporting the Austrian Federal Chancellery in this task, thereby assisting with the assessment of the national and European threat situation.

34 Cybersecurity of 5G networks – EU Toolbox of risk mitigating measures, <https://ec.europa.eu/digital-single-market/news-redirect/667123>

6.11.4 Sector risk analysis

For the third time overall, again in 2023 the regulatory authority performed a comprehensive risk assessment of the telecommunications sector, as required by the Austrian Cyber Security Strategy (ACSS) and the Austrian Programme for Critical Infrastructure Protection (APCIP). This re-evaluation of the security landscape in the telecoms sector became necessary in order to update the risks, identified initially in 2017 and most recently in 2020, as well as the measures deployed to counter them, so as to maintain a high level of protection.

The 2023 sector risk assessment was again conducted as a public-private partnership process with security officers from the Federal Chancellery, Federal Ministry of the Interior, Federal Ministry of Defence and Sports, and the Federal Ministry of Finance, with operators and their interest groups, and with internet community stakeholders. Assessment results will be published in a report in early 2024.

Unless current developments make an earlier re-evaluation necessary, the next routine review of the sector risk analysis for the telecoms sector is planned for 2026.

6.11.5 Cross-sectoral activities

In 2023, cross-sectoral cooperation with the energy sector continued, building on the activities stemming from the sector risk analysis as described above. Hosted jointly by the two parties, a series of workshops focused on mutual interdependencies and cascade effects that impact both sectors, which make a shared approach to the mitigation of these cross-sectoral risks both prudent and necessary. These activities are simultaneously strengthening the network of experts from government authorities, operators and stakeholder groups now in place, which means that prompt consultation of this group is possible on short notice.

6.11.6 5G certification

The certification of products, services and processes is generally a tried and tested means for increasing security. At the same time, consideration should be given to not hindering the flexibility and innovation of an industry with frequent product and update cycles. In 2023, RTR cooperated with a European working group, coordinated by ENISA, on the development of a 5G cybersecurity certification scheme.³⁵ The programme for preparing the EU 5G scheme consists of two phases. The first phase, which was concluded at the end of 2022, included the translation of the current elements of existing schemes into their EU equivalents and the identification of gaps. It also produced an initial outline of the required additions and/or improvements to future versions of the schemes. The second phase, launched at the start of 2023, has been carried out in order to implement additions and improvements as well as to prepare and detail the EU 5G scheme. A related public consultation for the EU 5G scheme is expected during the first half of 2024.

³⁵ Ad-Hoc Working Group on 5G Cybersecurity Certification, https://www.enisa.europa.eu/topics/certification/copy_of_adhoc_wg_calls/ad-hoc-working-group-on-5g-cybersecurity-certification

6.11.7 National transposition of NIS 2

In December 2022, the NIS 2 Directive³⁶ was published in the Official Journal of the European Commission. This directive brings communications networks and services (as well as trust services) under its purview and strives for a new European cybersecurity architecture. In 2023, RTR once again expressed its willingness to actively participate in a newly designed Austrian cybersecurity landscape on several occasions, also expressing its conviction that sufficient attention must continue to be paid to sector-specific security aspects and that, in RTR's opinion, this should therefore be reflected in the national transposition of NIS 2.

6.11.8 Network security advisory board

As a result of the entry into force of the Telecommunications Act in November 2021, an advisory board for security in electronic communications networks was set up for the first time, thus simultaneously fulfilling a corresponding requirement set out in the EU 5G Toolbox of risk-mitigating measures in relation to the cybersecurity of 5G networks from 29 January 2020. The advisory board consists of twelve experts from ministries and social partners as well as the Computer Emergency Response Team (CERT) and the Austrian Institute of Technology (AIT) who are appointed by the federal government to serve for four years. The position of board chair is held by the Managing Director of RTR's Telecommunications and Postal Services Division, and RTR additionally provides operational support. The tasks of the advisory board include:

- Advising the Federal Ministry of Finance, responsible for the telecommunications agenda, on general aspects of the security of electronic communications networks
- Ongoing monitoring of the technological developments in the area of security components and services for such networks
- Publishing of an annual status report
- Drafting of expert opinions for procedures within the Federal Ministry for Finance relating to any classification of a manufacturer of network components or a provider of services for such networks as a high-risk supplier (this is a supplier considered very likely to be unable to comply, either at all or consistently, with applicable EU standards, especially with respect to information security and data protection).

Following its inaugural session on 21 November 2022, the advisory board became fully operational in 2023, holding three sessions that investigated developments in security technologies and reviewed the content of the status report for 2023. In early 2024, the advisory board will submit the first of its annual status reports to the Federal Minister for Finance.

6.12 Single information point for infrastructures: an information hub for telecommunications network operators

In 2015, a package of measures was adopted with the aim of reducing the costs of rolling out high-speed networks. These measures include the establishment of the ZIS and ZIB single information points, and the single point for permits and licenses, all of which have since been operated by RTR.

A full introduction to the information points is provided on the website under https://www.rtr.at/TKP/was_wir_tun/telekommunikation/zentrale_informationsstellen/ZIB_ZIS.en.html.

³⁶ Directive (EU) 2022/2555 of the European Parliament and the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive)

6.12.1 Single information point for infrastructure data (ZIS)

The Single Information Point for Infrastructure Data (ZIS) was established at RTR in 2016 and since manages a directory of all existing and planned infrastructure expansion that can be used for telecommunications purposes. The ZIS permits the simple exchange of information about existing infrastructure and planned construction work, and consequently facilitates the efficient co-use and installation of infrastructure.

What kinds of data are stored in the ZIS?

Austrian municipalities, other public bodies, providers of public communications networks, and companies operating physical infrastructure for oil, gas, electricity, district heating, water, funicular railways or transport must report existing infrastructure data and planned construction projects to ZIS in a digital format. To ensure both the quality and the completeness of the data reported, on uploading, data are reviewed and approved by RTR as part of the reporting process.

The ZIS is not a public directory. Only providers of public communications networks are entitled to query infrastructure data, since only they are entitled to co-use under the Telecommunications Act (TKG).

ZIS Portal use as of 31 December 2023

Since June 2016, the potential group of roughly 3,300 organisations required to report – including 2,095 Austrian municipalities have supplied the more than 10 million data records that are currently available for queries.

As of 31 December 2023, 381 of the companies required to report had applied to RTR and received authorisation to query the ZIS Portal. In 2023, a total of 2,055 query requests were made by telecoms companies authorised to access the database. This corresponds to roughly half of the queries made in the previous year, when the volume was very high as a result of the first call for the BBA2030 (Broadband Austria 2030) grant in April/ May 2022.

Requests were processed on average within 6 hours and 17 minutes in 2023, this figure referring to the entire turnaround time. The query requests were processed on average more than 18 hours more quickly during 2023 than in the year before.

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

6.12.2 Geographical surveys of broadband coverage levels

The geographical surveys of broadband coverage levels (ZIB) were introduced at RTR in July 2019. Data on the current and planned coverage of broadband connections in telecommunications networks is collected for both fixed and mobile networks. Information on data transmission speeds, technologies, active connections and procured wholesale services is also stored in the database. Besides supporting companies in making data available, RTR is tasked with data verification and organisation, with the goal of providing an up-to-date picture of broadband coverage in Austria.

Providers of public communications networks and providers of public communications services are required to supply data. Every year, the companies are requested by RTR to report their most recent data as well as planned rollout projects to the ZIB.

RTR assists the companies in this task by means of the aforementioned tools as well as via telephone support. All necessary information and supporting materials are publicly accessible on the ZIB website. The ZIB team has a dedicated email address (zib@rtr.at) or can be contacted directly via the ZIB Portal.

Legal background

As of 1 November 2021, the legal framework for the ZIB is provided by Art. 84 of the Telecommunications Act 2021 (TKG 2021). A remit for the ZIB was first introduced by an amendment to the TKG 2003 in December 2018. The Ordinance on Submission of Information to RTR as Single Information Point for Broadband Coverage was amended on the basis of TKG 2021 (ZIB-V 2023; FLG II 147/2023) and entered into force on 17 May 2023.

ZIB Portal use as of 31 December 2023

Work here in 2023 focused on providing support in data preparation and reporting to the some 670 companies required to report, as well as ensuring the quality and comprehensiveness of these data. Communication via the ZIB Portal has also been improved so that companies and municipalities (who act as providers of a public communications networks) can now view right next to the reported any by RTR regarding necessary amendments to the data.

A complete revision was also made of the reporting structure for the C10 category, which is used to represent the value chains of operators of communications networks and providers of communications services.

Alongside this change, the data were expanded to include the bandwidth normally available in mobile networks, following the expiry of a transitional period preceding the delivery of this data in the third quarter of 2023.

After passing quality checks, the data are used for market analysis and published in the quarterly RTR Internet Monitor. The data are also made available to the Broadband Office within the Ministry of Finance for the creation of funding maps and their publication in the broadband atlas.

In 2024, the focus will be on further development of the ZIB Portal as well as the automation of processes relating to data reporting. The grid level will also be changed to address/building level to form the underlying basis for data reported in the A10 category.

More information about the ZIB can be found on the RTR website: www.rtr.at/zib.

6.13 International activities

6.13.1 RTR and BEREC – electronic communications

RTR participates in all twelve working groups of the Body of European Regulators for Electronic Communications (BEREC), where it represents Austria's interests while learning from international regulatory best practice.

A co-chair from RTR is taking a leading role in document authoring in each of the two working groups International Roaming and Fixed Network Evolution. RTR drafters and members are also present in all of the working groups. All of this highlights the important and central role now played by international activities.

6.13.1.1 DMA High-Level Group

This group advises and supports the European Commission in efforts to implement the Digital Markets Act (DMA). RTR is also represented in the High-Level Group (DMA HLG) via BEREC.

All in all, the DMA HLG consists of six organisations, each with six representatives. BEREC is one of these and its delegates include the Mini-Board plus another representative. This latter position was secured by RTR's Managing Director for the Telecommunications and Postal Services Division following a vote held among BEREC members. He is the sixth BEREC delegate to the DMA HLG.

6.13.1.2 Key topics for BEREC

In late February 2023, the European Commission published its proposal for gigabit infrastructure legislation. This Gigabit Infrastructure Act (GIA) aims to simplify and fund the deployment of very high capacity networks (VHCN), and supplants the Broadband Cost Reduction Directive (BCRD) that was adopted in 2014. BEREC welcomes this initiative, considering it be a key milestone on the way to achieving the 2030 connectivity targets. In May 2023, BEREC published an analysis of the GIA proposal, submitting this to policymakers, the European Parliament and the Council, and presented this analysis to the Council's competent working group in June.

At the same time, the European Commission also submitted a draft of another proposal, the Gigabit Connectivity Recommendation, requesting BEREC's formal opinion as required by law. BEREC published an opinion with comments on all of the sections and suggested a series of changes.

BEREC also issued a statement as part of the EU Commission's initial consultation on the future of the electronic communications sector and its infrastructure. BEREC's response addressed almost all of the 62 questions. Although a twelve-week deadline had been imposed, a ten-page statement with two explanatory annexes was produced, thanks to a very high level of international cooperation and a special plenary meeting. This input was submitted ahead of the deadline in mid-May.

BEREC's 2023 Work Programme also took into account the increasing importance of data processing services for the provision of electronic communications networks and services (ECN/ECS), and for the internet ecosystem in general.

As one example, BEREC organised an online workshop on the subject of switching and the interoperability of data processing services. This aimed to promote constructive dialogue with stakeholders, competent authorities and policymakers for the implementation of the Data Act.

BEREC commissioned an external study to look at trends and policymaking/regulatory challenges in the context of cloudification, virtualisation and softwarisation in telecommunications. In the reporting year, preparatory work was also completed for a report on cloud services and edge computing, which was then opened for public consultation at the beginning of 2024.

BEREC also published a report on the practices and challenges encountered as part of 2G and 3G exit strategies, providing a comprehensive analysis of the key issues now facing various stakeholders in relation to the shutdown of 2G/3G networks. Key points of focus included the potential impacts on end users as well as a general stakeholder analysis.

This sharing of experience, insights and common approaches will make a positive contribution to the successful deactivation of second- and third-generation mobile networks within the markets, while maximising the continuity of key services that still continue to be provided (at least in part) by 2G and 3G technologies.

BEREC is also very clear about its responsibilities in relation to sustainability and addresses this topic in various ways. As one example, BEREC gives end users the knowledge and tools they need to participate in electronic communications in a sustainable way.

In 2023, BEREC worked on a report that looks at how to empower end users by promoting ecological transparency in digital products and services. The provisional report was opened for public consultation at the end of the year.

The report shows that users can be helped by information from 'data-driven regulatory practice.' Identifiers, indices and rankings can constitute reliable, easily understandable and comparable sets of information that account for all of the relevant environmental impacts of ICT products (greenhouse gas emissions, energy efficiency, material consumption etc.).

RTR has also addressed sustainability. In 2023, data were collected on the sustainable use of smartphones and prepared for presentation to end users. An important set of tips has been provided on the RTR website, from the purchase of a smartphone and extending its useful life to refurbishment options and disposal at the end of its lifetime. This has been supported by a public awareness campaign with infographics on X (Twitter) and LinkedIn.

6.13.1.3 International roaming

BEREC and the international roaming working groups have acquired extensive expertise in international communications, evident to no small degree from the regular benchmark and monitoring reports that are based on data from all over Europe. These reports highlight trends both in international roaming, meaning the use of mobile phone networks outside one's own country, as well as in intra-EU communications and in calling and texting to other countries, which refers to calling or sending a text from one's home country to another Member State.

Thanks to these insights, these groups and BEREC itself have been able to provide the European Commission with input and an opinion to support its review of the current Regulation on intra-EU communications. The conclusions drawn in that opinion have shown that the EU Regulation and the associated upper limits on pricing have had no appreciable impact on the use of intra-EU communications services. However, other measures need to be implemented to ensure users are better informed about the difference between international roaming and calling foreign numbers. BEREC also provided the European Commission with input on fair use policy and the sustainability clause in the Roaming Regulation.

BEREC took on the role of an independent third party for the rollout of affordable roaming services between the EU and Moldavia. Prior to this, operators from these regions had issued a common declaration that noted their intention to lower roaming fees for travel between the EU and Moldavia. The new fees entered into force on 1 January 2024. The declaration applies until 31 December 2025 and can be extended.

BEREC's roaming co-chairs first met with operators to discuss setting upper limits on voice and data services for consumer roaming in the Republic of Moldavia and the EU in June 2023. This process received support from ANCRETI, the national regulatory authority in Moldavia.

At the end of 2023, BEREC used a call for input to initiate work on a report that focused on communications between machines (M2M) in a networked world (IoT) and permanent roaming. For many use cases involving M2M and IoT, permanent roaming is now increasingly important, as many devices now need to stay connected to a network outside their home network or country over a prolonged period.

6.13.1.4 Fixed network evolution

During the reporting year, the Fixed Network Evolution working group and BEREC updated criterion 4 in the Guidelines on Very High Capacity Networks, based on data from 5G mobile network operators that had first been published in autumn 2020. These guidelines set out four criteria and any network that fulfils at least one of these criteria is considered to be a very high capacity network.

According to criterion 4, a very high capacity network is defined as a network that provides wireless connectivity capable of rendering end user services at a specific level of quality of service under typical peak load conditions.

In the first version of these guidelines, this criterion 4 was based on data that had been collected by mobile network operators for LTE Advanced (4G) during May to June 2019. This version of the guidelines already mentioned the fact that it was not yet possible to fully account for 5G networks, and that BEREC therefore planned to update criterion 4 as quickly as possible and by no later than 2023 – which has now been accomplished.

In September of the reporting year, BEREC hosted an internal workshop in Brussels. This workshop focused on the deactivation of the copper-based access network as a result of migration to very high capacity networks and approached this topic primarily from the perspective of end users. BEREC subsequently published a report that summarised the workshop findings.

In another report, BEREC looked at competition between multiple NGA network operators within the same geographic region, and the outcome of this competition – namely end customer pricing and product differentiation. This is of interest because regional operators of very high capacity networks (VHCNs) or next-generation access networks (NGAs) play an increasingly pivotal role in many national broadband markets.

6.13.2 RTR and ENISA – cybersecurity and trust services

Within ENISA, the European Union Agency for Cybersecurity, RTR participates in two working groups. The first of these is the ECATS Expert Group³⁷ (formerly Article 19 Expert Group), a working group comprising the European authorities responsible for trust services. The Telecommunications and Postal Services Division will hold the chair of this group presumably until late 2024. The experts in this group work on the efficient and harmonised implementation of security requirements for trust services, exchange information about security incidents, weaknesses and proven practices, and provide feedback to ENISA on its activities in the area of trust services.

As of 18 October 2024, the cybersecurity of trust services will be governed by the NIS 2 Directive, while other aspects of trust services will continue to be regulated by the eIDAS Regulation. As a result of shared responsibilities, national supervisory bodies as defined by the eIDAS Regulation work together in ECATS with the authorities responsible for implementing the NIS 2 Directive. During its chair of ECATS, RTR will also be included in certain working groups of the NIS Cooperation Group (NIS CG) established under the NIS and NIS 2 Directives. The NIS CG advises the European Commission on matters such as the preparation of implementing acts.

In its role representing ECATS, RTR has contributed specific risk management approaches in relation to the cybersecurity of trust services and specific criteria for the reporting requirements for security incidents affecting trust services. During its time as chair of ECATS, RTR has also participated in work to incorporate the measures prescribed by the NIS 2 Directive into the definitive EU standard for trust services, namely ETSI EN 319 401³⁸. RTR also contributed significantly to the hosting of the ENISA Trust Services and eID Forum, Europe's biggest annual event for trust services, in Vienna in 2023.

The second ENISA working group that RTR is engaged with is called the ECASEC Expert Group.³⁹ This working group is primarily occupied with security measures and reporting obligations in accordance with Article 40 EEC.

Alongside ENISA, RTR also contributed to the Forum of European Supervisory Authorities for Trust Service Providers (FESA), which aims to achieve the harmonisation of supervisory practice and cooperation between the supervisory bodies on matters of common interest. As one example, the forum has agreed on proven procedures for ensuring end-to-end supervision even in the case of trust services provided across several Member States.

³⁷ ECATS stands for European Competent Authorities for Trust Services.

³⁸ ETSI EN 319 401, Electronic Signatures and Trust Infrastructures (ESI); General Policy Requirements for Trust Service Providers; to be published as version 3.1.0.

³⁹ ECASEC stands for European Competent Authorities for Secure Electronic Communications.

RTR also participates in other European activities at various levels, one example being the preparations for European certification schemes. It contributes its expertise to the relevant working groups, whether at BEREC, ENISA or the NIS CG, in the latter case supporting the Federal Chancellery.

6.13.3 RTR and OECD – economic cooperation and development

The OECD is an international organisation that has set itself the goal of promoting economic prosperity, justice, opportunities and quality of life. The OECD serves as a clearing house for the exchange of knowledge, data and evaluations, and the sharing of best practices.

In 2023, RTR represented Austria in the OECD's CISP working group, which focuses on communications infrastructures and services. From 2024, this group will continue with a slightly modified mandate as the Working Party on Connectivity Services and Infrastructures (WP CSI).

In 2023, the focus within the CISP working group was on preparations for the OECD Digital Economy Outlook 2024, which will include articles on access and connectivity, next-generation networks, and the relationship between the economy and the environment. RTR contributed its insights as well as data from the Austrian telecommunications market.

In September 2023, a report was also published on the digital security of communications networks. According to this report, four trends are affecting current networks and impacting digital security: i) the growing importance of communications networks; ii) the increasing virtualisation of networks and the use of cloud services; iii) the trend towards greater openness in networks; and iv) the role of artificial intelligence in networks. The report outlines some key policymaking goals and measures that can be adopted in order to support efforts to achieve an optimum level of digital security.



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RTR and PCK activities in the postal sector

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07 RTR and PCK activities in the postal sector

The Post-Control-Kommission (PCK) and the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) are jointly responsible for safeguarding competition in the postal services market. In addition to providing operational support to the PCK, RTR has separate regulatory duties relating to the notification of services, conciliation and arbitration in end user disputes. The most significant regulatory activities in which the two authorities were involved in 2023 are presented briefly below.

7.1 Procedures before the PCK

7.1.1 Closure and discontinuation of postal service points

When referring to closure or discontinuation, a distinction needs to be made between postal service points (PSPs) operated by Österreichische Post AG (Post AG) and PSPs operated by third parties.

Post AG (ÖPost) must directly report to the PCK whenever it plans to close down any PSP it operates, and may only proceed with closure once certain preconditions set out in the Postal Market Act (PMG) have been met.

In such cases, the obligation to provide the universal service can also be met by other PSPs, such as existing PSPs operated by Post AG or a Post AG partner (a third-party-operated PSP). Where the preconditions for closure as set out in the PMG are not met, the PCK may conclude the procedure by prohibiting closure. The PCK may make authorisation of the closure contingent on another specified PSP providing replacement service. The PCK may also drop the procedure and allow closure to go ahead if the preconditions under the PMG have been met. More information on procedures relating to the closure of PSPs operated by Post AG can be found in communications reports for previous years. In the 2023 reporting year, Post AG notified the regulatory authority of the planned closure of a total of eight directly operated PSPs.

In addition to monitoring the planned closure of directly operated PSPs, the PCK also conducts supervisory procedures to review any discontinuation of third-party-operated PSPs, for instance after insolvency of postal service partners or the termination of contracts.

Under the PMG, ÖPost is also required in such closure cases to ensure the supply of universal service as well as blanket coverage with PSPs. Under certain conditions, alternative supply solutions, including the deployment of rural delivery personnel, can be implemented in such situations.

Procedures conducted by the PCK in 2023 involved closures of both third-party-operated PSPs and of directly operated PSPs. Such procedures were initiated in a total of 108 cases. All of the supervisory procedures initiated were concluded without issuing a decision, since the provision of the universal service and blanket coverage with PSPs was ensured in each case.

Total PSPs in Austria declined during the reporting year, from 1,720 (as of 31 December 2022) to 1,698 (as of 31 December 2023). Rural delivery personnel had been additionally deployed in eleven cases as an alternative service supply solution as of 31 December 2023.

Table 46: Postal service points operated by Post AG and by third parties, 2019 to 2023

| | 2019 | 2020 | 2021 | 2022 | 2023 |
|---------------------------|--------------|--------------|--------------|--------------|--------------|
| ÖPost-operated PSPs | 413 | 402 | 395 | 379 | 361 |
| Third-party-operated PSPs | 1,342 | 1,350 | 1,351 | 1,341 | 1,337 |
| Total PSPs | 1,755 | 1,752 | 1,746 | 1,720 | 1,698 |

Source: RTR

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

To cover the cost of postal sector regulation, the provisions of the KommAustria Act (KOG) require the federal government to cover from its budget one portion of expenses and the postal service industry to contribute the remaining share.

Where postal service providers fail to meet their obligation to pay financial contributions, the PCK is obliged to issue an official decision ordering payment. In no case in 2023 was it necessary for the PCK to order payment of an outstanding financial contribution.

7.1.3 Licence issuing

A licence issued by the PCK is required in order to operate a business for conveying letters weighing 50 g or less. In 2023, there were no changes to previously issued licences.

Thus, the following seven businesses continued to hold licences as of the end of 2023:

- feibra GmbH
- Medienvertrieb OÖ GmbH
- RS Zustellservice Rudolf Sommer
- noebote GmbH
- hpc DUAL Österreich GmbH
- Wien IT GmbH
- Russmedia Service GmbH

7.1.4 General terms of service and tariffs

In connection with providing universal services, the universal service provider (ÖPost) is required to issue general terms and conditions specifying rules for providing the services and the associated tariffs to be charged. These general terms and conditions are then to be notified to the PCK. Within two months, the PCK can object to any notified general terms and conditions that fail to conform to specific provisions of law. Three procedures concerning modifications of ÖPost's general terms and conditions were conducted in the 2023 reporting year.

Other postal service providers offering services in the universal service sector are also required to issue and to notify to the PCK the applicable general terms and conditions. The review is carried out to the same standards as those that apply to the universal service provider, although the PCK does not verify the tariffs.

7.1.5 Tariff adjustments and changes to the design of ÖPost products

ÖPost announced a change to the design of its products and accompanying tariff adjustments on 17 March 2023.

Eco letters (Eco-Brief) became the standard product, which means that stamps are now available only for Eco letters and that priority letters (as before with Eco letters) can only be posted in mailboxes in the form of postal stationery (preprinted envelopes that are sold in packs of no more than twelve, with a markup of EUR 0.05 per envelope). All additional services that were previously offered only for national priority mail items (such as item tracking and registered mail) are now also available for national Eco mail items. Government offices and authorities can also choose between a short and, for less time-critical communications, a longer transit time. Furthermore, international letters can now be sent in S format with the ECONOMY service (previously, this was only available for larger formats). Stamps are no longer provided for international PRIORITY letter items either. The tariffs for letters and parcels were adjusted in line with inflation.

The PCK commissioned RTR experts to review the tariffs and submit an evaluation report. This report examined whether the costs of the universal service sector were being (more than) recovered, and it was found that the tariff adjustment for the overall basket is below the forecast change in CPI. As a result, the PCK did not object to the reported changes in the general terms and conditions (including tariffs).

7.1.6 Proceedings before the BVwG

In its findings of 9 November 2023, the Federal Administrative Court (BVwG) confirmed a decision made by the PCK whereby the postal service provider DPD was instructed to notify its general terms and conditions for certain services. The BVwG has now also clarified that postal service providers other than the universal service provider named are also required to notify their general terms and conditions when providing services in the universal service sector.

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. RTR is required to publish on the internet a list of notified postal services, including the name of the postal service provider in each case. In 2023, 35 business entities notified to RTR the provision of postal services. As a result, the list of postal service providers maintained by RTR comprised a total of 148 businesses at the end of 2023.

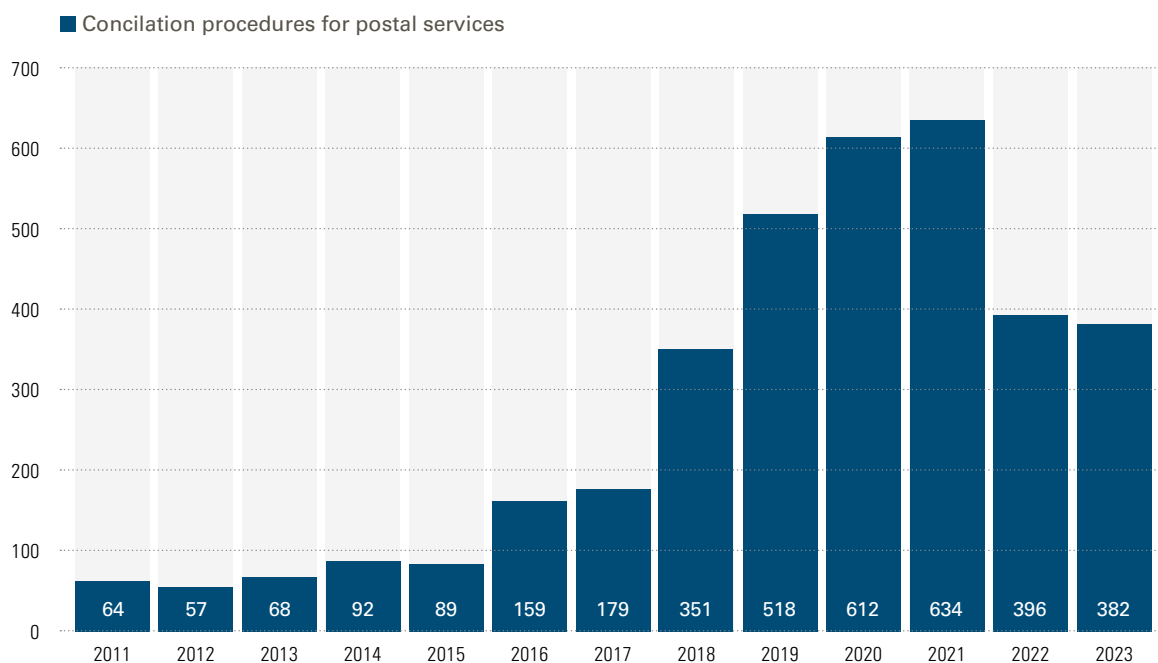
7.2.2 Review of ÖPost's cost accounting system

Among the regulatory authority's remits is to periodically review the cost accounting system used by universal service provider Post AG. Within its internal cost accounting systems, the universal service provider is obliged to maintain separate accounts for services classified as universal services and for those not falling under this category. The internal cost accounting systems must be based on uniformly applied and objectively justifiable principles of cost accounting. As in previous years, the review carried out in the reporting year revealed that the cost accounting system used in 2022 complied with the specified criteria.

7.3 Conciliation procedures in postal services

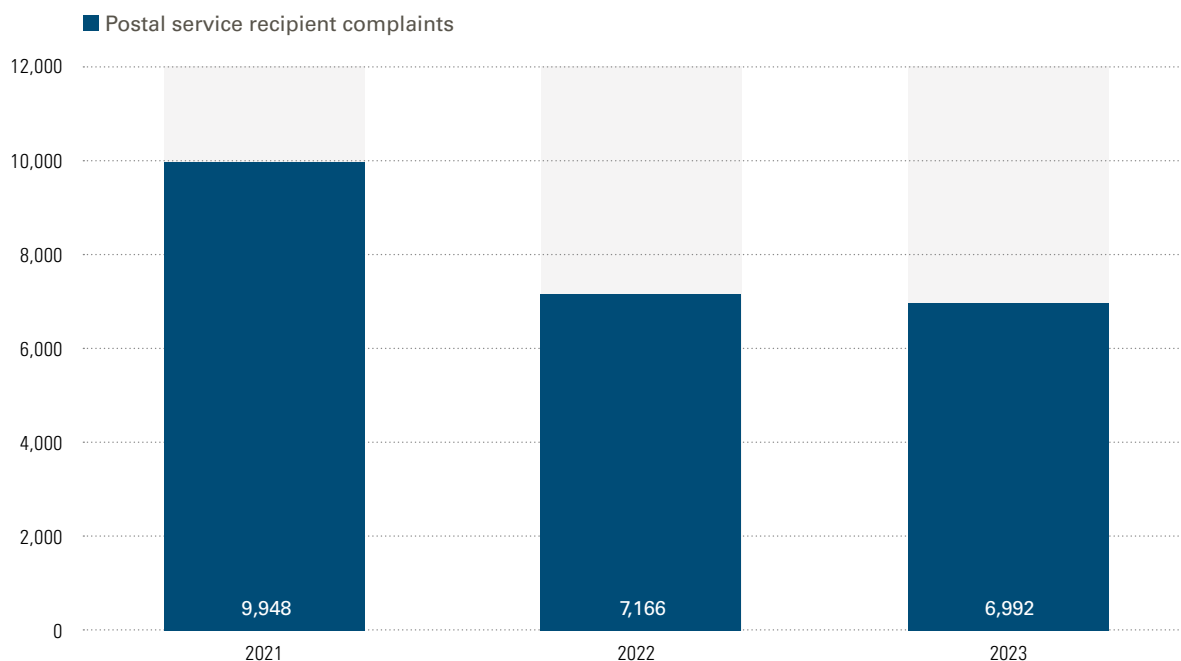
Requests for postal conciliation dropped for the second time since the conciliation body for postal services was set up in 2011, although the decline was only slight. The number of conciliation requests in the reporting year was just below 400.

Figure 36: Conciliation procedures for postal services, 2011–2023



Source: RTR

A likely reason for this positive trend is the complaint portal that was initiated by RTR for recipients of postal items. Postal recipients can use this portal to report their complaints to the regulatory authority in a structured format. Before its introduction in 2022, many of these complaints were submitted in the form of unacceptable conciliation requests. As a rule, conciliation requests can only be submitted by senders, since they as the only parties having contracts with the postal service provider are able to assert potential contractual claims. In terms of content, most of the cases were related to problems with delivery, loss of or damage to postal items.

Figure 37: Postal service recipient complaints, 2021–2023

Source: RTR

The 2023 activity report of the conciliation bodies presents in detail the activities undertaken in the postal service sector (see www.rtr.at/schlichtungsbericht_2023; in German).

7.4 International activities: RTR and the ERGP

The European Regulators Group for Postal Services (ERGP), set up based on an EU Commission resolution passed on 10 August 2010, became operational in 2011. The ERGP is a body that provides technical support and advice to the European Commission on issues relating to postal service regulation within the EU. The group thus plays a key role in consultation, coordination and cooperation between Member States and the European Commission.

Now that the European legal framework has de facto remained unchanged since 2008 and has gradually proven to be adequate for meeting the needs of the sector, the Council of the European Union adopted a resolution⁴⁰ in June 2022 calling on the European Commission to review the need for revising the legal framework and, if appropriate, to submit a proposal. The European Commission subsequently announced that a forecast study was planned for 2023 to look at requirements in the postal sector, at the same time requesting the ERGP's assistance with the study, which is to serve as an additional basis for the decision on whether to revise the postal regulatory framework.

During the 24th plenary assembly of the ERGP on 22 and 23 June 2023, the ERGP held an internal workshop on "Megatrends and the future postal regulatory framework". This workshop discussed and identified relevant megatrends and how their development could impact the EU postal sector within the next two decades. The results are to be included in the European Commission's forecast report.

40 <https://eur-lex.europa.eu/legal-content/DE/TXT/HTML/?uri=CELEX:32022D1327&from=EN>

RTR hosted the second meeting of the ERGP Regulatory Framework Working Group on 12–13 September 2023. This event focused in particular on the discussion and further development of the “ERGP report on the expertise and the powers of national regulatory authorities”.

In addition, the working group was tasked with the “ERGP report on the effects of modernisation/adaptation of the universal service”, which was to be drawn up on request by the European Commission. This report analyses which Member States have made changes to the domain of universal service in the past ten years, or are planning to do so in the foreseeable future, and how this impacts the financing of the universal service, sustainability as well as the employment situation in the postal sector.

Some 150 representatives of the most significant interest groups met at the fourth ERGP Stakeholder Forum in Brussels on 27 September 2023. During her keynote speech, Kerston Jorna, Director-General of the European Commission for Internal Market, Industry, Entrepreneurship and SMEs, highlighted the European Commission's priorities regarding the future of the postal sector, specifically a future-proof framework of rules that meets the evolving needs of European citizens and companies while ensuring the long-term competitiveness of the sector in this volatile environment.

During the 25th plenary meeting in Bucharest, the ERGP held a public workshop on 23 November 2023 that enabled market participants and interest groups to exchange views on the topic of users' awareness of ecological sustainability.

The co-chairs of the sustainability working group began by presenting the “ERGP report on practices for environmental sustainability in the postal sector”. Representatives of Cullen International, Euroconsumers, Comeos and Sameday then explained various aspects of sustainability. Wiener Lokalbahnen (Vienna local railways) took the opportunity to present their “WienBox” project to a wider international audience, providing insight into the practical aspects of including users in sustainability initiatives.

The plenary assembly adopted the following reports from the ongoing 2023 work programme (https://single-market-economy.ec.europa.eu/sectors/postal-services/european-regulators-group-postal-services_):

- ERGP PL I (23) 7 – Report on the future needs of the USO (Universal Service Obligation)
- ERGP PL I (23) 11 – ERGP report on exploring the sustainability of the USO
- ERGP PL I (23) 13 – ERGP report on the application of the Cross-Border Parcel Regulation
- ERGP PL II (23) 6 – ERGP report on the powers of national regulatory authorities
- ERGP PL II (23) 8 – ERGP report on the effects of modernisation/adaptation of the universal service
- ERGP PL II (23) 9 – ERGP report on quality of service, consumer protection and complaint handling
- ERGP PL II (23) 10 – ERGP report on core indicators for monitoring the postal sector
- ERGP PL II (23) 12 – ERGP report on practices for environmental sustainability in the postal sector

Petros Gallides (OCECPR, Cyprus), who chaired the ERGP in 2023, was succeeded by Dan Sjöblom (PTS, Sweden) who was elected as chairman for 2024 as of 1 January 2024.



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RTR's activities as a competence centre and public relations

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08 RTR's activities as a competence centre and public relations

RTR is tasked with serving as a competence centre for broadcasting and telecommunications industry⁴¹ affairs, in doing so complying with the general principles of economy, efficiency and expediency.

This competence centre role involves analysing issues relating to the activities of KommAustria, the TKK and RTR. Examples here include the commissioning of study reports, the preparation of expert reviews and organising professional events. The findings from such evaluations are to be appropriately prepared for public disclosure.

The following section presents those activities carried out as a competence centre (cf. Art. 20 KommAustria Act, KOG) as well as activities pursuant to Art. 17 Par. 2 and Par. 3 KOG, and Art. 186 TKG 2021.

8.1 Activities within the Media Division

8.1.1 Studies and publications

8.1.1.1 2023 DAB+ Digital Radio Austria study

On behalf of the Media Division, the market research institute Ipsos Market conducted a representative survey from the end of January to mid-March 2023, consisting of around 2,300 anonymous online interviews and around 600 anonymous phone interviews. Data were collected on the degree of familiarity with, reach and frequency of use for DAB+ in the Austrian population aged 15 and over as well as the prevalence of DAB+ radios in Austrian households. At national level, 16 DAB+ radio stations with a technical range of 84% of the population were available during the study's survey period, with 14 DAB+ radio stations at regional level in the Vienna metropolitan area.

One of the findings of the 2023 study was that, only four years after the national rollout of DAB+, the term 'DAB+ digital radio' or even just its logo is now already familiar to over half of the population aged 15 and over (54%) in the national coverage area for digital radio stations. Some 30% of all Austrian households now own at least one device able to receive DAB+ and just under a quarter of the population has listened to radio programmes via DAB+ at least once. In the overall Austrian population, 18% (960,000 people) now use digital DAB+ terrestrial radio at least several times a month, several times a week or almost on a daily basis. When asked to name the advantages offered by DAB+, active DAB+ listeners most frequently cite better or interference-free reception (23%), improved quality for digital radio overall (21%) and the wide choice of radio stations (12%). In the course of the next two years, around a quarter of the population (24%) within the coverage area of the national DAB+ service is planning to buy a DAB+ radio, preferably from a local electrical goods dealer.

The DAB+ Digital Radio Austria 2023 study was published in May and can be downloaded (in German) from the RTR website at https://www.rtr.at/medien/aktuelles/publikationen/Publikationen/DAB-Studie_2023.de.html.

⁴¹ RTR does not act as a competence centre for postal service regulation.

8.1.1.2 2023 Video Survey

The Video Survey by the Media Division and the Teletest Working Group has been published annually since 2016. This survey presents, in the form of tables and charts and free of interpretations, the use of all video offerings, from linear television and broadcaster media libraries to alternative online services and the use of video in social media. As an annual comparison, the study offers insights into the changes in video use in relation to broadcasting and online products. It also tracks the market shares and reaches of the various products and collects information on preferred devices. The results are presented for the overall population aged 14 and over, and for numerous subgroups, which include the target groups of 14- to 29-year-olds, 14- to 49-year-olds and 14- to 59-year-olds.

Market research institute GfK Austria carried out a representative survey on behalf of the Media Division and the Teletest Working Group, completing over 4,000 computer-assisted web interviews (CAWI) to investigate how people in Austria aged 14 and up consume video. The survey is traditionally held in February of each year.

The study is available in its entirety on the RTR website at <https://www.rtr.at/medien/aktuelles/publikationen/Publikationen/Bewegtbildstudie2023.de.html> (in German).

8.1.1.3 Special report: 'Use of artificial intelligence in the media sector'

This special report by the Media Division focuses on the deployment of artificial intelligence (AI) along the entire production and value chain within the media sector. In the report, experts from research and business set out their views on the opportunities, challenges and issues associated with the use of AI as a means of supporting or automating the production of content, with special attention being paid to the sensitive area of news reporting and current affairs.

The authors include leading specialists such as Gerhard Kürner (CEO of the 506.ai agency for data-driven marketing), legal expert Jeannette Gorzala (Vice President of the European AI Forum), Stefan Körner (COO of Die Presse), Luzia Strohmayr-Nacif (APA Taskforce AI), Stefan Kollinger (Innovation Officer at the ORF), media researcher Jan Krone and Michael Litschka (St. Pölten University of Applied Sciences). The special report is available to be downloaded from the RTR website at https://www.rtr.at/medien/aktuelles/publikationen/Publikationen/Sonderbericht_KI_in_den_Medien_2023.de.html (in German).

8.1.1.4 Online Audio Monitor Austria

Launched by the Media Division in 2023, the Online Audio Monitor Austria complements the range of periodical investigations made by RTR into key developments in the domestic media market with a new market study, produced in response to the digital transformation of media services and their usage by consumers. In this way, the Media Division is fulfilling its legal obligation as a competence centre to conduct analyses and studies in the context of the tasks and objectives of the KommAustria media authority.

The Online Audio Monitor Austria includes diagrams and tables that illustrate the use of audio media on the internet by the Austrian online population aged 15 and over. Insights provided by the study cover the usage type and frequency of online audio services, preferred content and platforms, the devices used to access the content, as well as usage scenarios, reasons for use and times of use for the many online services available. Another key point of focus here is the topic of radio programme recordings and podcasts.

The market study was commissioned from Ipsos by the Media Division. To produce the study, the market research institute conducted an online survey of 4,000 people aged 15 and over in May and June 2023. This group of people was representative of 94% of Austrians with internet access (Statistics Austria 2022).

The survey is available (in German) on the RTR website at www.rtr.at/OAMA2023.

8.1.1.5 Digital Skills Austria study

The Digital Skills Austria study was first commissioned by the Media Division in 2022. In 2023, the study scope was expanded and once again carried out under the aegis of Prof. Thomas Steinmaurer (University of Salzburg) in cooperation with the Institute of Sociology at the University of Linz. The study examines the skillsets exhibited by Austrian citizens in navigating and finding their way around the digital realm and, in particular, in helping to shape it.

Study data were collected by providing Austrians with an online questionnaire for self-assessment of their digital skills in July/August 2023. The survey was also designed to collect sociodemographic data, personal attitudes to technology, expertise in the digital domain (digital knowledge) and patterns of media use.

New questions in the study covered training courses already completed and a test was included to collect data on specific skills held by respondents.

The study shows that sociodemographic characteristics cannot be used to explain differences in skillsets between people. Study findings include the following:

- Conventional media service providers can play a key role in helping consumers acquire advanced expertise about the workings of the digital sphere.
- Personal attitude is the most important factor for skills related to new technologies and the digital realm
- Education – and especially advanced training – can compensate for many deficits here, as this gives people greater self-confidence and dispels related concerns

The survey is available (in German) on the RTR website at https://www.rtr.at/TKP/aktuelles/publikationen/publikationen/single_sign_on_entwicklungen.de.html.

8.1.1.6 2023 Media Literacy Report

Now in its second year, the Media Literacy Report focused in 2023 on the topic of education, addressing the interrelationship between (formal) education and media literacy.

The report begins by presenting the most significant findings from the Digital Skills Austria study ([see section 8.1.1.5](#)).

A further section then looks at projects and initiatives represented within the RTR's Media Literacy Atlas. The Media Literacy Atlas ([see https://medienkompetenz.rtr.at/startseite.de.html](https://medienkompetenz.rtr.at/startseite.de.html)) serves to gather and present data on projects and initiatives throughout Austria that are dedicated to improving media literacy.

The report largely focuses on the subject of education. A large number of experts – who are themselves active in a wide variety of roles within education, research the topic at academic level or are interested in providing data from individual projects – have contributed their opinions and experience to the Media Literacy Report. The report is rounded off by statements from media policymakers.

The Media Literacy Report is available (in German) on the RTR website at https://www.rtr.at/medien/aktuelles/publikationen/Publikationen/Medienkompetenz-Bericht_2023.de.html.

8.1.2 Events

8.1.2.1 Media literacy – education as a key factor and a task for society as a whole

In November 2023, the Media Division hosted for the second time an online, publicly accessible expert conference focusing on media and information literacy, entitled 'Media literacy – education as a key factor and a task for society as a whole'. A wide range of projects, initiatives and measures were presented, which are designed to teach a critical and informed approach to media in the digital age.

Experts and speakers at the event included Sabine Frank (Head of Governmental Affairs and Public Policy YouTube DACH & CEE), Leopold Lugmayr (Director, Department for Political Education, Austrian Parliament), Claudia Isep (Deputy Secretary General, Austrian Commission for UNESCO), Idan Hanin (host of ZiB TikTok at the ORF) and Maren Beaufort (communications researcher at the Austrian Academy of Sciences). Their contributions, as well as other presentations from guests such as State Secretary for Youth Claudia Plakolm, Director of Education for Vienna Heinrich Himmer or the Vice President of the European AI Forum Jeanette Gorzala, are included in the 2023 Media Literacy Report that was announced at the event ([see section 8.1.1.6](#)).

Social researcher Dimitri Prandner introduced the study Digital Skills Austria 2023 ([see section 8.1.1.5](#)), which investigates the skillsets exhibited by Austrian citizens in navigating and helping to shape the digital realm.

An event summary, including videos, is available (in German) on the RTR website at www.rtr.at/RTR-Veranstaltung_Medienkompetenz2023.

8.1.2.2 Expert conference: 'Use of artificial intelligence in the media sector'

The advance of artificial intelligence (AI) into the media sector along the entire production and value chain was the subject of an expert conference held by the Media Division in Vienna on 15 June. The opportunities, challenges and issues associated with the use of AI as a means of supporting or automating the production of content – with special attention being paid to the sensitive area of news reporting and current affairs – were illuminated by a panel discussion and presentations from numerous experts working in research and business. Speakers and panel participants at the event included leading specialists such as Gerhard Kürner (CEO of the 506.ai agency for data-driven marketing), legal expert Jeannette Gorzala (Vice President of the European AI Forum), Stefan Körner (COO of Die Presse), Luzia Strohmayer-Nacif (APA Taskforce AI), Stefan Kollinger (Innovation Officer at the ORF), media researcher Jan Krone, Michael Litschka (St. Pölten University of Applied Sciences) and Roland Belfin (media economist at RTR Media).

8.1.2.3 Presentations of studies by the Media Division

For each of the studies commissioned by RTR as a competence centre, separate events involving the participation of many leading experts were used to present the study to the public.

The DAB+ Digital Radio Austria 2023 study, first carried out that year, was presented to the public on 2 May 2023. After welcome speeches from Media Division Managing Director Wolfgang Struber and KommAustria Chair Michael Ogris, Roswitha Wachtler from IPSOS Austria then introduced the findings to an audience of industry professionals.

Results from the annual Video Survey were introduced jointly by Wolfgang Struber, Thomas Gruber (Chair of the Teletest Working Group, AGTT) and Susanne Reichl (Head of Media Measurement at GfK Austria) on 25 May 2023.

The Media Division presented two studies during the 30th Austrian Media Days.

The first, Digital Skills Austria, represented the second major survey of media literacy within the Austrian population. The presentation by Dimitri Prandner (University of Linz) was followed by a panel discussion featuring leading experts Nadja Vaskovich (VÖZ), Alice Krieger-Schromm (Jugendmedienschutzverein), Martin Fleischhacker (Wiener Zeitung) and Thomas Steinmaurer (University of Salzburg) about the importance of media literacy and digital skills in the media sector, and the role played by the media itself.

On the main stage, data from the brand-new Online Audio Monitor Austria study were presented by Roswitha Wachtler. These findings were then discussed by Andrea Heidrich (RIG), Stefan Lassnig (Missing Link), Joachim Feher (RMS) and Wolfgang Struber in a panel chaired by Martin Wurnitsch (Horizont).

8.1.2.4 Media literacy roundtables

RTR is required to provide a wide-ranging portfolio of information on the topic of media literacy in the digital age and to act as a service point for initiatives in this context. Alongside the Media Literacy Atlas, this work now also involves hosting a bi-monthly roundtable with stakeholders working in the field.

Institutions represented include: the Austrian Press Agency (APA), the Vienna Board of Education, the Austrian Commission for UNESCO, the ORF, the Museum for Social and Economic Affairs, the Foundation for Innovation in Education, the Advertising Council, the Austrian Newspaper Association, the Austrian Association of Private Broadcasters, COMMIT, Wiener Zeitungs-GmbH, Jugendmedienschutzverein, Missing Link Media and Capito, as well as representatives from the Federal Ministry of Social Affairs, Health, Care and Consumer Protection, and the Federal Chancellery.

The roundtables have been held since July 2023.

8.1.2.5 AI media roundtables

The rapid pace of developments in relation to artificial intelligence has catapulted the media sector into an exciting but also challenging new era. This revolution is raising a multitude of fundamental questions, especially as regards the aspects of information overload and authenticity, together with the associated low-effort, editorially unsupervised creation of text, image, video and audio content by AI models, and the issues of manipulation and fake news, whose dissemination endangers the integrity of the media and of democracies themselves.

In light of these urgent issues, the Media Division convened a roundtable with the aim of providing a comprehensive opportunity to engage in dialogue, as well as to discuss common steps to action and positions, and therefore ensure an independent and pluralistic media landscape. Especially as regards the AI Act passed by the European Union, special attention must be paid to this issue by the media sector, which plays such a critical role in society and democratic policymaking. Accordingly, the roundtable got underway by defining the most significant action areas for the sector and also by developing a work programme, within which joint positions are to be established. Topics for consideration here include copyright law and content protection, monetisation, technical issues and approaches to potential regulation in future. During the roundtables, representatives of the organisations also report on the implementation of AI tools that is now already underway.

The roundtables are attended by delegates from the Austrian Press Agency (APA), the Austrian Communications Authority, the ORF, the Verein Digitalradio Österreich association, the Austrian Association of Private Broadcasters, the Austrian Newspaper Association, and the Austrian Association of Regional Media. The roundtables have been held quarterly since November 2023.

8.2 Activities of the Telecommunications and Postal Services Division

8.2.1 Studies and publications

8.2.1.1 Study: 'Open access networks in Austria'

Following its study on demand for optical fibre connections in Austria from 2022, RTR again takes a look at current developments in this area, this time focussing on open access networks, which play a major role in the rollout of optical fibre. These networks are available for access to any provider of internet and telecommunications services for the purpose of offering such products. Over the last few years, open access networks have been set up in almost all provinces, with various models now established and a wide range of actors involved in their operation.

The report presents various open access models, offers an overview of open access networks province by province, addresses the question of accessibility to open access networks, the wholesale products being offered and the topic of standardisation. It also provides a summary of market performance based on the products offered and bandwidths at the consumer level.

Given the high levels of capital expenditure announced for the next few years to cover the rollout of additional optical fibre networks in Austria, the report identifies four topics and challenges that should receive greater attention in future. These involve a necessity to investigate the impacts of the steady progress in optical fibre rollout on competition, the implementation of open access networks with both active and passive access, improvements to the accessibility of open access networks, and the promotion of efforts to achieve standardisation, including the dissemination of best practices.

The report can be downloaded (in German) from the RTR website at www.rtr.at/studie_oan.

8.2.1.2 RTR booklet on wayleave and location rights in the TKG 2021

The rollout of broadband networks requires the use of land and buildings under both public and private ownership for communications lines. As consensus is not always achievable among stakeholders as a result of divergent interests, telecommunications legislation sets out special infrastructure rights that enable binding orders to be issued by the regulatory authority in the event of a dispute. In early 2018, RTR published a booklet with the aim of engendering a general understanding of wayleave rights among all stakeholders. The booklet was well received as a practical guide and a second, updated edition was published in 2020.

As matters – in infrastructure law as well – have progressed since then, RTR has once again revised this useful publication. Sporting a new title 'Wayleave and location rights in the TKG 2021' – the third edition covers new location rights in depth as well as key aspects of the 2022 Ordinance on Reference Rates for Impairment (WR-V) from December 2022. Other material in the brochure has also been updated and supplemented with further examples from regulatory practice and important rulings from Austria's high courts (such as the Constitutional Court (VfGH) ruling on location law).

The booklet is available (in German) from the RTR website at https://www.rtr.at/TKP/aktuelles/publikationen/publikationen/leitungs- und standortrechte_im_tkg_2021.de.html.

8.2.1.3 RTR Telekom Monitor series

The RTR Telekom Monitor series is published quarterly, and contains a wealth of market data on mobile, broadband, fixed-line, leased lines and Ethernet services. The fourth edition each year, the RTR Telekom Monitor Annual Report, supplements the comprehensive quarterly market data with analyses of data on a yearly basis. This edition also includes a section with information about roaming and international developments.

Two changes first took effect concurrently with the RTR Telekom Monitor 2022 Annual Report. The first was the amendment to the Communications Survey Ordinance (KEV), which forms the basis for most of the data and analyses presented in the monitors, taking effect from the third quarter of 2022. This state of affairs required modifications to some definitions and survey content. While an effort has been made to retain previous survey items with the aim of facilitating trend comparisons, some survey items have nonetheless been retired as now no longer suitable. In turn, new items have been added with the aim of capturing data on current developments.

The second change affects data for fixed broadband, which are now no longer sourced from KEV surveys but from the geographical survey of broadband coverage levels (ZIB). Unlike the KEV surveys, this constitutes a full survey of all roughly 650 operators who service fixed broadband connections. While data are therefore more precise than previous broadband data from the KEV, as non-participant figures no longer need to be estimated, the categorisation by infrastructure does not reflect the previous survey logic based on the KEV. This results in differences in evaluations of quarter-on-quarter figures.

The data published in the RTR Telekom monitors can be accessed on the RTR website as open data from www.rtr.at/rtr/service/opendata/OD_Uebersicht.de.html and are also published as interactive online visualisations on the RTR website. The 2022 RTR Telekom Monitor Annual Report has been published at www.rtr.at/telekom-monitor-2022.

8.2.1.4 RTR Internet Monitor series

The RTR Internet Monitor series, published on a quarterly basis, encompasses in the year under review a vast wealth of market data covering fixed and mobile broadband services, evaluations based on the RTR-NetTest, as well as analyses of data provided by the Single Information Point for Broadband Coverage (ZIB). The fourth edition each year, the RTR Internet Monitor Annual Report, supplements the quarterly analyses with time series on a yearly basis.

As a result of changes to legislation, RTR now also has the power to request quarterly data from providers of internet-based communications services. This may include data on internet telephony, videotelephony and videoconferencing, messenger or email services. These surveys have been conducted since the third quarter of 2022, and the 2022 RTR Internet Monitor Annual Report is therefore the first to include such analyses.

The data published in the RTR Internet monitors can be accessed on the RTR website as open data from www.rtr.at/rtr/service/opendata/OD_Uebersicht.de.html and are also published as interactive online visualisations on the RTR website. The 2022 RTR Internet Monitor Annual Report is available from the RTR website at www.rtr.at/internet-monitor-2022.

8.2.1.5 RTR Post Monitor series

Pursuant to the Post Survey Ordinance 2019 (PEV 2019), the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) is mandated to collect data and prepare statistics on a quarterly basis for the monitoring and surveillance of the market and competition for postal services. These statistics comprise letter and parcel volumes and corresponding revenues, the number of drop-off points, letterboxes, distribution centres, pick-up points, rural P.O. boxes, collection and delivery boxes or comparable facilities, operational KPIs for employees and capital spending in the postal sector, and details of subcontractors and price lists from parcel delivery service providers. Every quarter, these statistics are processed and published for the interested public in the RTR Post Monitor. The RTR Post Monitor Annual Report also offers insights into international developments in the postal market.

The data published in the RTR Post monitors can be accessed on the RTR website as open data from www.rtr.at/rtr/service/opendata/OD_Uebersicht.de.html and are also published as interactive online visualisations on the RTR website. The 2022 RTR Post Monitor Annual Report is available from the RTR website at www.rtr.at/post-monitor-2022.

8.2.2 Events

8.2.2.1 Competition in cloud services: new regulations – new opportunities?

Businesses continue to expand their use of cloud services, which are increasingly replacing on-premise IT infrastructure and enabling access to a scalable pool of computer resources available for shared use. Alongside major international companies, local providers and telecoms operators are also active in these markets. In June of the reporting year, the Telecommunications and Postal Services Division hosted an event addressing the opportunities and challenges that arise in this context. The event got underway with presentations on Ofcom's cloud services market study by Callum Miller (Ofcom), and on the potential impact of the Data Act and the Digital Markets Act on competition by Alexandra Paul (European Commission).

The subsequent panel discussion featured Georg Chytil (Nextlayer), Martin Hörmann (Microsoft), Thomas Lepuschitz (A1), Natalie Ségur-Cabanac (Hutchison Drei Austria) and Lukas Wiewiorra (WIK). Issues discussed included: What are the developments in competition in these markets, and what changes have been introduced by recent EU legislation, including the Data Act and Digital Markets Act? And what are the implications for Austrian businesses?

8.2.2.2 24th Salzburg Telecom Forum

Entitled "Data and networks – how infrastructure regulation contributes to the internet economy", the 24th Salzburg Telecom Forum was held by RTR, the University of Salzburg and the European Commission over the course of two days in August. The conference was organised on both days as a hybrid in-person and online event.

The first day of the event focused on the EU's Digital Decade Policy Programme 2030, with talks being given by Renate Nikolay, Deputy Director-General CNECT at the European Commission, on "The EU as Mover and Shaker of the Digital Revolution" and Kostas Masselos, BEREC Chair, on "The Contribution of Infrastructure Regulation to the Policy Programme 2030".

The afternoon programme was dedicated to interrelationships between data and networks in the internet economy, and started with a keynote from simulation researcher Nikolas Popper on "Navigating the sea of data: how complexity can be mastered". This was followed by a presentation from Nina Cummins, Head of Connectivity Strategy at Meta, on "Platforms in the sea of data: creating economic and living spaces", and a short talk from Michael Jungwirth, Group Public Policy Director at Vodafone, on communications networks in the sea of data. A panel discussion, entitled "Data and networks – a difficult relationship?", then followed between Thomas Arnoldner (CEO A1), Nina Cummins, Michael Jungwirth, Renate Nikolay and Alfred Taudes (Vienna University of Economics and Business).

The second day of the event focused on the broad field of law in relation to digital services and markets, with presentations from Sonja Janisch (University of Salzburg, Department of Civil Law) on compensation for non-material damages in the event of data breaches, Philipp Homar (University of Linz, Institute of Corporate Law) on the Digital Services Act and challenges in user content moderation at the interface between public and private law, Erika Ummenberger-Zierler (Federal Ministry of Labour and Economy, Director of the Department of Competition Policy and Law) on the Digital Markets Act and initial insights from the Austrian perspective, and Rainer Palmstorfer (University of Linz, Institute for European Law) on the state of play with the AI Act.

Supporting documents from the event can be accessed from the RTR website at https://www.rtr.at/TKP/aktuelles/veranstaltungen/veranstaltungen/2023/24_salzburger_telekom-forum.de.html#pastevents.

8.3 Public relations: information and transparency

Numerous public relations activities each year are 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

'Conventional' PR activities such as press releases and conferences were used to provide information about matters such as regulatory decisions, issues relating to regulation and grant decisions. Most of the media interviews and television appearances focused on issues of relevance for consumers. This media relations work was supplemented by pertinent information circulated on social media platforms such as LinkedIn and X (Twitter), and the web-based information service.

RTR deals with a large number of enquiries daily, both by phone and in writing, often concerning extremely complex problems. In 2023, a total of 2,897 enquiries were submitted to rtr@rtr.at. Most of these enquiries were answered within one working day. As in previous years, the majority of enquiries (69%) concerned end-user issues.

Table 47: Volume of enquiries, 2021 to 2023

| | 2021 | 2022 | 2023 |
|---|-------|-------|-------|
| Number of enquiries to rtr@rtr.at | 3,931 | 3,004 | 2,897 |

Source: RTR

For initial enquiries relating to user protection and conciliation procedures, consumers can obtain advice from a team of experts by calling 01 58058 888 (weekdays only). A total of 3,765 over-the-phone consultations were conducted during the reporting year.

Information platform www.rtr.at

The www.rtr.at website comprehensively documents the entire spectrum of activities by the regulatory bodies KommAustria, the TKK, the PCK and RTR, while offering insights into developments within the regulated markets. RTR promptly publishes on the website decisions and information designated for disclosure from the scope of regulatory activities and grant administration. A series of e-government and online services is also offered, both for companies and for private citizens. Regular additions and improvements are made to this service portfolio. A point of focus in the reporting year was accessible document design, which aims to make content published on the RTR website easily discoverable and usable by people with particular needs, independently of third-party help.

Publications

Public relations work also encompasses the many publications and studies that are provided as downloads on the RTR website for the interested general public. During the 2023 reporting year, these publications included the Communications Report, which fulfils the many legal reporting requirements, the Annual Activity Report of the conciliation bodies for telecommunications and postal services, the Net Neutrality Report, the Media Literacy Report, and a number of studies.

In the media and telecoms newsletter RTR AKTUELL, which is published several times a year, the two RTR divisions provide timely information about regulatory decisions, events, and topics of international interest.

Information events

Numerous workshops and information events for distributing information that is relevant for market participants and the interested public were held in the reporting year

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www.rtr.at

Market developments from a regulatory viewpoint

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09 Market developments from a regulatory viewpoint

9.1 The Austrian communications and advertising markets

9.1.1 Changes in the advertising market

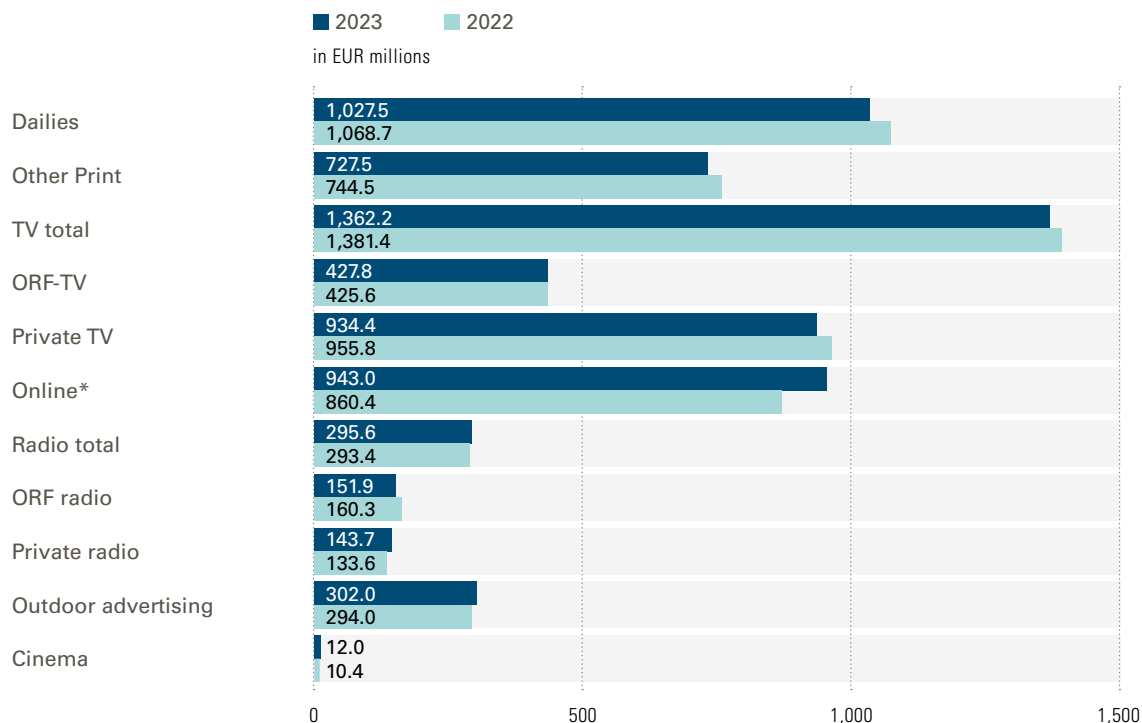
Changes in the advertising market are typically analysed by media category. A uniform set of data collection methods is normally used for traditional media categories such as television, radio and print. Yet, for the definition of the online media category, varying classifications exist in various data sources. For this reason, the figures presented in this report for the online media category differ from one another depending on the data source. The exact definition applicable in each case can be determined by consulting the original sources as stated in this report.

Advertising report for 2023: online, radio and cinema gain while print and television lose

Gross advertising figures for the individual media categories can be obtained from the 2023 advertising report by Focus Media Research.

In the first part of the year, in a direct, month-on-month comparison from January to August 2023, losses were observed in each media category. This trend then reversed from September to December.

Figure 38: Gross advertising expenditure in Austria by category in 2023 and 2022



Data: FOCUS Research 2024; EUR millions

*Projection based on interviews with advertising businesses and media agency representatives; online: projection based on interviews (advertising businesses and media agency representatives)

In the final analysis, the print category was most strongly affected in 2023, posting an annual loss of 3.2% (2022: -3.2%). Within this category, newspapers were among the losers, with their gross advertising revenue shrinking by 3.9% (2022: -5.6%) or EUR 41.1 million to EUR 1.027 billion. Gross advertising sales by magazines and general-interest magazines rose by 6.0% to EUR 224.9 million, with trade magazines slipping 2.0% to EUR 77.4 million. Among regional weeklies, relatively minor losses were experienced, with gross advertising income slipping by 0.9% to EUR 425.5 million.

The media category of television extended its lead over newspapers in 2023. Newspapers had achieved the highest gross advertising revenue across all media categories for decades and had been overtaken by television no earlier than 2017. In the following years, television extended its lead over newspapers, thus establishing itself as the highest-earning conventional category. In 2022 and 2023, however, this continued without any input from television itself.

Gross advertising earnings for television were EUR 1.36 billion, marking a year-on-year decline of around 1.4%. Nonetheless, its lead over newspapers grew by EUR 68 million to EUR 334 million, as a result of losses in the latter category (gap between television and newspapers in 2022: EUR 312 million). On closer analysis of the category, it can be seen that the changes in television for 2023 result from countervailing trends for ORF and private broadcasters: while the ORF experienced growth of around 0.5% to EUR 427.8 million, private broadcasters posted a loss of 2.2% and decreased to EUR 934.4 million.

Radio closed 2023 with a modest uptick of 0.7% in year-on-year gross advertising growth, which was therefore a below-average result when compared with the last two years (2022: 0.7%; 2021: 5.4%). In 2023, gross spending by businesses on radio spots amounted to EUR 295.6 million, a mere EUR 2 million more than in 2022. In 2022, advertising spots valued at EUR 151.9 million were played by ORF radio (loss of 5.2% or EUR 8.3 million), with this figure being around EUR 143.7 million for private stations (gain of 7.8% or EUR 10.3 million).

Cinema advertising rose to EUR 12.4 million in 2023 from its 2022 figure of EUR 10.4 million.

Online advertising maintained its steady growth trajectory. These data include the category titles *Online, Traditional, Mobile, SEA, Social & Video* (as cited from the Focus Media Research report).

Matching the sharp rise in gross earnings growth of 11.3% achieved in 2022, with a very similar performance that took it to +9.6% in 2023. In 2023, spending on online advertising totalled EUR 943 million (2022: EUR 860 million), which represents a year-on-year rise of EUR 83 million. According to government figures for digital tax revenues, however, gross advertising sales for online advertising in Austria by companies subject to digital tax reached EUR 2.06 billion in 2023. This makes online the best-performing media category for media sales in Austria by a wide margin.

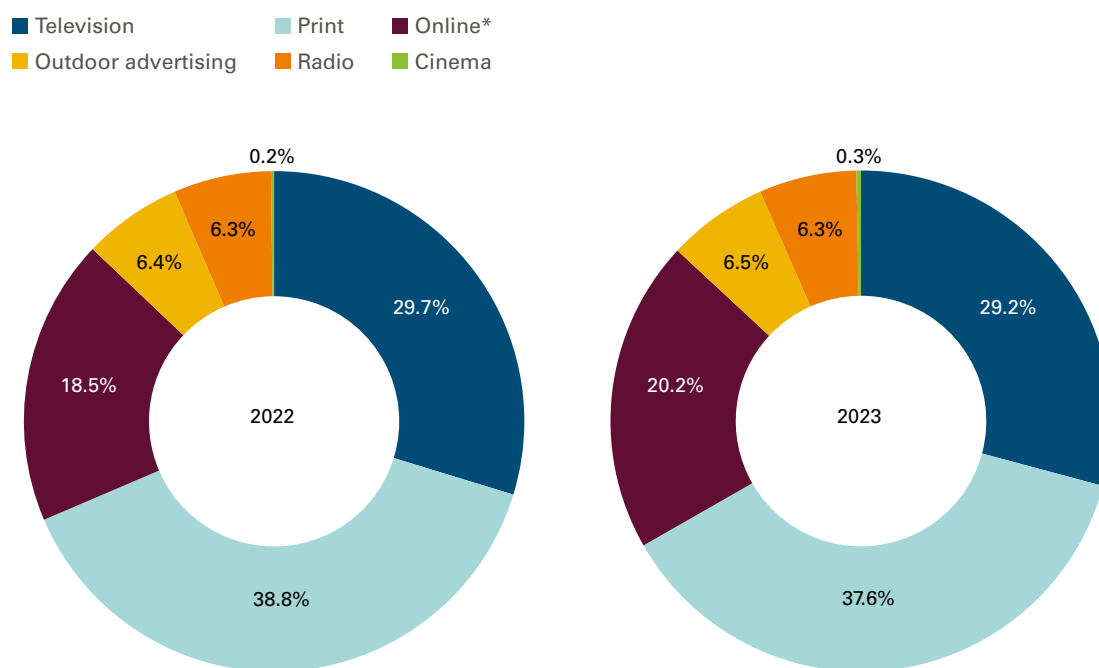
Within the online advertising category, FOCUS reports very strong growth for social media, which gained 11.4% (2022: 24.6%; 2021: 17.9%; 2020: 11.9%) to reach EUR 147.4 million. Gross advertising expenditure on search engine advertising also recorded strong gains, rising by 12.4% (2022: 19.1%; 2021: 12.3%; 2020: 8.2%) to EUR 242.9 million. Rising by 9.7% to EUR 134.0 million, video still maintains an edge over mobile (2022: 17.5%; 2021: 15.3%; 2020: 6.1%). While online mobile (online advertising tailored specifically to mobile devices) achieved less impressive gains to gross advertising income of EUR 81.1 million, representing moderate 3.1% growth (2022: 4.8%; 2021: 4%; 2020: 3.8%). Traditional online advertising – such as banners on websites – posted relatively strong growth of 8.5% in 2023 (2022: 1.5%; 2021: 10.6%; 2020: 7.3%).

Within outdoor advertising, with gross advertising income climbing by 1.2% from EUR 298.6 million to EUR 302.2 million in 2023, billboard was the largest subcategory, though following by 9.6% to EUR 134.5 million. Second-placed in 2023 was the digital out-of-home subcategory, which posted growth of 23.1%, rising to EUR 94.7 million. Revenue from street furniture in 2023 was EUR 52.3 million, falling 4.1% when compared with 2022. The fourth place in outdoor advertising went to the subcategory of transport, which posted gross income of around EUR 17 million and year-on-year growth of 10.2%. The smallest gross revenue figure was posted by ambient media, which earned EUR 3.7 million in 2023 (2022: EUR 2.9 million). This corresponds to growth of 26.2%.

Percentage distribution of gross advertising expenditure by category

Looking at the distribution of total gross advertising expenditure of EUR 4.67 billion across conventional media, cinema and online media (2022: EUR 4.65 billion), the share taken by online advertising showed strongest growth, expanding by 1.7 percentage points to take an 20.2% slice of the advertising pie in 2023.

Figure 39: Shares of gross advertising expenditure in Austria by category in 2023 and 2022



Source: FOCUS Research 2024, 2023 Advertising Report, percentages and in euros; *projection based on expert interviews

The gains made in online advertising came at the expense of print, which posted a loss of 1.3 percentage points (2022: -1.6 percentage points) to record the largest overall decline among media categories. Print media nevertheless once again took the largest share, accounting for 37.6% of gross advertising expenditure (2022: 38.9%). When the print category is split into newspapers and other print media, it becomes clear that the losses in this category can be attributed entirely to newspapers.

The share of gross advertising expenditure taken by television advertising slipped by five tenths of a percentage point to 29.2% in 2023 (2022: -0.2 percentage points).

Overall, radio was able to maintain its 2022 share of the market at 6.3% in 2023. Of this media category, more than half is accounted for by the ORF, with just under 51.4%.

In 2023, outdoor advertising achieved a percentage share of 6.5%, which represents a slight uptick of 0.1% when compared with 2022. Following a figure of 0.2% for 2022, cinema achieved 0.3% in 2023.

Online market according to Momentum survey

As mentioned in the introduction to this section, in relation to market size, various surveys of the online media category exist.

For its 2023 spending study and 2024 forecast, Momentum used a methodology of 103 structured, in-person interviews with media agencies, publishers, marketing companies and advertising buyers, conducted during January to April 2024. The results presented are based on estimates from the market participants interviewed, figures from publicly available market data and calculations made on the basis of digital tax revenue.

For 2023, Momentum has calculated a net online advertising market size of EUR 2.54 billion. Following a figure of EUR 2.36 billion net for 2022, this equates to a growth rate of 7.5%. A gross figure of EUR 2.97 billion has been posted for 2023. The figures as stated include formats such as traditional online advertising (display, video, mobile), social media marketing, keyword marketing, affiliate marketing, classifieds and directories, integrated content, native advertising, email marketing, newsletter advertising, online auctions, long-term integration partnerships, sponsorships, in-game advertising, digital audio and connected TV. All format titles here are cited from the study itself.

According to the Momentum study, around 82% of online advertising spending is absorbed by global platforms such as Amazon, Facebook, Google and TikTok. Around 34.9% of net advertising spending was accounted for by keyword marketing, with a 29.3% share of net digital advertising spending from Austrian corporate ad buyers targeting social media marketing. For traditional online advertising, such as display, mobile and video, the share was 18%. Year on year, social media marketing posted growth of more than 10%, while keyword marketing grew by 5.9%. Traditional online advertising grew by 4.7%, while affiliate marketing fell sharply by 17.9%.

Expressed in absolute figures, net advertising volume for keyword marketing was EUR 887.5 million, with social media marketing in second place at EUR 745.7 million. The third largest online subcategory for 2023 was traditional online advertising, with EUR 458.8 million.

Table 48: 2023 Austrian online net advertising volume according to Momentum survey

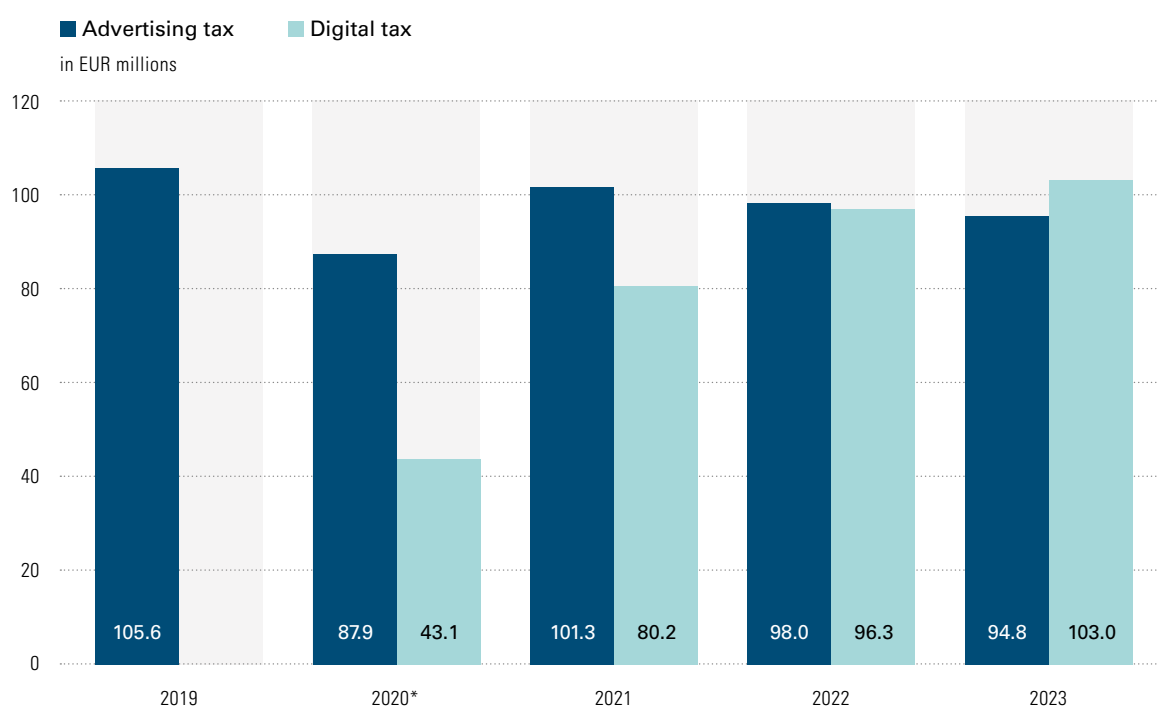
| Online advertising revenues | Net advertising volume in 2023 (EUR millions) | Share for 2023 in % | Growth from 2022 to 2023 in % |
|--|---|---------------------|-------------------------------|
| Conventional online advertising (display, video, mobile) | 458.8 | 18.0 | 4.7 |
| Social media marketing | 754.7 | 29.3 | 10.3 |
| Keyword marketing | 887.5 | 34.9 | 5.9 |
| Affiliate marketing | 32.5 | 1.3 | -17.9 |
| Amazon advertising | 215.3 | 8.5 | 18.2 |
| Classifieds and directories | 156.7 | 6.2 | 5.9 |
| Other | 46.1 | 1.8 | 7.2 |
| Total | 2,542.61 | 100 | 7.5 |

Digital tax revenues

Since the introduction of the digital tax in Austria in mid-2020, the income from this tax has enabled an indicator of the shares of online advertising spending in the Austrian market that are accounted for by major international platforms.

From revenue collected by the Federal Ministry of Finance (BMF) at a 5% digital tax rate on net income earned by major online platforms (2023: EUR 103 million), the outflow of ad revenue from the Austrian market was EUR 2.06 billion in 2023.

Figure 40: Revenues from advertising tax and digital tax (2019 to 2023)



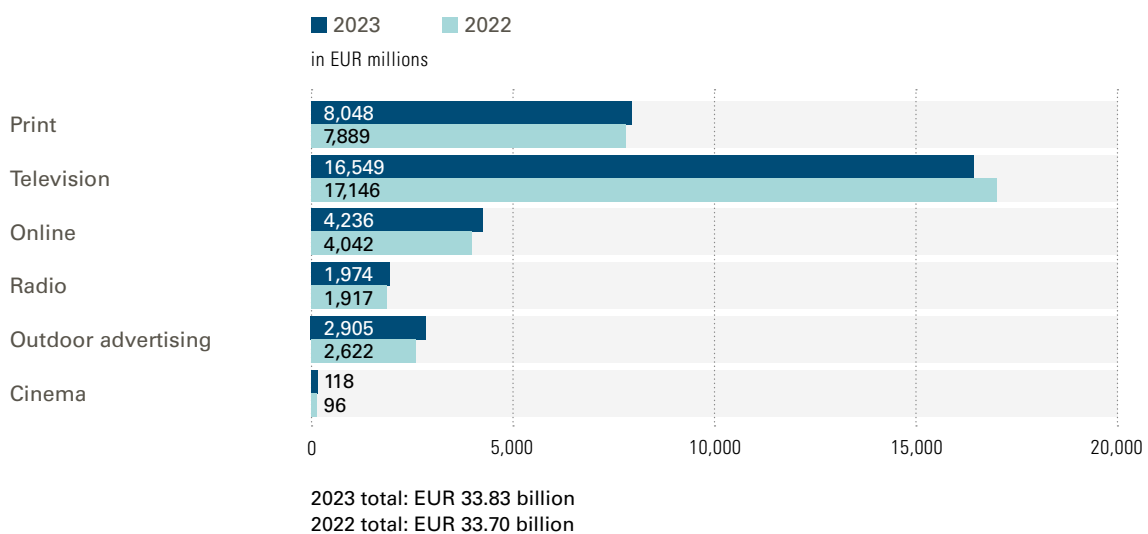
Source: Federal Ministry of Finance 2024, in EUR millions; *digital tax introduced March 2020

Comparison with the German advertising market – gross advertising figures

In Germany, the Nielsen Ad Trends for Germany report shows the total advertising market ticking up by 0.4% year on year in 2023. In terms of actual spending, gross advertising income for conventional media (print, TV, radio, outdoor) plus online and cinema in Germany totalled EUR 33.83 billion in 2023⁴² (2022: 33.70 billion). As in Austria, the year started with losses, compared month-on-month with the previous year. This trend reversed in Germany from June onwards.

The strongest decline was seen in television, which posted a decrease of 3.5% between 2022 and 2023. Print rose by 2.2%, while radio achieved growth of 3.0%. The strongest growth was shown by cinema with a figure of 22.3%, followed by out-of-home at 10.8%. Online achieved a growth rate of 4.8%.

Figure 41: Gross advertising expenditure in Germany by category in 2023 and 2022



Source: Nielsen Media Germany GmbH 2024; EUR millions

Print increased from EUR 7.889 billion to EUR 8.048 billion. Television declined from EUR 17.146 billion to EUR 16.549 billion. Online posted growth, rising from EUR 4.042 billion to EUR 4.236 billion. Radio ticked up from EUR 1.917 billion to EUR 1.974 billion. Outdoor advertising rose from EUR 2.622 billion to EUR 2.905 billion. Cinema achieved modest growth, rising from EUR 0.096 billion to EUR 0.115 billion.

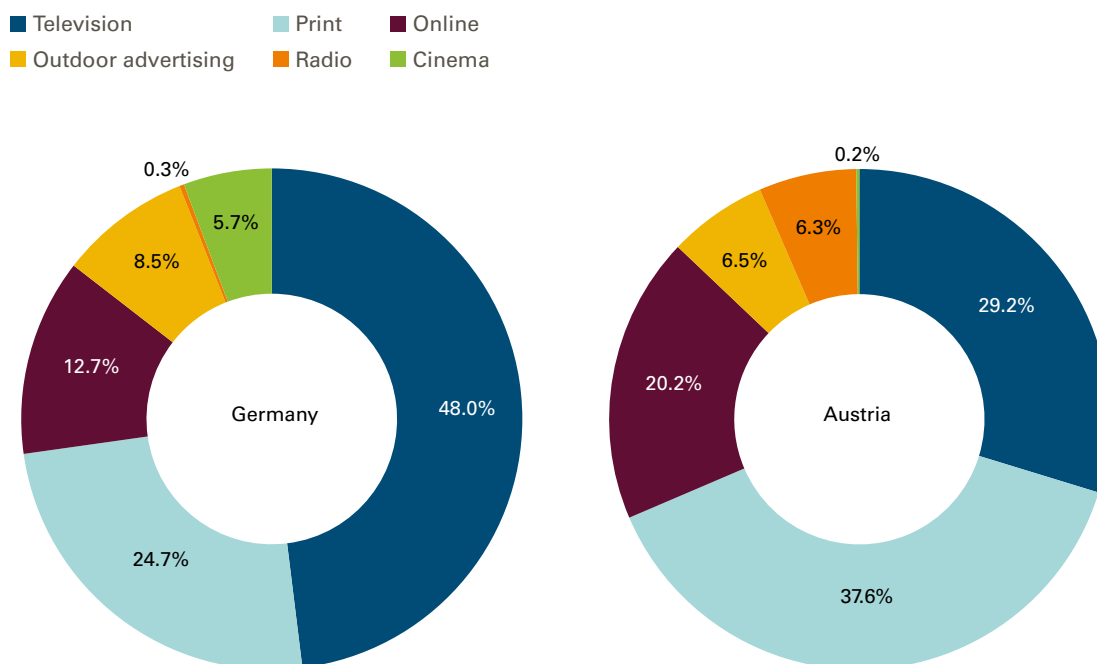
Comparison with the German advertising market – shares of media categories

When media categories are compared between Germany and Austria, key differences can be seen in the share of gross advertising spending for each category (source: *Buch der Werbung 2023*, p. 179, Focus Media Research).

In Germany, television leads print by 48% to 28%, with online advertising in third place at 12.7%. An 8.5% share is taken by outdoor advertising. Radio accounts for 5.7%, with cinema achieving 0.3%. In Austria, print accounts for 37.6%, ahead of television at 29.2%. A 20.2% share is taken by online, with outdoor advertising at 6.5% and radio at 6.3%. A 0.2% share is achieved by cinema.

⁴² DE/AT comparison excludes below-the-line advertising activities such as direct marketing.

Figure 42: Gross advertising expenditure in Germany and Austria by share of media category in 2023



9.1.2 The Austrian television market

9.1.2.1 Television viewing

On average, linear television reached 64.4% of the population aged twelve and over in 2023. This corresponds to a year-on-year decline of 2.1 percentage points (2022: 66.5%; 2021: 69.2%; 2020: 70.3% daily reach). While television reach grew significantly during the pandemic, it has now fallen to 64.4% – lower even than pre-pandemic levels (2019: 66.4%; 2018: 65.1%; 2017: 65.3%).

Average viewing time also fell for the third year in succession, although its loss of ten minutes to 176 minutes per day was less pronounced year on year (2022: loss of 17 minutes to 186 minutes). Until the pandemic year of 2020, TV viewing time had been adding single-digit minute gains every year for many years, finally reaching 209 minutes. This trend did not reverse until 2021 (2021: loss of six minutes to 203 minutes). At 176 minutes per day, viewing time is now lower than the figure for 2016 (178 minutes) yet still five minutes above the viewing time for 2015 (171 minutes).⁴³

After two years of significant losses, the average time spent by viewers aged twelve and over in front of the television rose once again in 2023, gaining nine minutes to rise to 280 minutes. In 2022, viewing time fell by a considerably above-average figure of 14 minutes to 271 minutes, while in 2021, time spent viewing decreased by six minutes – the first actual decline seen in several years (2021: 285 minutes; 2020: 291 minutes; 2019: 290 minutes; 2018: 290 minutes; 2017: 281 minutes). Unlike viewing time, which considers the average time spent using the television by all persons in TV households – including household members who do not watch TV – the ‘time spent viewing’ is a metric calculated only from the average usage time of the proportion of the population that actively watches TV.

⁴³ All figures for TV: GfK Austria/TELETEST working group 2023 (representative survey of some 1,670 Austrian households) and ORF media research

Losses to daily reach for linear television in 2023

The general decline in daily reach for linear television observed in 2023 affected the majority of television channels in Austria. Minor gains were achieved only by PULS 24 (gaining one tenth of a percentage point to 3.4%), krone.tv (gaining one tenth of a point to 0.9%) and KURIER TV, which has broadcast under this name since February 2023 and whose daily reach of 0.7% has improved on the figure achieved by its predecessor channel, schauTV, by two tenths of a percentage point. R9, a joint channel run by regional private broadcasters, and Okto TV were able to maintain their daily reach from 2022 into 2023 (R9: 2%, Okto TV: 0.1%).

In 2023, overall daily reach for ORF television channels fell by nearly three percentage points to an average of 47.6% of the viewing public aged twelve and over. This is in contrast to the above-average rise in daily reach for ORF channels in 2020 and 2021 – of well over 53% in each year – which reflected the strong demand for information during the pandemic. In 2022, daily reach dropped to 50.4%, a figure only just above pre-pandemic levels (2019: 49.7%; 2018: 49.4%).

In 2023, overall daily reach for the ORF portfolio fell to the lowest value observed during the last 30 years. ORF 2 fell by 2.5 percentage points to 37.7% reach in the viewing public (2022: 40.2%), a figure that was only one or two percentage points higher than its two weakest years to date, namely 2014 and 2015. ORF eins, which fell in 2022 by 2.6 percentage points to its historically lowest level of 24.8% daily reach, dropped further in 2023, losing 1.5 percentage points and again setting a new record for the weakest reach performance in its history, at 23.3%. In 2023, ORF III also weakened markedly in comparison with its past daily reach, shedding around one percentage point to 10.8% (2022: 11.7%; 2021: 11.9%). ORF Sport+, on an upward trajectory before Covid-19 that nearly passed the 4% milestone (2019: 3.9%), has been consistently losing tenths of a percentage point in shares since 2020. In 2023, it lost three tenths of a percentage point to 2.8%, dropping below the 3% mark for the first time in several years (2022: 3.1%; 2021: 3.5%; 2020: 3.5%).

Among private broadcasters, declines in reach remained within one percentage point in each case, with ATV losing the most and shedding nine tenths of a point to finish at 10.5% daily reach (2022: 11.4%; 2021: 12.4%; 2020: 13.0%). After suffering a loss of 1.2 percentage points in 2022 and eight tenths of a point in 2021, daily reach for Puls 4 shrank again in 2023, falling by a further eight tenths of a point to 9.8% and thus recording its weakest performance of the last five years (2022: 10.6%; 2021: 11.8%; 2020: 12.6%). ServusTV also lost eight tenths of a percentage point to achieve an average daily reach of 14.7% in the viewing public aged twelve and over. In 2020, ServusTV had benefited from the greater public demand for information during the pandemic and enlarged its daily reach to 15.8% from its 2019 figure of 13.8%. ServusTV more or less maintained this trajectory through 2022. As in the previous year, Oe24 TV again shed half a percentage point of its average daily reach to finish 2023 at 3.8%. Following steady growth in reach from 2017 to 2021, Oe24 TV now appears to be pursuing a negative trend after suffering its second successive loss in reach. ATV 2 posted a loss for the third year running, shedding four tenths of a percentage point and ending 2023 with an average daily reach of 3.8%.

9.1.2.2 Market shares of Austrian and non-Austrian television channels

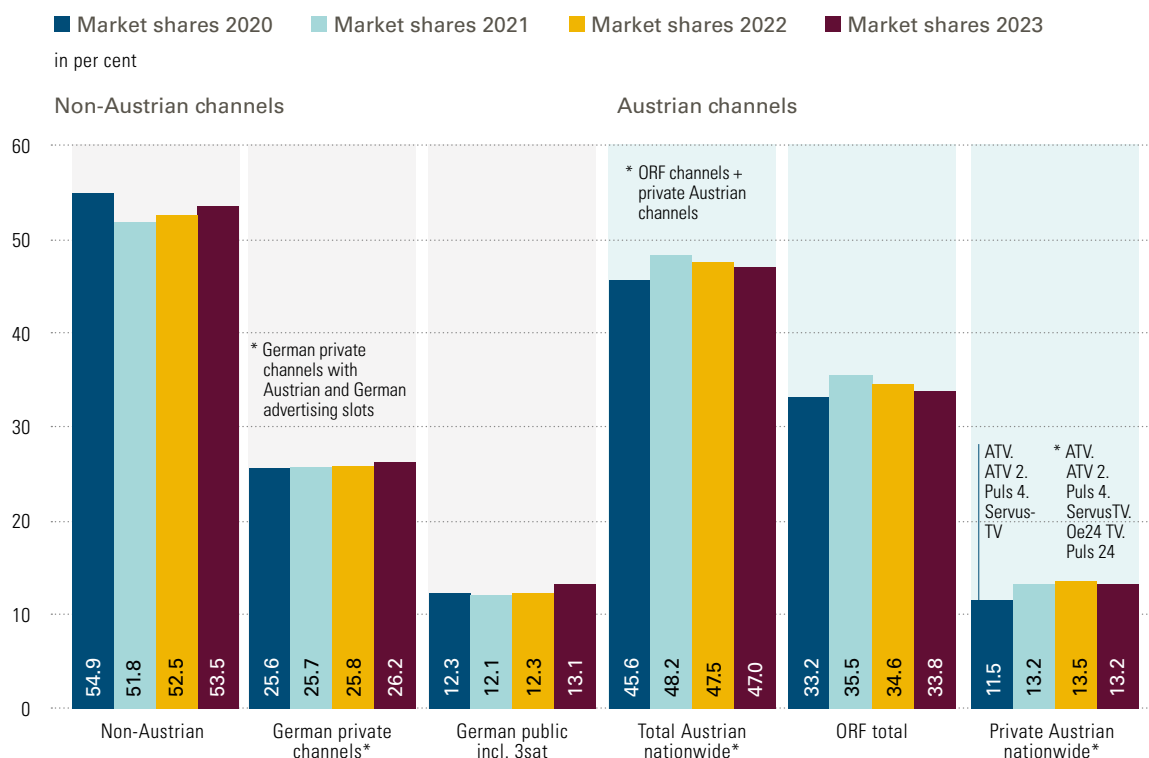
As with daily reach, Austrian television channels also lost market shares among the viewing public aged twelve and over, although this trend mostly expressed itself for the affected channels in fractions of a percentage. As a result, however, the foreign television channels broadcast in Austria were able to improve their overall market share for the second year running.

Domestic channels (the ORF and private broadcasters) lost one percentage point in 2023 to post an annual market share of 46.5%, although this figure is still the third-highest value over a ten-year period after 2022 and 2021. Between 2013 and 2020, domestic channels collectively achieved annual market shares ranging from 44% to just under 46%. The ongoing pandemic combined with political upheavals in Austria continued to drive demand for domestic news and current affairs programming in 2021. This helped Austrian channels to achieve growth of 2.6 percentage points in market share, which rose to 48.2% and therefore the highest market share for domestic channels ever recorded.

Following losses in 2020 and 2021, foreign television channels once again achieved growth in overall market share in 2022, rising seven tenths of a percentage point to a 52.5% annual market share (2021: 51.8%; 2020: 54.9%). Foreign channels continued this trajectory in 2023, expanding their market share by a single percentage point to 53.5%. This does, however, mean that non-Austrian have still not been able to match the annual shares of between 56% and 57% of the Austrian TV market they had held up to 2019.

Among non-Austrian channels, those originating from Germany or broadcast in German are naturally those with the highest viewing figures. In 2023, German private broadcasters and public service broadcasters, including 3sat, achieved a joint market share of 39.3% in Austria.

Figure 43: Market shares of Austrian and non-Austrian TV channels among individuals aged 12+, 2020-2023



Source: AGTT/GfK TELETEST; Evogenius Reporting; weighted by person; including VOSDAL/Timeshift as percentages

Overall, ORF channels again weakened by just under one percentage point in 2023 for a market share of 33.8% (2022: 34.6%; 2021: 35.5% market share), although this loss was evenly distributed among individual channels. ORF 2 lost four tenths of a percentage point for a market share of 21% (2022: 21.4%; 2022: 22.1%), ORF 1 slipped back by three tenths of a point to 9.5% (2022: 9.8%; 2021: 10.2%), ORF III stayed virtually stable at a 2.8% market share (2022: 2.9%; 2021: 2.8%) and ORF SPORT+ maintained its prior-year market share with 0.4% (2021: 0.5%).

In 2023, market shares for domestic private broadcasters stayed largely stable within the margin of fluctuation. Although Puls 4 saw its market share fall by three tenths of a percentage point to 2.6%, Puls 24 acquired one tenth of a point, ticking up to a share of 0.8%. Private channels achieved a joint market share of 13.2% (2022: 13.5%; 2021: 13.2%).

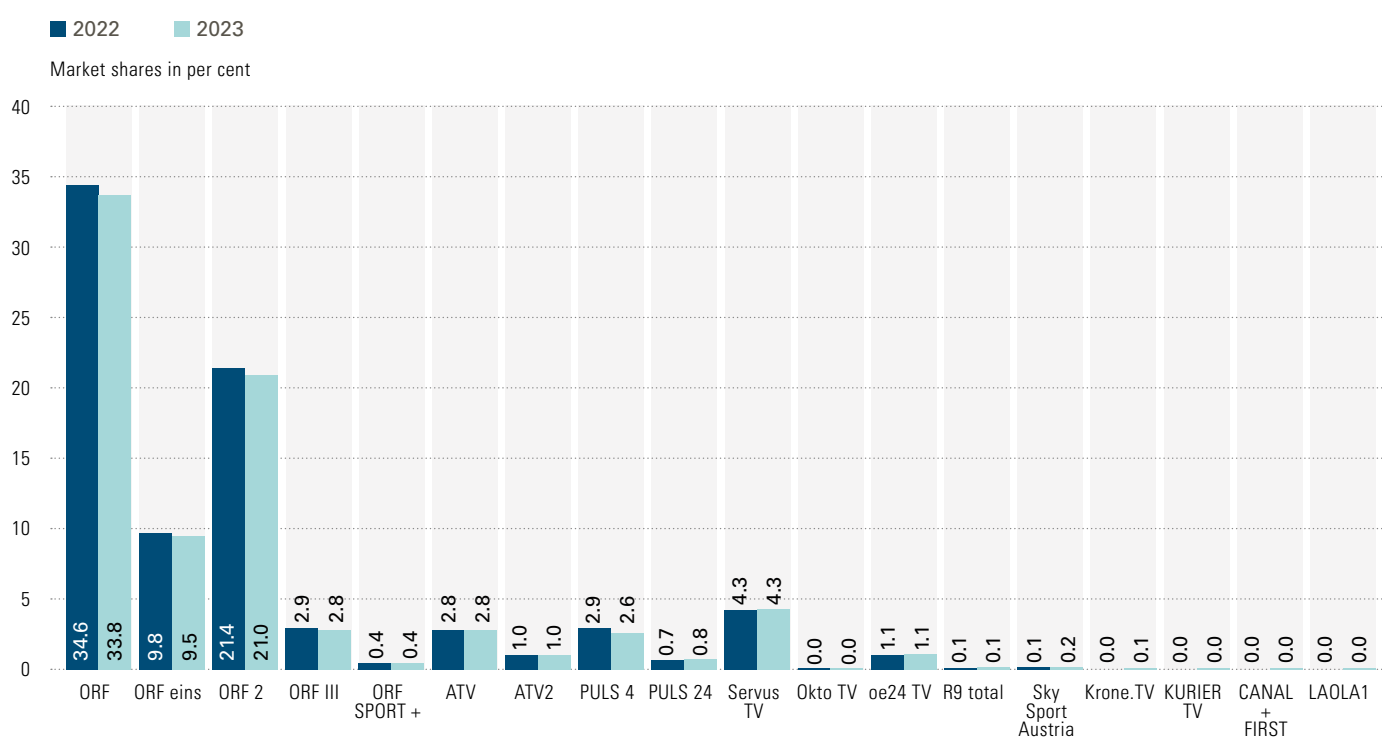
German channels (private plus public, including 3sat) achieved a market share of 39.3% in Austria in 2023, which represents a significant gain of 1.2 percentage points when compared with the previous year (2022: 38.1%; 2021: 37.8%; 2020: 37.9%). This new figure now approximates pre-pandemic levels (2019: 39.5%; 2018: 40.7%). Considering the market share of German private channels with Austrian advertising slots plus the market share of these same channels with German advertising (viewed via satellite), this group took a 26.2% share and improved its 2022 results by four tenths of a percentage point. For public service channels from Germany, the results for ARD ('Channel One'), the ARD regional channels ('Channel Three'), ZDF and 3sat add together for a joint market share of 13.1% (2022: 12.3%), which represents a more significant gain of eight tenths of a percentage point when compared with recent annual figures.

9.1.2.3 Market shares of Austrian television channels

For the target audience of individuals aged twelve and over, the market shares of individual Austrian television channels remained largely unchanged year on year in 2023.

A channel's market share depends on how long that channel was actually viewed, unlike daily reach, which merely represents how many more people even tuned into the channel once a day – possibly only for a few minutes. To increase market share, a channel must actually be used for a longer period of time than in the previous year and the rate of increase for this channel must also be greater than for its competitors in order to obtain a higher percentage of total television minutes viewed in Austria.

Figure 44: Nationwide market shares of Austrian TV channels in 2022 and 2023



Source: AGTT/GfK: TELETEST, Evogenius Reporting, 2023; including VOSDAL/Timeshift; individuals 12+; market share in %

In 2023, market share for the ORF channel portfolio again weakened by just under one percentage point, declining to 33.8% (2022: 34.6%; 2021: 35.5%), although still lying well above its lowest pre-pandemic figure (2019: 31.8%). For the individual channels, this trend translated into minor losses of only tenths of a percentage point in 2023. Compared with its fellow channels, ORF 2 lost the largest share, falling four tenths of a percentage point to a market share of 21% (2022: 21.4%; 2021: 22.1%). ORF 1 continued the slight downward trajectory begun in 2022, slipping back three tenths of a percentage point to 9.5% (2022: 9.8%; 2021: 10.2%). ORF III lost the tenth of a percentage point it had gained in 2022 to return to a market share of 2.8% in 2023 (2022: 2.9%; 2021: 2.8%). Only ORF SPORT+ was able to maintain its market share of 0.4% from the previous year (2022: 0.4%; 2021: 0.5%).

Among private broadcasters, ServusTV saw no change for the first time in nine years. This Salzburg-based channel had been slowly adding tenths of a percentage point since 2015 and secured an above-average gain of six tenths of a point in 2022. In 2023, ServusTV merely held on to its previous market share of 4.3% (2021:

3.7%; 2020: 3.4%; 2019: 3.0%), although it maintained its status as the clear market leader among private channels. Second place is taken by ATV, with a market share of 2.8%. Although this is the same figure as for 2022 (2021: 3.0%; 2020: 3.2%), ATV has managed to pull ahead of Puls 4 again after three years, with the latter slipping back by three tenths of a percentage point to a 2.6% market share (2022: 2.9%; 2021: 3.1%; 2020: 3.3%) and hence suffering the biggest loss for private channels as a whole. While ATV2 kept to a market share of 1% for the third year running, Puls 24 has expanded its share by one tenth of a percentage point for the fourth successive year, finishing 2023 with an average market share of 0.8%. As in the previous year, Oe24 TV posted an unchanged market share of 1.1% in 2023 (2022: 1.1%; 2021: 1.2%) to lead ATV2 by one tenth of a percentage point.

There were two noticeable changes among other private channels. Sky Sport Austria added one tenth of a percentage point to achieve a market share of 0.2%, while Krone.tv, which started broadcasting in autumn 2020, achieved its first measurable share of 0.1% in 2023. For R9, a joint channel run by regional private broadcasters, no change was seen as it again took a market share of 0.1% in 2023. Market share for the channels OKTO TV, Kurier TV (Schau TV until February 2023), LAOLA 1 and CANAL+ First (launched in early 2022) remained negligible in 2023, and is therefore reported as 0%.

9.1.2.4 Market shares of German television channels

In previous years, a wealth of new, privately owned special-interest channels from Germany had further fragmented the share of the market held by German private broadcasters, resulting ultimately in a net loss of Austrian market share among German television channels overall. From 2020, this was exacerbated by an increased demand from the population for information specifically relating to the pandemic in Austria. Losses were significant among both the major German private channels and the German public broadcasters. As the circumstances of the pandemic slowly ebbed, this trend slowed as early as 2022 among German private and public broadcasters alike in the Austrian market. The results for 2023 now reveal a reversal of this trend and a return to historic market shares for German channels in Austria.

Over the years, market shares for all German private channels – and especially for smaller and special-interest channels – have been volatile, mostly in terms of fractional percentage values. Already in 2022 these changes were observed to no longer involve gains and losses within a range of up to six tenths of a percentage point but to span a maximum of three tenths of a percentage point. In 2023, this volatility calmed further and is now confined to the narrow range of one or two tenths of a percentage point. The sole outliers in 2023 were RTL and RTL up, which each posted gains of three tenths of a percentage point.

Among German private broadcasters, VOX was again the clear market leader in 2023, although the channel was only able to maintain its share of 3.5% from the previous year (2022: 3.5%; 2021: 3.2%; 2020: 3.4%). It was only in 2022 that VOX had pulled away from long-standing front runner RTL with a gain of three tenths of a percentage point. In 2023, RTL achieved a market share of 3.3% (2022: 3.0%; 2021: 3.1%; 2020: 3.7%), thereby extending its lead over SAT.1, whose market share remained unchanged year on year at 2.6% (2022: 2.6%; 2021: 2.7%; 2020: 3.0%), followed by Pro7 with a similarly static market share of 2.4% (2022: 2.4%; 2021: 2.7%; 2020: 3.2%).

Among channels with under-2% market shares, RTL up gained three tenths of a percentage point, rising to a share of 1.9% and joining RTL ZWEI (1.9%, plus one tenth of a point) to lead the field among German private broadcasters. Kabel 1 (1.8%), SAT.1 Gold (1.8%) and SPORT 1 (0.4%) each improved their market share by one tenth of a percentage point. The market shares for NITRO (1.4%), SUPER RTL (1.0%), Kabel 1 Doku (0.8%), sixx (0.7%), ntv (0.7%) and Nickelodeon (0.1%) all remained unchanged.

DMAX (0.6%), ProSieben Maxx (0.5%) and Comedy Central (0.2%) saw their shares decline by one tenth of a percentage point each. TLC dropped two tenths of a percentage point to take a 0.6% share of the Austrian television market.

German public service channels accounted for around a third of the overall market share of German television channels in Austria. With its year-on-year gain of half a percentage point, ZDF has risen to a 4.6% market share, which not only makes it the most successful public service channel but also the best-performing channel from Germany overall in the Austrian market. 'Channel One' (ARD, market share 3.2%), 'Channel Three' (all regional channels from the ARD, market share 3.8%) and 3sat (1.4%) each gained one tenth of a percentage point compared with the previous year. As another long-standing German channel in Austria, ZDFneo achieved a market share of 1.8% in 2023. All in all, these German public service broadcasters account for a market share of just under 15% in Austria. To ensure comparability with data from previous years, the result for ZDFneo is not shown in figure 42, however.

The group of non-Austrian channels claimed a collective market share of 53.5% in 2023 (2022: 52.5%; 2021: 51.8%; 2020: 54.9%). Besides the channels originating from Germany, this category comprises other German-language channels, including the one broadcast by Swiss public television, and shopping channels such as QVC or HSE 24, as well as of course channels broadcast in other languages.

9.1.2.5 2023 Video Survey: ratio of broadcast to online consumption

Video viewing time in 2023 drops sharply overall while online changes little

Combined video viewing time for linear television and streaming services decreased year on year in 2023 by the substantial sum of 15 minutes, and fell to 246 minutes per capita per day in the Austrian population aged 14 and over (2022: 261 minutes; 2021: 281 minutes; 2020: 248 minutes). Nonetheless, average video viewing time was significantly higher than video use in the pre-pandemic year of 2019, exceeding that year's figure of 219 minutes per day by 27 minutes.

While the recent trend, sometimes clear-cut, towards video consumption via online streaming platforms had exhibited a marked slowdown in 2021, online consumption had picked up slightly in 2022. In 2023, only slight growth was observed for online video usage. Linear TV channels were viewed slightly less frequently as simultaneous broadcasts, instead streamed live online slightly more often, or consumed as recordings at other times via recording devices or cable TV provider platforms.

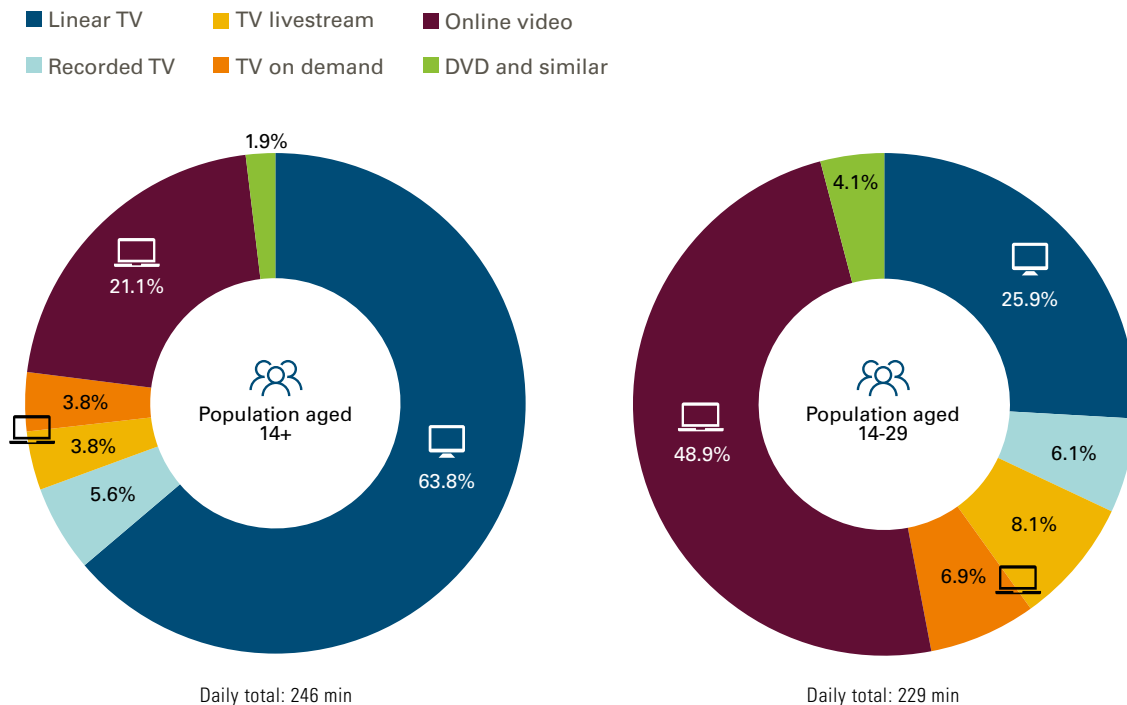
Traditional linear scheduled television remained the most-used video source by a large margin, slipping a mere 1.2 percentage points in the Austrian population aged 14 and over to take 63.8% of the daily video mix compared with 65% in 2022 (2021: 69.1%). Average viewing times for linear live television fell by 13 minutes to 157 minutes in 2023 (2022: 170 minutes; 2021: 194 minutes).

Including time-shifted TV such as 'home-made' TV recordings using a hard disk recorder, or from platforms offered by cable television providers, television usage took a total share of 69.4% (2022: 70%; 2021: 73.4%) or 171 minutes (2022: 183; 2021: 206) of daily video viewing time.

Video consumption from purely online sources such as Netflix, Amazon Prime Video or YouTube, as well as video on social media such as Facebook, TikTok, Instagram and WhatsApp, contributed 21.1% or 52 minutes (2022: 20.8% or 54 minutes; 2021: 18.5% or 52 minutes) towards average video viewing time per day by the general population in 2023. Including TV livestreams and access to television programmes hosted by media libraries, Austrians covered 28.7% of their daily video viewing needs online (2022: 28.1%; 2021: 25%; 2020: 24.6%) for a total of 70 minutes per day (2022: 73; 2021: 70).

These are the findings of the 2023 Video Survey, research conducted annually since 2016 by the RTR Media and the Teletest Working Group (AGTT) at GfK Austria. This opinion research institute uses computer-assisted web interviews (CAWI) to survey, usually in February, 4,000 respondents as a representative sample of the Austrian population aged 14 and over.

Figure 45: Daily viewing of video broadcasts and online video in 2023, individuals aged 14+ and 14 to 29-year-olds



Source: RTR/AGTT 2023 Video Survey; shares as percentages; all of Austria

The Video Survey presents the use of all video services, from linear television and broadcaster media libraries to alternative online services, and includes video consumption in social media, both among the population as a whole and within many specific subgroups. The 2023 Video Survey is available in its entirety on the RTR website at www.rtr.at/Bewegtbildstudie2023 (in German).

Almost two-thirds of young people now consume video online

Among young people aged 14 to 29, the daily consumption of video remained practically unchanged year on year in 2023. At 229 minutes per day, video usage among this young target audience fell year on year by only three minutes per day (2022: loss of 18 minutes to 232 minutes; 2021: gain of 10 minutes to 250 minutes). While this figure lies 21 minutes below the previous record of 250 minutes, set in the pandemic year of 2021, it is 33 minutes higher than the 196 minutes from the pre-pandemic year of 2019.

Traditional television reception via antenna, cable or satellite recorded a markedly lower share of overall consumption year on year, however, dropping by nearly five percentage points to 25.9% (2022: 30.5%; 2021: 31.9%) or 59 minutes (2022: 71 minutes; 2021: 80 minutes). In the final account, this did not decrease viewing time for linear television channels overall, as it was compensated by an increased use of recordings (time-shifted television) and livestream services. If television recordings viewed on user devices or on platforms offered by cable network operators are included (2023: 6% of video consumption by young people; 2022: 4.2%; 2021: 4.3%), television consumption in this young target group totals 31.9% (2022: 34.7%; 2021: 36.3%).

The online usage type livestream TV showed strongest growth here, rising by almost three percentage points to 8% (2022: 5.2%; 2021: 4.8%). On-demand TV – and especially the use of online media libraries from broadcasters – achieved an average share of 6.9% of daily video consumption among 14 to 29-year-olds and therefore saw no change year on year (2021: 7.3%). When linear television and online usage are lumped together, television content was consumed by 46.9% of the young target audience, a figure essentially identical to the 46.8% for daily video consumption in 2022 (2021: 48.3%).

The use of online sources for video, such as live streams and broadcaster media libraries, as well as from alternative video services such as Netflix, Amazon Prime Video or YouTube, and on social media such as Facebook, TikTok, Instagram and WhatsApp, rose to 64% in the 14 to 29-year-old age group in 2023, marking a year-on-year increase of one percentage point (2022: 61.1%; 2021: 60.1%; 2020: 59%). Here, however, the gain of around three percentage points is solely attributable to the increased use of television live streams. Discounting television live streams and the use of media libraries, the consumption of online video, at 48.9%, remained unchanged year on year (2022: 49%; 2021: 48%).

If video consumption for young people is categorised by technical format, i.e. television or online (the latter including television live streams and on-demand television), 14 to 29-year-olds used online services to cover around 64% of their average daily video consumption needs in 2023 (2022: 61%; 2021: 60%) with 32% covered by live television or recordings thereof (time-shifted television). DVDs still account for around 4% of daily video consumption among young people.

Rankings of online services

With a share of 4.6% of average daily video viewing time, Netflix (2021: 4.1%) and YouTube (2021: 3.9%) had shared first place in 2022. In 2023, Netflix and YouTube continued to lead the field among online video services in the overall population aged 14 and over, although Netflix gave up five tenths of a percentage point to finish with a market share of 4.1% (2022: 4.6%; 2021: 4.1%) of daily video consumption, thus falling behind YouTube, which shed three tenths of a percentage point for a market share of 4.3% in 2023 (2022: 4.6%; 2021: 3.9%). Third place went to the media libraries operated by television broadcasters with a joint share of 3.8% (2022: 4.3%; 2021: 3.6%) and television channel live streams, also at 3.8% (2022: 3.0%; 2021: 2.7%). Amazon Prime Video continued its persistent downward trajectory to finish 2023 at 2.1% (2022: 2.3%; 2021: 2.6%). Other online video services followed at a considerable distance, although this field is now being led by Disney+, which almost doubled its performance year on year to take a 1.3% market share (2022: 0.7%; 2021: 0.4%). In the group of services with average daily market shares of less than one per cent, Instagram led the pack in 2023 at 0.9% (2022: 1%; 2021: 0.8%), followed by Twitch at 0.8% (2022: 0.7%; 2021: 0.6%), TikTok at 0.7% (2022: 0.7%; 2021: 0.4%), Facebook at 0.6% (2022: 0.6%; 2021: 0.5%) and WhatsApp at 0.5% (2022: 0.6%; 2021: 0.5%). Other online video offerings reached a total average of 5.8% of daily video viewing time among the overall population aged 14 and above (2022: 5.1%; 2021: 4.5%).

Among young people in the 14 to 29 age group, YouTube continued to lead the pack in 2023 in terms of online content use, with an 11.5% share of average daily video per capita viewing time, but the platform did post a loss of nearly two percentage points (2022: 13.4%; 2021: 11.4%). Despite this reversal, YouTube nonetheless managed to increase its lead over the second-placed Netflix service, which shed just under three percentage points to fall back to a share of 8.1% of daily video viewing time in 2023 (2022: 11%; 2021: 12.3%). YouTube had taken the top spot from Netflix as the most popular streaming service among young people only as recently as 2022. Taking third place in online service rankings among 14 to 29-year-olds is a new face, Livestream-TV, which rose by nearly three percentage points to 8% (2022: 5.2%; 2021: 4.8%) to supplant the television media libraries, which repeated the previous year's figure of 6.9% in 2023 (2021: 7.3%). One service enjoying a comeback among the young target audience was Amazon Prime Video, which took a 3.6% share in 2023. In 2022, Prime Video had seen its share of video viewing among 14 to 29-year-olds drop by more than half, falling from the 2021 figure of 3.7% to 1.5%. Sixth-placed in 2023 was TikTok with 3.0% (2022: 2.8%; 2021: 1.7%), followed closely by Instagram at 2.8%, which shed around one percentage point (2022: 3.7%; 2021: 3.3%), and

then Twitch, which again saw a slight improvement to its year-on-year performance and rose to 2.6% (2022: 2.3%; 2021: 2.1%). Disney+ was able to improve its performance by six tenths of a percentage point to 2.3% and placed ninth in 2023 (2022: 1.7%; 2021: 0.7%), ahead of WhatsApp, which maintained its prior-year share of 1.5% (2021: 1.6%). Snapchat also enjoyed a minor comeback in 2023, making it past the 1% milestone once again to take a 1.2% share. In 2022, Snapchat was placed in the category of 'other online services used' (2021: 1.4%). This was then the fate of Facebook in 2023, which had managed a 1% share in 2022. The breadth and diversification of other video sources among young people is demonstrated by the steady growth recorded by the 'Other videos' group in the data analysis from the Video Survey. In 2023, this miscellaneous category again gained ground among the 14 to 29-year-old age group by just over two percentage points, rising to 12.2% (2022: 10%; 2021: 9.8%).

9.1.3 The Austrian radio market

9.1.3.1 Nationwide listening figures in 2023

In contrast to the previous three years, daily reach for radio stations as a whole among the general population in Austria aged ten and over rose again slightly in 2023,⁴⁴ with significant gains actually being seen in the core target group of 14 to 49-year-olds. A significant uptick of 15 minutes per day (2022: gain of 1 minute) was observed for average listening time in the general population aged ten and over, with no fewer than 23 minutes being added in the core target group of 14 to 49-year-olds (2022: gain of 11 minutes). Taken together, domestic private broadcasters also achieved significant gains in market share in both age groups in 2023, while ORF radio stations yielded ground correspondingly.

The Radiotest survey consists of 24,000 interviews conducted annually among the population aged ten and over by GfK Austria and MindTake. The analysis of these data is entrusted to ISBA. Starting on 1 January 2022, a mixed method was first introduced for Radiotest, with one in ten interviews being conducted online (CAWI) among the 14 to 49-year-old target group. The remaining interviews were conducted by phone, as before (CATI). This method mix aims to achieve greater utilisation of the core target group. Effective 1 January 2023, the online/CAWI proportion was increased to 20%, namely to 15% in the 14 to 49-year-old target group and to 5% in the 50 to 69-year-old group. This increased online proportion of 20% in total will first form part of overall results in the annual results for 2023, and may well cause several significant increases in figures for listening time and daily reach.

Survey figures show that, on average, 76% of the Austrian population (10+) listened to the radio "for at least 15 minutes yesterday"⁴⁵ in 2023 (2022: 74.9%; 2021: 75.2%; 2020: 75.7%). Following a three-year-decline, this year-on-year gain of nearly one percentage point means that daily reach once again has the last record figure of 77.3% from 2019 in its sights.

In the core target group of 14 to 49-year-olds, daily reach for radio was able to improve even further on its performance for 2023, adding 1.7 percentage points and rising to 73.4%. Daily reach in this core target group had already seen gains of two percentage points in 2022 (2022: 71.7%; 2021: 69.7%). While radio had experienced a substantial loss in this age group in 2020, falling by 3.7 percentage points, it was now once again able to make up ground to even exceed by two tenths of a point the daily reach figure of 73.2% for 2019. Significant gains were also seen in average listening time in the general population aged ten and over for 2023, which rose by 15 minutes to 202 minutes per day and therefore even managed to surpass the last record figure from 2019 by one minute. During the period 2020 to 2022, listening time decreased every year and fell by a total of 14 minutes. In 2019, however, there had been an atypical and significant rise in listening time in the general population aged ten and over of 18 minutes to 201 minutes (2018: 183 minutes; 2017: 179 minutes).

In the target group of 14 to 49-year-olds, the sharp rise in listening time from 2022 (gain of 11 minutes) was itself beaten by a jump of 13 minutes to 200 minutes (2022: 177 minutes; 2021: 166 minutes), which has now

⁴⁴ Source of all data on the Austrian radio market: Radiotest 2023–4, period Mon to Sun

⁴⁵ Definition of daily reach for radio, both for radio as a whole and for individual stations

decisively bucked the long-observed trend of a downward decline exhibiting high volatility. The year 2021 therefore marks the nadir for the period of the last five years. In 2020, listening time in the core target group decreased year on year by 15 minutes to 170 minutes, although it had posted an unprecedented gain of 14 minutes to 185 minutes.

Austria-wide market shares and daily reach for ORF and private radio

The daily reach of a radio station signifies the percentage of people within a target age group who report having tuned into that station the day before and listened for at least 15 minutes. When for example a listener tunes into three stations for at least 15 minutes each, the amount of positive impact that this listener has on daily reach is the same for all three stations, even if she perhaps listened to two of the stations for only 15 minutes each but to the third for a longer period.

This contrasts with market share, which tells us how many of the average radio minutes listened to each day can be allocated to the respective radio stations. If people spend more time listening to one radio station, this station has more market share than others and so increases the value of its airtime to advertisers.

Radiotest determines market share based on a survey of respondents' activities on each previous day. The day is divided up into quarter-hour periods, with listeners allowed to name up to three radio stations for 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 market share held by radio stations may turn out to be greater than the adjusted (net) figure for all stations in total, for example, for the ORF channel portfolio as a whole or private stations in total. This effect was observed again in 2023. Although the individual shares of the market for listeners aged between 14 and 49, as held by ORF, national private radio broadcasters and other radio broadcasters (such as foreign broadcasters), should add up to 100%, these shares in fact total 103%.

The following information concentrates on the 14 to 49-year-old core target group which is especially key for marketing. Here, mean listening time is calculated for an entire week, that is, from Monday to Sunday.

Shrinking daily reach for ORF radio stations, large gains for private stations

In 2023, the ORF radio network took 48.2% of daily reach in the target group of 14 to 49-year-olds – seven tenths of a percentage point lower than the previous year's figure and continuing a series of losses made in recent years (2022 and 2021: 48.9%; 2020: 51.2%; 2019: 54.6%) In contrast, domestic private stations improved their cumulative daily reach considerably by around six percentage points to nearly 45% (2022: 39%; 2021: 36%; 2020: 34%; 2019: 36%).

Among individual ORF stations⁴⁶, there were both losses and gains within the range of a single percentage point.

Ö1 recorded losses for the second year in succession, shedding five tenths of a percentage point and dropping to a daily reach of 5% among the target group of 14 to 49-year-olds in 2023 (2022: 5.5%; 2021: 6.2%). During the pandemic, this current affairs and arts station had managed to expand its reach, first to 5.7% in 2020 and then to 6.2% in 2021.

In 2023, Ö3 was unable to retain its gains from 2022, dropping by nearly a percentage point to a daily reach of 34.7% and therefore returning to its longer-term trend of losing ground (2022: 35.5%; 2021: 34.6%; 2020: 36%; 2019: 39%).

⁴⁶ ORF regional stations considered together as one station

Taken together, the ORF regional stations improved their daily reach among 14 to 49-year-olds by three tenths of a percentage point to 13.8% in 2023 (2022: 13.5%). As recently as 2022, the regional stations had in fact made gains of seven tenths of a percentage point, although this followed a loss of two points in 2021 (2021: 12.8%) and nine tenths of a point in 2020 (2020: 14.8%). In 2023, the ORF regional radio stations therefore still remained significantly short of the most recent record of 15.7% for 2019.

FM4 was also able to improve its daily reach in the core target group in 2023, gaining three tenths of a percentage point to 5.5% (2022: 5.2%; 2021: 4.7%; 2020: 5.5%).

Although the consolidated figure for nationwide daily reach for the ORF stations saw relatively insignificant movement in 2023, merely slipping by seven tenths of a percentage point, domestic private stations collectively improved their daily reach by the substantial sum of nearly six percentage points to the figure of 44.7% (2022: 39%; 2021: 35.6%). This figure would suggest that ORF listeners, previously thought of as loyal to just one station, became more flexible in 2023 and were more likely to switch over to a private station once or twice during the year. Private stations had expanded their collective daily reach in 2022 by a good three percentage points and by two percentage points in 2021.

ORF market share shrinks notably again in 2023, private stations set new record

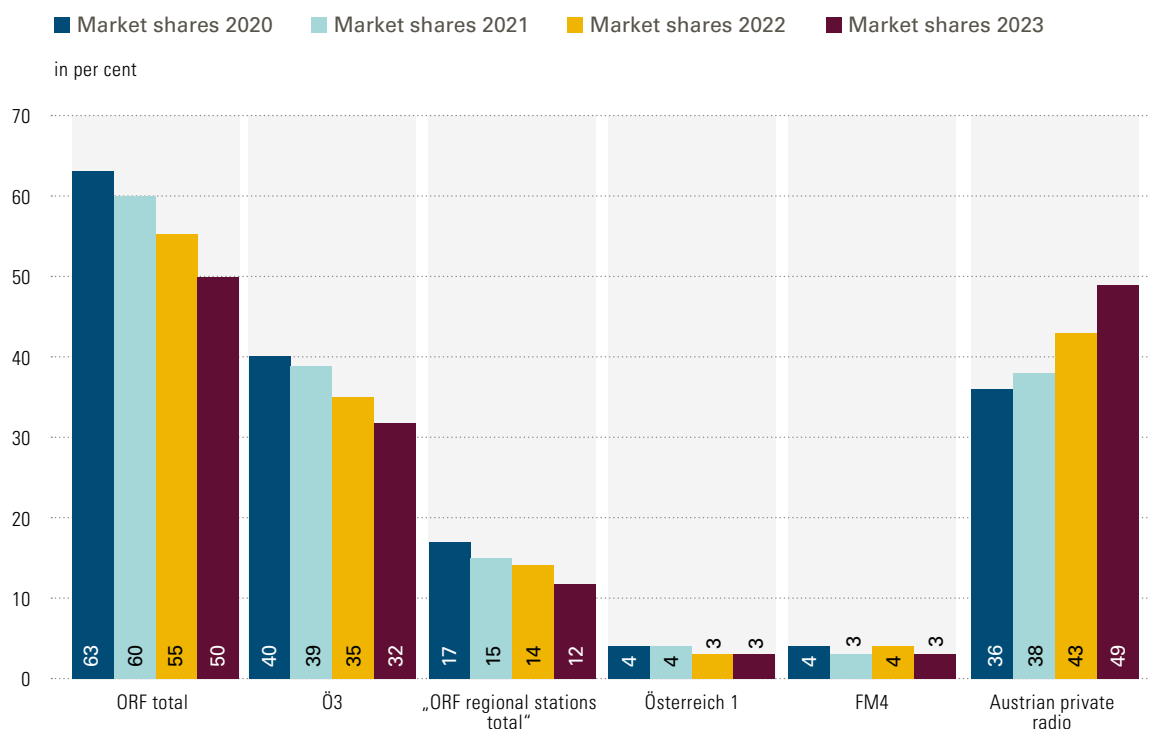
For the second year running, the overall market share for ORF stations fell in 2023 by five percentage points, to a new low of 50% in the 14 to 49-year-old listener group (2022: 55%; 2021: 60%; 2020: 63%; 2019: 65%). Including losses from 2019 to 2021, this means that in the space of five years the ORF radio network has given up 15 percentage points of market share among the most relevant target group for advertisers.

The mainstream station Ö3, which dropped by four percentage points to a 35% market share in 2022 and made a key contribution to the overall downward trend for ORF stations in that year while continuing its own negative trajectory begun in 2020 (2021: 39%; 2020: 40%; 2019: 43%), lost a further three points in 2023, falling to 32%.

The nine ORF regional stations lost two percentage points in 2023 to close the year with a 12% market share (2022: 14%; 2021: 13%). FM4 also gave up one percentage point to finish at 3% (2022: 4%; 2021: 3%).

Only Ö1 was able to maintain its share year on year, achieving a 3% figure among 14 to 49-year-olds in 2023 (2022: 3%; 2021: 4%).

Figure 46: Shares of the nationwide radio market held by ORF and private stations among the 14–49 target group, 2020–2023



Source: Radiotest 2023; percentages; all of Austria.

The consolidated market share for private stations in the provinces as well as the national stations Radio kronehit and Radio Austria, and the DAB+ digital radio stations with nationwide reception, rose by six percentage points in 2023 to reach 49% and therefore another record share figure since 2022. Private stations had already netted gains of five percentage points in 2022 and achieved 43%, the highest share figure recorded to date. Only in 2021 had the private stations improved on the 36% market share they had held since 2015 (with the exception of 2018: 37%). In 2021 they had gained two percentage points year on year to achieve a record market share of 38% in the core target group of 14 to 49-year-olds.

The overall success enjoyed by private stations in 2021 was generally attributable to the gains made by national station Radio kronehit, which grew by four percentage points to a 15% market share. But in 2022 gains had been distributed evenly, with a single percentage point acquired at national level by each of Radio Flamingo (DAB+ pop station launched in June 2021), Radio Austria, 88.6 – so rockt das Leben (FM in Vienna and DAB+ national) and Life Radio Oberösterreich. In 2023, collective growth for the private stations was largely attributable to the rock station 88.6 – so rockt das Leben, which expanded its broadcasting region – previously focused largely on Vienna, Lower Austria and Burgenland – to Styria in January 2023 and then to Upper Austria in summer 2023. This enabled 88.6 to expand its 2022 figure for nationwide market share among 14 to 49-year-olds by four percentage points to 10%. In Vienna and Lower Austria alone, 88.6 – so rockt das Leben gained six percentage points in each region, rising to a 15% market share in Vienna and a 21% market share in Lower Austria. Gains of four percentage points were achieved by 88.6 in Upper Austria (5% share) and Styria (7% share), with market share rising by three percentage points to 25% in Burgenland. In Upper Austria, 88.6 made gains specifically at the expense of kronehit, whose market share shrank there from 19% to 14%, although other changes in Upper Austria were less pronounced.

In 2023, gains of one percentage point were also achieved at nationwide level by Energy (3% market share), DAB+ Radio jö.live (1%), Radio Arabella (2%), Radio Grün-Weiss (1%) and U1 Tirol (2%).

In contrast, a percentage point of nationwide market share was lost by each of Antenne Steiermark (3%), the national kronehit station (13%) and Soundportal (0%).

First launched nationwide in 2022, the DAB+-only pop hit station Radio Flamingo achieved an initial nationwide market share of 1% during its first year and found its biggest audience in Styria, with a market share of 2% in that region. In 2023, Radio Flamingo was able to expand its market share by one percentage point in each of three regions, rising to a figure of 3% in Styria, 2% in Carinthia and 1% in Upper Austria. Growth in overall nationwide market share was stymied by losses in Salzburg and Vorarlberg of one percentage point to 0% in each case.

9.1.3.2 Radio listening in Vienna in 2023

The trends for daily reach and market share at a national level, both for radio overall and separately for ORF radio and for private stations, are roughly reflected in the figures for Vienna, a fiercely competitive radio market nonetheless dominated by distinctive local conditions. As a daily average, overall percentage reach for radio in the national capital tends to be significantly lower than for the country as a whole, with listening time per day also being significantly lower in Vienna than the nationwide average and the shortest of any region.

Over the last few years, daily reach for radio in Vienna has been subject to the occasional minor fluctuation. In 2023, however, it achieved above-average growth of 3.5 percentage points and rose to 66% of the general Viennese population aged ten and over (2022: 62.5%; 2021: 62.4%; 2020: 64.5%; 2019: 63.9%). Nationwide, radio reaches 76% of the total population (10+) on a daily average. Among Viennese citizens aged 14 to 49, radio secured above-average gains of almost five percentage points in 2023 to achieve a new record reach figure of 61.8% (2022: 56.7%; 2021: 54.9%; 2020: 55.6%; 2019: 56.8%), at a comparable nationwide reach figure of 73.4% for this age group. In 2022, radio had already managed to improve its daily reach among 14 to 49-year-olds in Vienna by 1.6 percentage points, thereby interrupting the prevailing downward trend for radio reach in this Viennese core target group that had been observed over a period of several years.

Radio listening time in Vienna sees sharp rise in 2023

In the general population aged ten and over, average listening time rose by an exceptional 23 minutes to 165 minutes per day in 2023 (2022: 142 minutes; 2021: 134 minutes; 2020: 152 minutes). In the 14 to 49-year-old age group, listening time made even more substantial gains, jumping by 41 minutes to 158 minutes in 2023 (2022: 117 minutes; 2021: 101 minutes; 2020: 119 minutes). Following a sharp downturn in listening time of 18 minutes in 2021, both among the general population aged ten and over (10+) and the target group of 14 to 49-year-olds, listening time in Vienna again rose noticeably in 2022 (10+: 8; 14–49: 16 minutes), although no longer to 2020 levels.

Despite these notable changes, listening time in Vienna was, as usual, well below the national average. Listening time in the general Viennese population aged ten and over and the core target group was respectively 37 minutes and 42 minutes lower than the national figures.

The ratio of total listening time to the time spent listening to the individual radio stations forms the basis for calculating the market shares for the individual stations. If overall listening time rises significantly while market share for individual radio groups or stations shifts strongly, this means that individual groups or stations have accrued greater benefits from the rise than others. Though in this case the reverse is not necessarily true, i.e. that one group or station is being listened to less than in the year before. This point is well illustrated by looking at the ORF stations in Vienna in 2023. In 2022, the ORF stations achieved a market share of 50% in the 14 to 49 target group. Based on an overall listening time of 117 minutes per capita per day, this works out to just

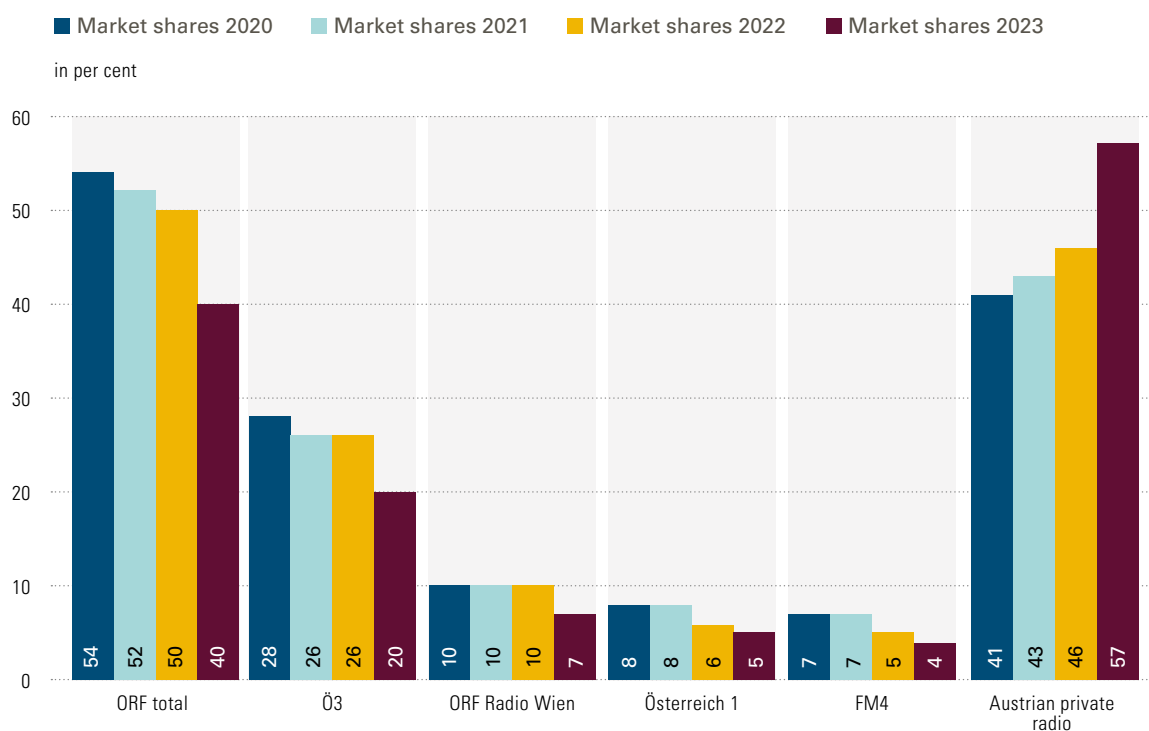
under 59 minutes for the ORF stations. In 2023, the market share for the ORF stations fell to 40%. However, as overall listening time per capita per day rose to 158 minutes, this means listening time for ORF stations has actually increased to 63 minutes. With their market share expanding by 11 percentage points to 57%, the rise in listening time for all private radio stations together is naturally much more pronounced: 54 minutes in 2022, 91 minutes in 2023. Yet listening time for both groups is longer – regardless of their gain or loss in market share.

Market shares and daily reach among Vienna radio listeners aged 14–49

As already seen in the nationwide analysis, the following information about the market success for ORF stations compared with stations from private broadcasters, as well as the performance of individual stations in the Viennese market, concentrates on the 14 to 49-year-old core target group, which is highly relevant for marketing. Here, mean listening time is calculated for an entire week, that is, from Monday to Sunday.

Changes in the Viennese radio market in 2023 were characterised by an uncommonly large loss in market share experienced by ORF stations overall, paired with corresponding gains for the private stations, which also significantly expanded their daily reach.

Figure 47: Radio market shares in Vienna among the 14–49 target group, ORF vs. private stations, 2020–2023



Source: Radiotest 2023; percentages; Vienna market

ORF Radio stations in Vienna

The ORF radio network suffered major losses to market share in Vienna in 2023, giving up ten percentage points of its share among 14 to 49-year-olds year on year and therefore dropping back to a 40% market share (2022: 50%; 2021: 48%). In Vienna, this result for the ORF stations was even more marked than their nationwide loss of six percentage points.

Daily reach for the ORF stations remained practically unchanged in Vienna, however, mirroring its nationwide results, and even ticked up by two tenths of a percentage point to 36% (2022: 35.8%; 2021: 33.6%).

Market share results for the ORF stations in Vienna in 2023 were shaped by Ö3, which shed six percentage points to close with a 20% share. In 2022, market share for Ö3 remained stable year on year, temporarily bucking the negative trend it had followed since 2020 (2022: 26%; 2021: 26%; 2020: 28%; 2019: 33%). While the regional ORF radio station Radio Wien had maintained a stable 10% market share until 2022, it gave up three percentage points in 2023 to end at a 7% share. Ö1 and FM4 each lost one percentage point in the core target group, with market share shrinking to 5% for Ö1 (2022: 6%, 2021 and 2020: 8%) and 4% for FM4 (2022: 5%; 2021: 7%; 2020: 7%). Radio Niederösterreich also shed one percentage point in the Viennese market, slipping back to its 2021 market share figure of 1%. Radio Steiermark alone achieved a measurable increase to its performance in Vienna, acquiring a 1% market share.

In contrast to changes in market share, figures for daily reach remained largely stable for the individual ORF stations in Vienna in 2023. Despite the significant loss suffered to its market share, even Ö3 saw its reach among 14 to 49-year-olds slip by only 1.2 percentage points to 19.5% and so remain within the margin of fluctuation as observed in recent years (2022: 20.7%; 2021: 19.1%; 2020: 20.2%).

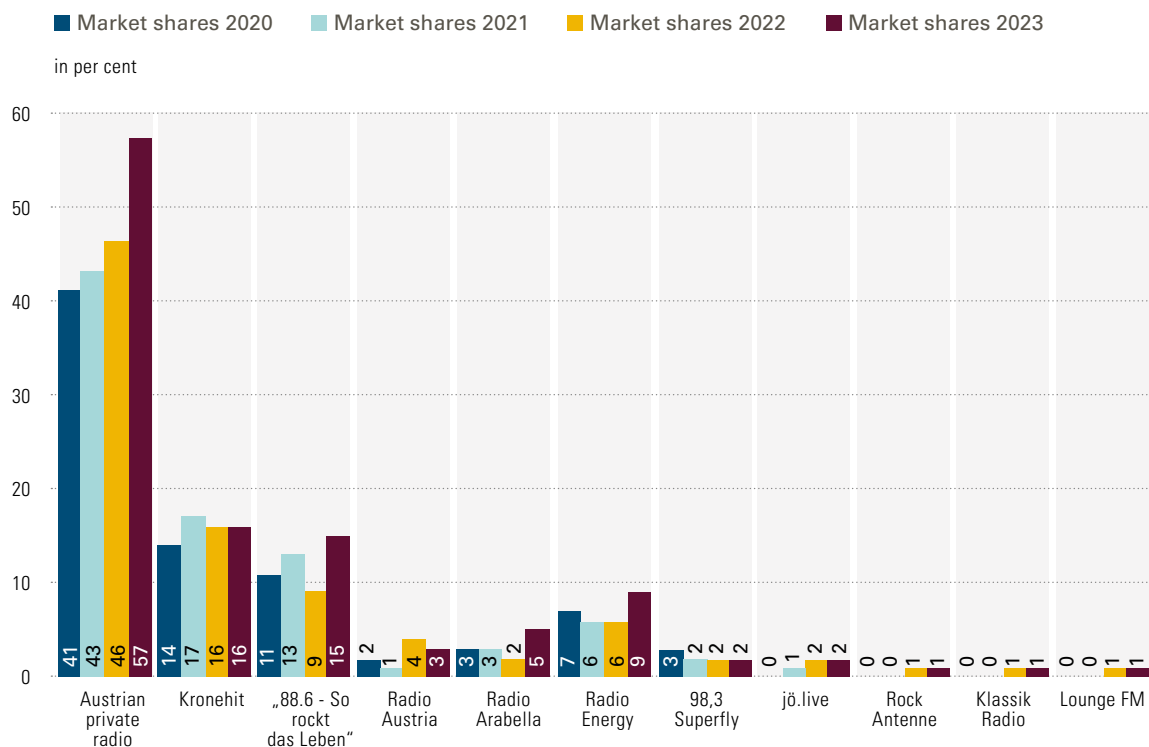
For Ö1, daily reach moved by only three tenths of a percentage point, ticking down to 7.4% (2022: 7.7%; 2021: 8.4%). Radio Wien maintained the previous year's figure of 6.7% reach that it had first achieved in 2022 by gaining eight tenths of a percentage point (2021: 5.9%), while FM4 was able to claw back six tenths of a point for a reach of 5.4%, almost drawing level with its performance in 2021 (2022: 4.8%; 2021: 5.5%).

As a group, the regional ORF stations used in Vienna (Radio Wien plus other provincial stations) were actually able to improve their overall reach by 1.6 percentage points to 11.6% in 2023 (2022: 10%; 2021: 6.9%). Radio Burgenland doubled its reach among 14 to 49-year-olds to 2.3%, Radio Steiermark edged up from 0.3% to 0.8% and Radio Salzburg moved from 0.6% to 0.9%. Only Radio Niederösterreich saw its reach actually shrink in size, dropping back from a 2% reach to a figure of 1.6% in Vienna.

Private stations in Vienna

In the group of listeners aged 14 to 49, the target group most relevant for advertising, the market share for private stations in Vienna jumped by the historic outlier of 11 percentage points in 2023, moving swiftly past the 50% milestone for the first time to end at 57% (2022: 46%; 2021: 43%). In both 2022 and 2021, the private stations improved their overall market share among 14 to 49-year-olds in Vienna by three percentage points in each year, and had therefore markedly improved their performance beyond the average 40% to 41% share figure long achieved in this market. In 2023, the domestic private stations also expanded their daily reach in Vienna by an impressive nine percentage points to end at 38.3% (2022: 29.2%; 2021: 28.9%).

While kronehit again retained the crown as market leader in Vienna in 2023, its market share among 14 to 49-year-olds remained static at 16% (2022: 16%; 2021: 17%; 2020: 14%) and only one percentage point ahead of 88.6 – so rockt das Leben, which saw its market share jump by no less than six percentage points to 15% in 2023 (2022: 9%; 2021: 13%; 2020: 11%). In terms of daily reach, however, kronehit achieved better results and moved from 13.3% to 17.3%. This was mirrored by 88.6, which gained four percentage points to finish at a daily reach of 11.9% in 2023.

Figure 48: Private radio shares in the Vienna market among the 14–49 target group, 2020–2023


Source: Radiotest 2023; percentages

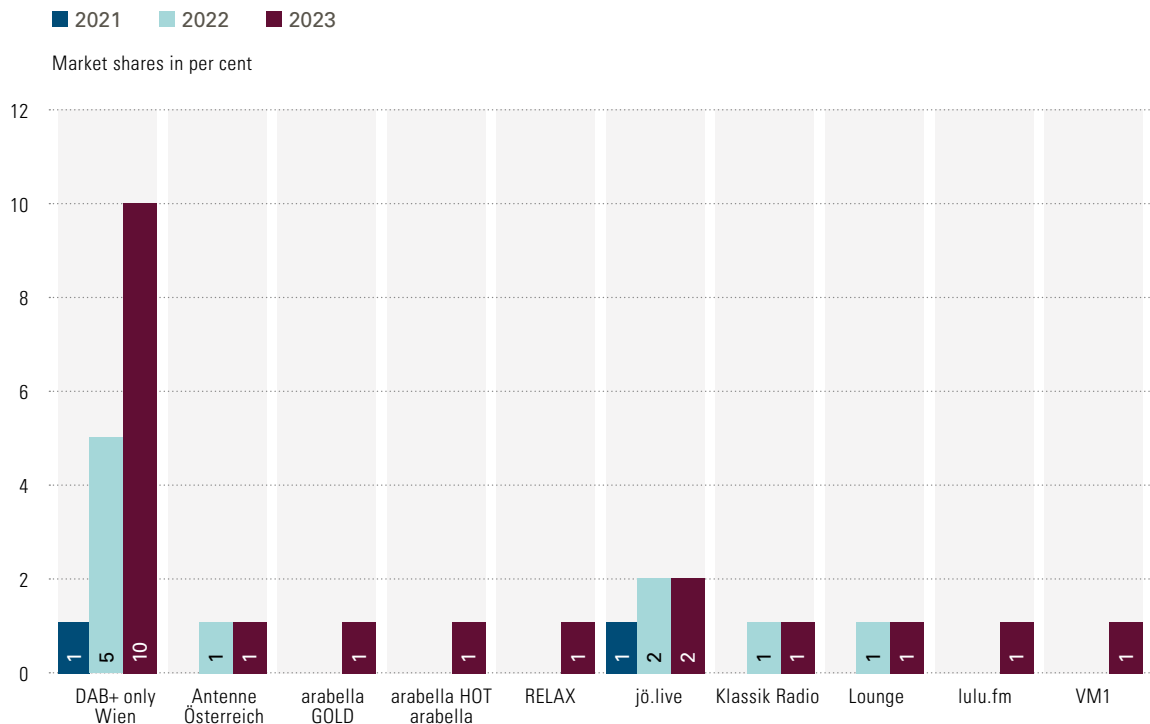
In the Viennese radio market, strong market share gains of three percentage points were achieved by Radio Arabella, which rose to a 5% share (2022: 2%, 2021 and 2020: 3%), and ENERGY, which ended at 9% (2022 and 2021: 6%; 2020: 7%). Radio Arabella also improved its daily reach in Vienna by one percentage point to 4.2% (2022: 3.2%; 2021: 2.8%; 2020: 2.7%) while ENERGY added no fewer than 2.5 percentage points for a figure of 10.1% (2022: 7.6%; 2021: 6.8%; 2020: 6.7%).

Radio Austria, which had expanded its market share in Vienna by an impressive three percentage points to 4% in 2022, slipped back by one percentage point to a 3% market share in 2023, while seeing its daily reach tick up from 2.4% to 2.8%. Superfly held onto a 2% market share for the third year running in 2023.

First launched in Vienna as a DAB+-only station, Rock Antenne added FM reception in the national capital in December 2022. This had no impact on its 2023 market share, however, with performance among 14 to 49-year-olds remaining static year on year at 1%.

Among stations broadcast solely via digital DAB+ terrestrial radio in Vienna, the Arabella special-interest stations arabella Gold, arabella RELAX and arabella HOT achieved measurable results in 2023, each reporting a 1% market share. Newcomers to DAB+ reception in Vienna in 2023 were the stations lulu.fm and VM1, both of which also achieved a market share of 1% among listeners in the 14 to 49 age group.

Figure 49: DAB+ private radio shares in the Vienna market among the 14–49 target group, 2021–2023



Source: Radiotest 2023, DAB+ radio stations in Vienna with a market share of at least 1%, percentages (rounded)

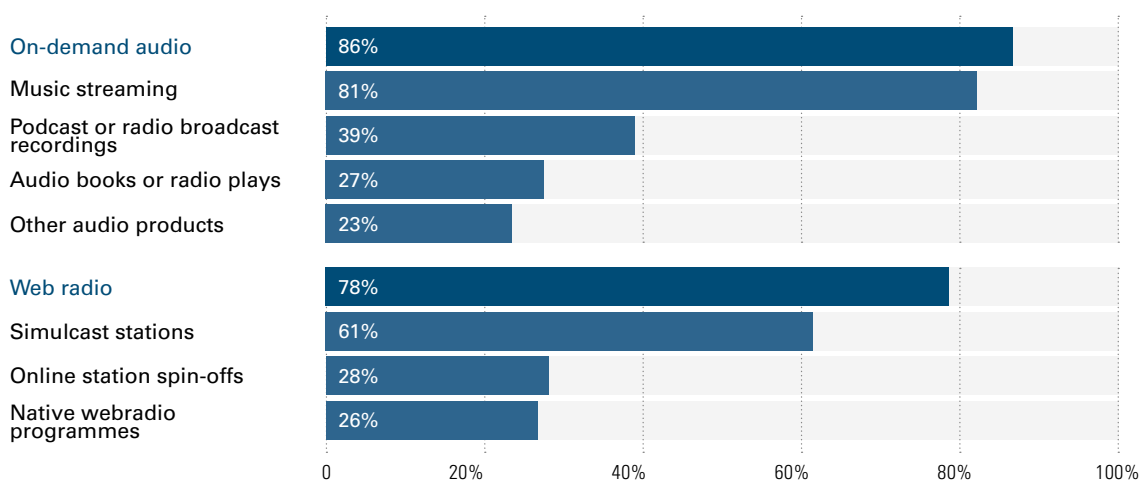
No change in market share was seen year on year for the DAB+ stations Antenne Österreich (1%), jö.live (2%), Klassik Radio (1%) and Lounge (1%).

9.1.3.3 Online audio usage in 2023

Results from Online Audio Monitor Austria

In autumn 2023, the Media Division introduced a new market study, Online Audio Monitor Austria, which recognises the increasing importance of the use of online audio services among the population. This study is commissioned from Ipsos by the Media Division. To produce the study, the market research institute conducted an online survey of 4,000 persons aged 15 and over in May and June 2023. This sample was representative of 94% of Austrians with internet access (Statistics Austria 2022).

In 2023, some 91% of Austrian citizens aged 15 and over with internet access used online audio services such as music streaming, web radio, podcasts, audio books, radio plays, radio broadcast recordings and other forms of online audio 'at least rarely', with 80% doing so 'at least monthly' and 49% 'daily' or 'almost daily'. The internet services seeing the greatest – and a virtually equal – level of use among online audio users were on-demand music streaming (81% of listeners) and linear web radio broadcasts (78% of listeners).

Figure 50: Use of on-demand audio and web radio, online population 15+

Source: RTR Online Audio Monitor Austria 2023, percentages, multiple responses possible, online population

Use of web radio

As can be seen, linear radio broadcasts also rank among the most appealing online audio services and are only slightly less popular than music streaming services such as YouTube, Spotify or Amazon Music. Among web radio users, 61% of respondents stated that they listen to simulcast broadcasts, i.e. web radio stations that are also broadcast at the same time and with the same content for reception via FM or DAB+. In 2023, 28% of respondents listened to smaller stations, run by leading antenna-based radio stations, that provide niche or special-interest content. Radio stations exclusively available online and which cannot be (recognisably) associated with broadcasting organisations from the linear DAB+ or FM segments were used by 26% of web radio listeners.

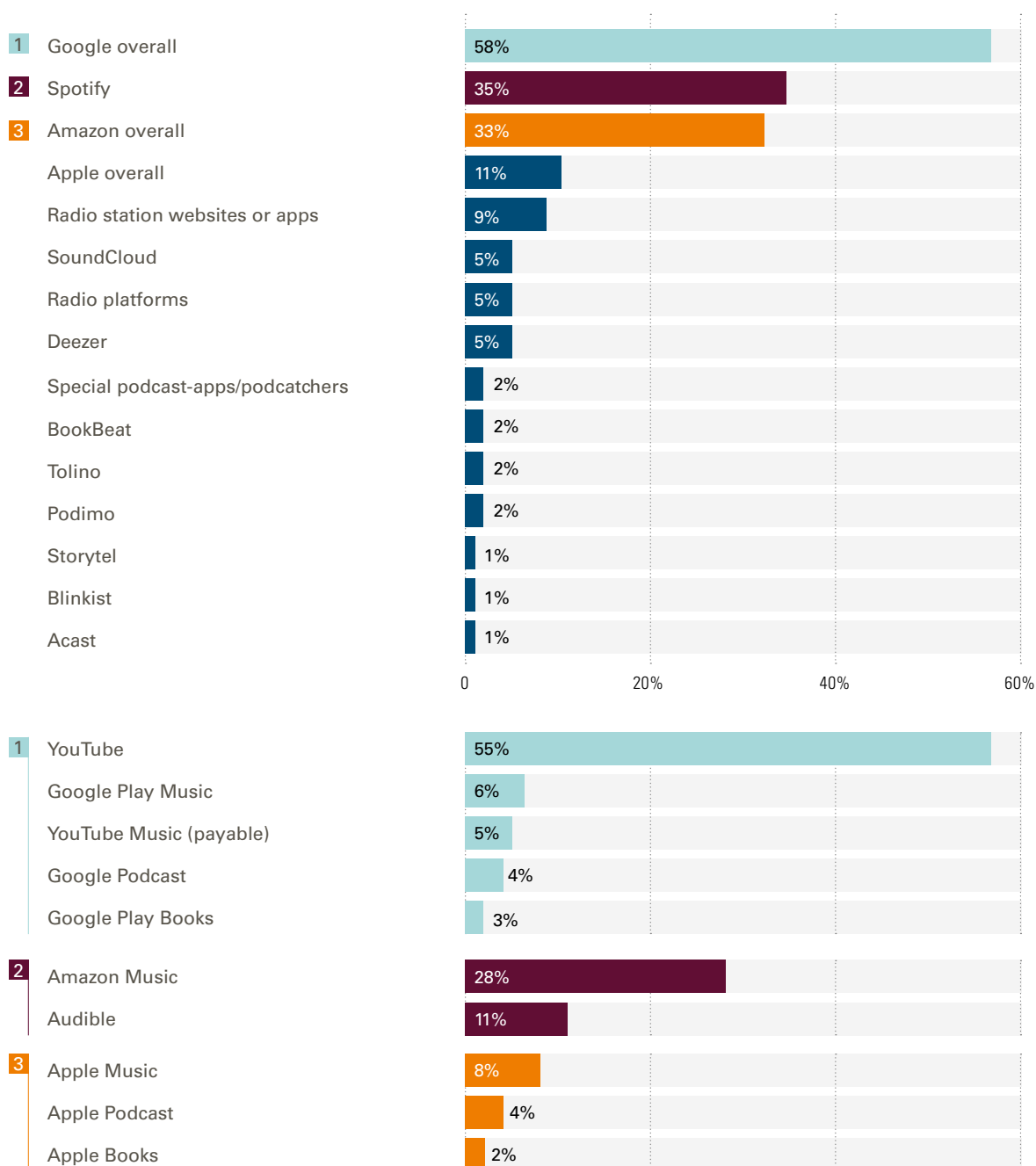
In most cases (48%), web radio users made use of the websites or apps provided by the operators of each web radio station. Bringing up the rear here are the station aggregation services Radio.at (25%), TuneIn (14%), Radioplayer.at (7%) and myonlineradio.at (5%), plus others (6%).

Use of on-demand audio

On-demand audio – defined as the individual use of audio services at an arbitrary time and according to personal interests – was used by 86% of the online population. Some 81% of online audio listeners aged 15 and over streamed music on demand from platforms such as YouTube, Spotify, Amazon, Apple Music and others. Podcasts and radio broadcast recordings were used by 39% of online listeners, while 27% listened to audio books or radio plays.

Among users of podcasts and radio broadcast recordings in 2023, the largest group of listeners was young people aged between 15 and 29. These services were utilised by 57% of the 15 to 29-year-old group of audio users, with 44% of 30 to 49-year-olds and 29% of people aged 50 and over listening to podcasts and radio broadcast recordings. Some 49% of the young group of listeners also stated that podcasts were an 'important' or 'very important' source of information about current news and events (30–49-year-olds: 42%, 50+: 21%).

Among on-demand platforms seeing the heaviest use, the service portfolio from Google was mentioned most frequently (58%), with no less than 55% of responses citing Google's YouTube platform. Specialised Google platforms (Play Music, YouTube Music (premium service), Google Podcast, Play Books) garnered 3% to 6% of responses.

Figure 51: Use of platforms for on-demand audio, online population 15+

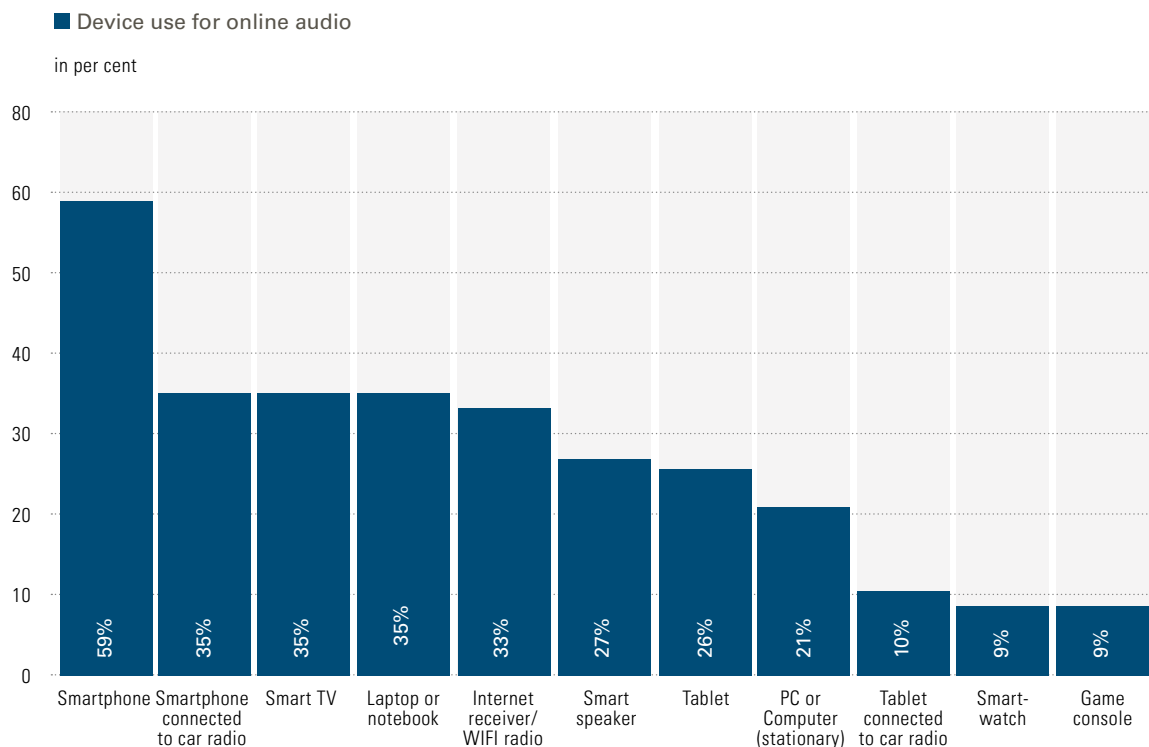
Source: RTR Online Audio Monitor Austria 2023, percentages, basis: users of on-demand audio

Second-placed among the most popular on-demand platforms was Swedish streaming provider Spotify (35%), followed by Amazon (33%) with its Music (28%) and Audible (11%) services. The on-demand portfolio from Apple follows at some distance in fourth place (11%), with Apple Music being mentioned by 8% of respondents, as well as Apple Podcast by 4% and Apple Books by 2%. Among on-demand platforms earning less than 10% of responses, websites or apps from radio stations collectively take 9% of the field, followed by SoundCloud (5%), radio platforms (as a group, 5%) and Deezer (5%). Other on-demand platforms accounted for 1% to 2% of responses.

Device use for online audio – overall

In terms of frequency of use, smartphones lead the field for online audio consumption by a wide margin.

Figure 52: Device use for online audio, online population 15+



Source: RTR Online Audio Monitor Austria 2023, devices named as percentages, basis: online audio users

Almost 60% of respondents stated that they use a smartphone to consume online audio content. A further 35% pair the phone with their car radio. Smart TVs and laptops account for 35% of responses and share third place in the ranking. Wi-Fi radio sets follow at 33%, with smart speakers earning 27% of responses, only just ahead of tablets at 26% and then PCs at some distance at 21%.

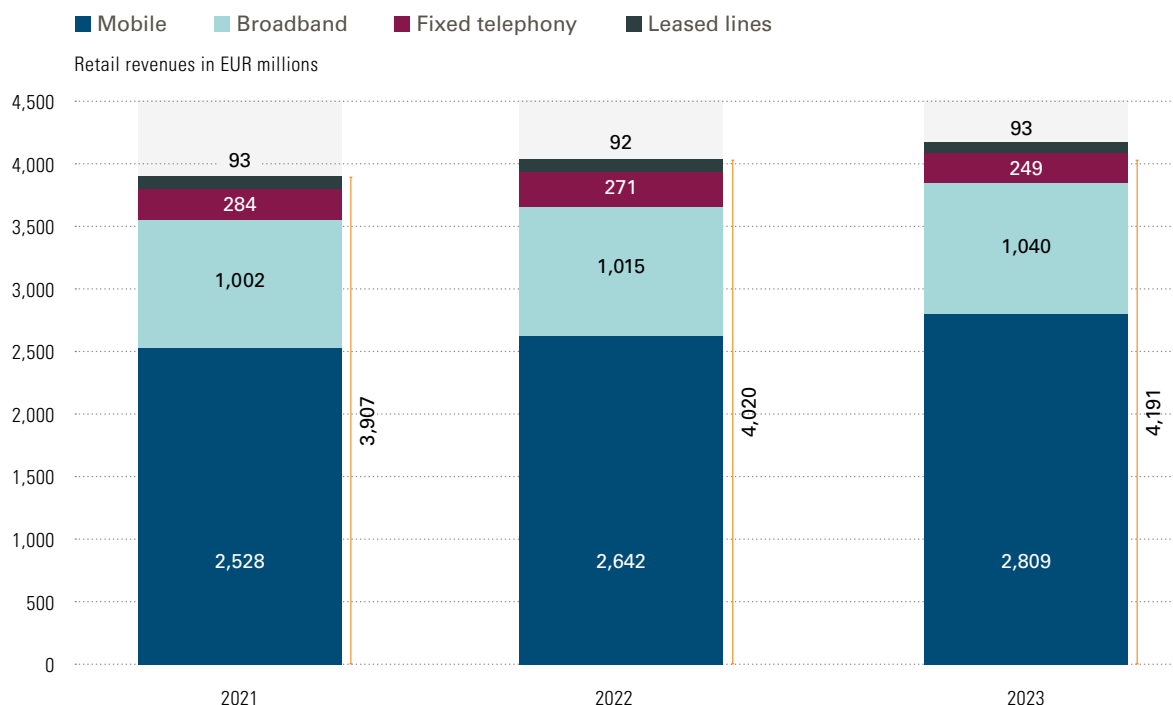
The Online Audio Monitor 2023, complete with data-rich charts and tables, can be accessed from the RTR website at www.rtr.at/OAMA2023.

9.2 Developments in the telecommunications markets

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

In 2023, retail revenues in the telecommunications sector rose a total of 4.3%, from EUR 4.02 billion to EUR 4.19 billion. Compared with the past, growth was higher than in the two previous years (2022: 3%; 2021: 2%). The largest growth was seen in mobile telecommunications revenue (+6.3% including mobile data subscriptions), while an increase was also seen in the broadband sector (+2.4%). Fixed voice telephony, on the other hand, saw a minor decline of 8.1% year on year. Revenues from leased lines and Ethernet services increased marginally once again (+1.3%).

Figure 53: Retail revenues from mobile, fixed broadband, fixed voice and leased line services, 2021-2023



Source: RTR

Key market developments in 2023 are listed below and described in detail in the section that follows:

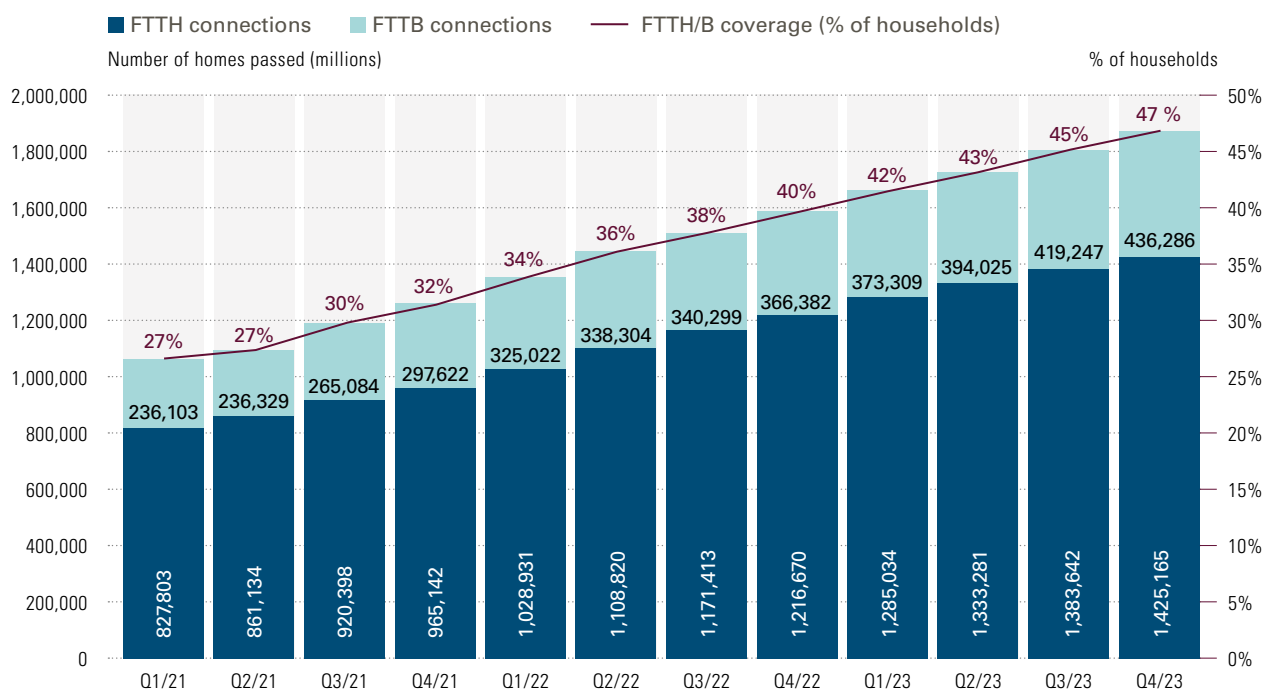
- Progress in fibre deployment continues
- Open access networks are playing a major role in fibre deployment
- Wholesale broadband markets: stable development after deregulation
- Mobile telecommunications: revenues increasing, MVNOs gaining market shares
- Increasing use in 5G networks

Progress in fibre deployment

As far as coverage of Austria with internet connections with very high bandwidths concerned, both the European Union and the Austrian federal government are pursuing ambitious targets. The European Commission's Digital Decade targets aim to achieve wide-area coverage of all European households with symmetrical gigabit-enabled access networks by 2030.⁴⁷ This objective is also being pursued by the Austrian Broadband Strategy 2030.⁴⁸ A key element here is the installation of fibre networks, where the fibre extends at least to the building (fibre to the building, FTTB) or even as far as the user's actual apartment or house (fibre to the home, FTTH).

In 2023, fibre deployment in Austria reached a high level of activity. Figure 54 shows coverage with FTTB and FTTH connections in Austria during the period 2020–2023. Coverage figures here reference potentially available connections ('homes passed') and not connections in actual use. There has been a steady increase in coverage with FTTB/H connections in recent years, with another significant rise again in 2023. Although coverage was only 27% at the beginning of 2021, this figure had risen to 47% of all households by Q4 2023.⁴⁹ Most of this coverage is attributed to FTTH (approx. 1.4 million households in Q4 2023), with approx. 435,000 households having FTTB coverage.

Figure 54: FTTB/H connection coverage (Q1 2021–Q4 2023)



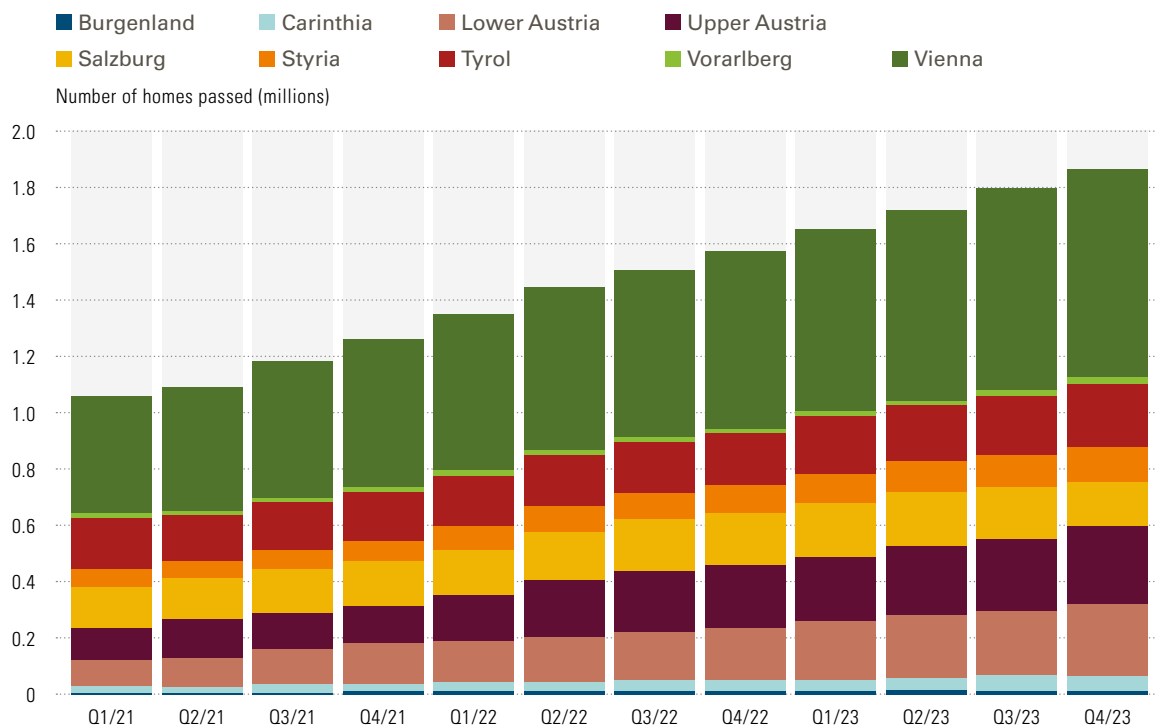
Source: RTR

In the provinces, Vienna is ahead of Upper Austria, Lower Austria, Tirol and Salzburg in terms of the number of potentially available connections (see figure 55).

⁴⁷ Refer to https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/europes-digital-decade-digital-targets-2030_en.

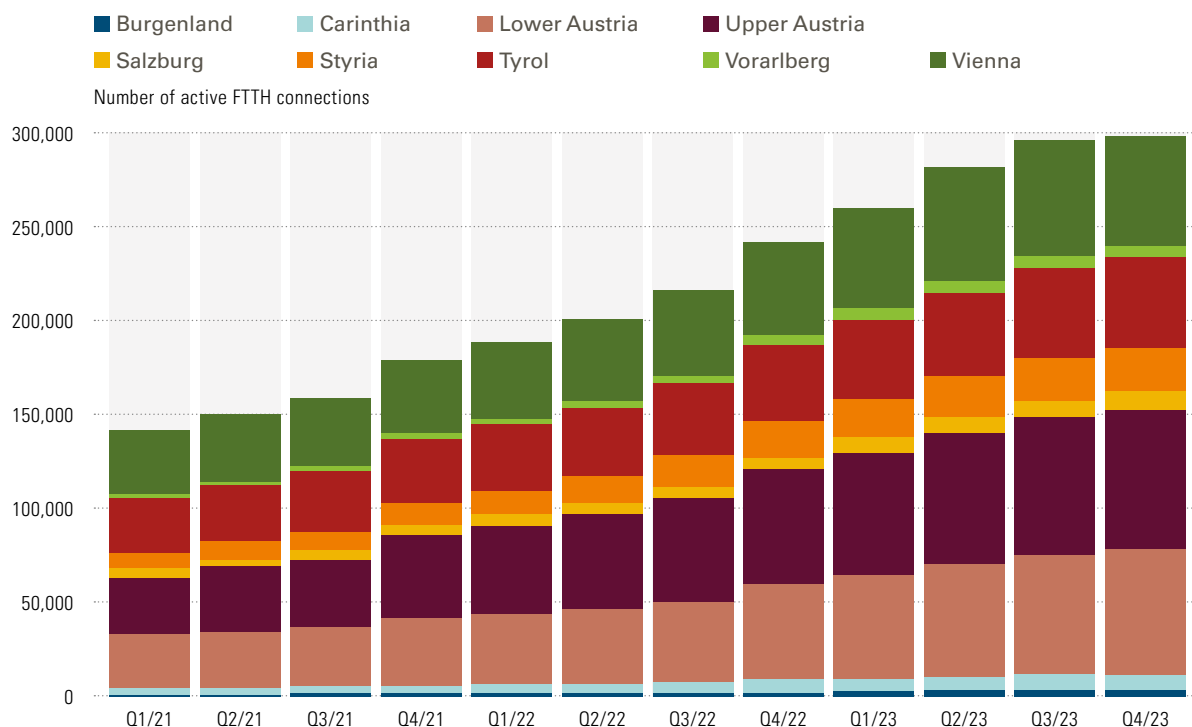
⁴⁸ Refer to https://data.breitbandbuero.gv.at/PUB_Breitbandstrategie-2030.pdf.

⁴⁹ Reference figure: approximately 4 million Austrian households

Figure 55: FTTB/H connection coverage (Q1 2021–Q4 2023)

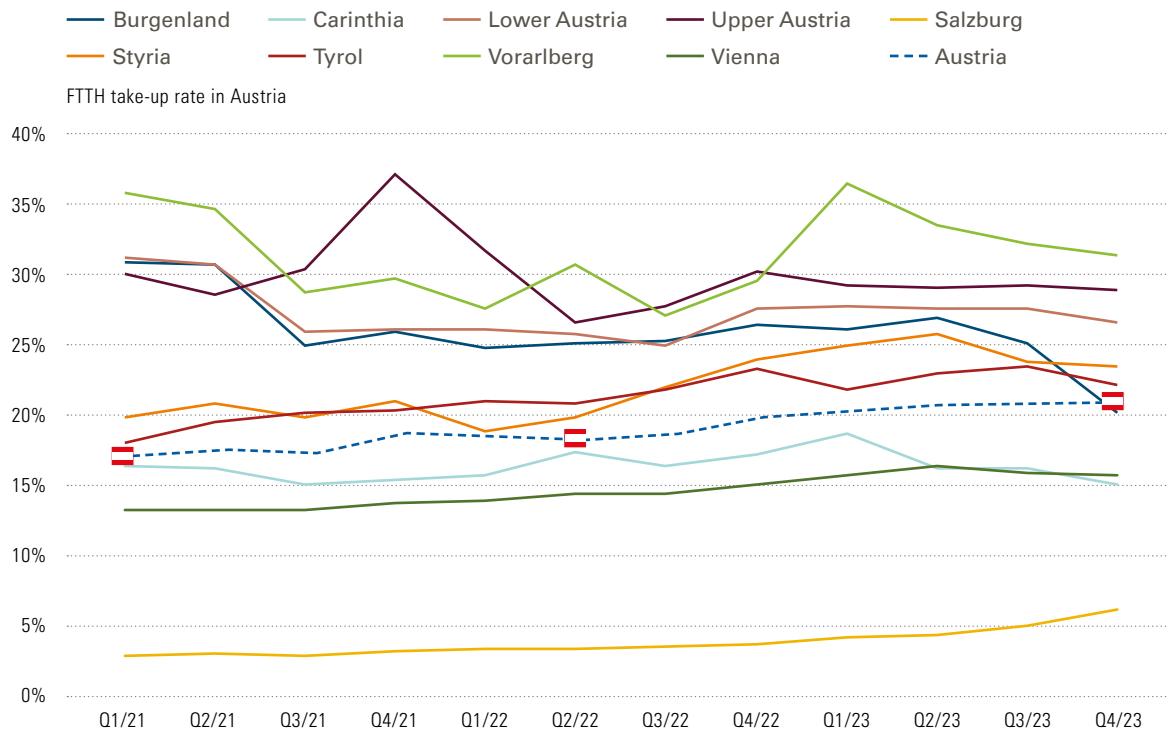
Source: RTR

The increasing availability of FTTH goes hand in hand with an increasing number of active FTTH connections. From the first quarter of 2021 to the fourth quarter of 2023, the number of active FTTH connections doubled to 300,000. Most of these active connections were found in Upper Austria, followed by Lower Austria, Vienna and Tirol (see figure 56).

Figure 56: Number of active FTTH connections by province (Q1 2021–Q4 2023)


Source: ZIB

The number of active connections in relation to FTTH coverage reveals the take-up rate in FTTH networks. In the last three years, this figure has continually increased throughout Austria, from 17% to 21%. Nonetheless, it is considerably lower than the rate in other European countries and below the long-term target value. Many mention a target value of over 50%.

Figure 57: FTTH take-up rate by province (Q1 2021–Q4 2023)

Source: RTR

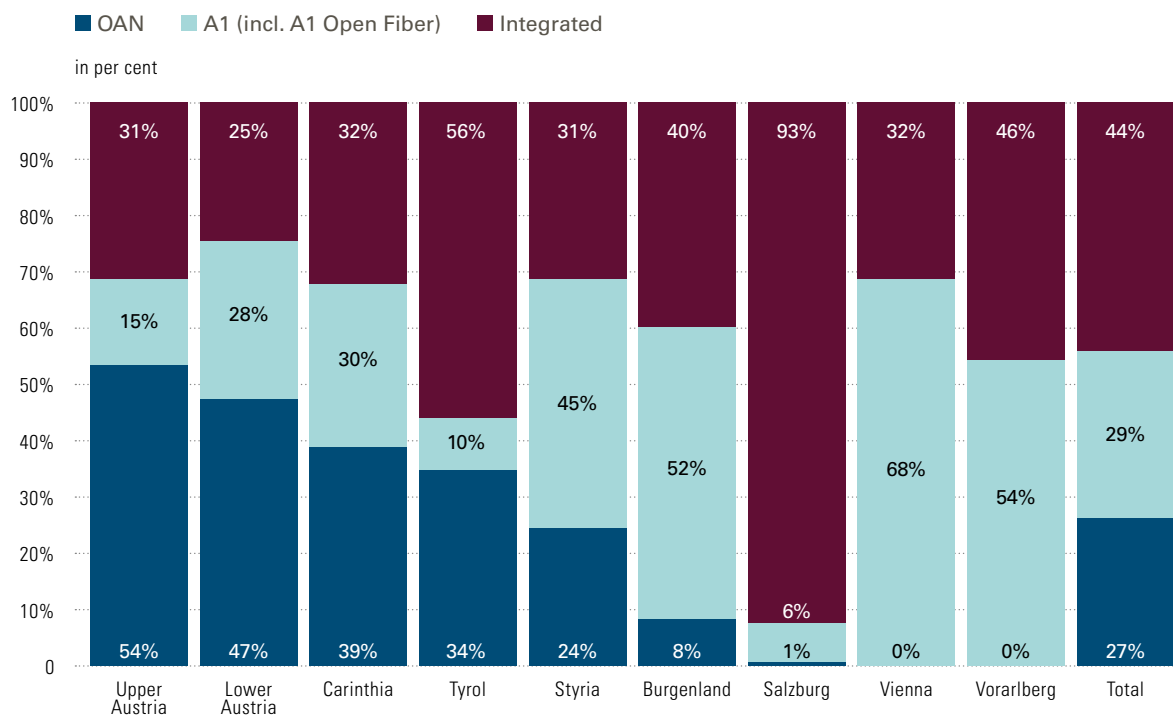
Open access networks are playing a major role in fibre deployment

Where the deployment of FTTH is tied to federal and/or provincial broadband funding, certain conditions apply. These stipulate that other providers of internet and telecommunications services will be given access to the installed network, thereby ensuring that as many providers as possible can be active in the retail market. Correspondingly, open access networks have been set up in almost all provinces in recent years, with various models now established and a wide range of actors involved in their operation. This is evidenced by an RTR study from December 2023,⁵⁰ presenting progress in open access networks including regional differences, while also evaluating the implications for competition.

There are currently around 25 open access networks⁵¹ of varying sizes in Austria. The majority, accounting for over 90% of homes passed, are located in Upper Austria, Lower Austria and Tirol. Besides through (alternative) open access networks, FTTH connections are largely provided through the A1 network, which is accessible via virtual unbundling, and through (other) vertically integrated providers. The figure below provides an overview of the distribution of FTTH coverage (homes passed) among OANs, A1 and integrated providers for each province, and also shows what varying role open access networks play for the individual provinces.

50 See Open Access Netze in Österreich, available (in German) at https://www.rtr.at/TKP/aktuelles/publikationen/publikationen/studie_open_access_netze_in_oesterreich.de.html

51 If the municipality networks in Tyrol are not counted separately.

Figure 58: Distribution of FTTH coverage among OANs, A1 and integrated providers (Q4 2023)

Source: ZIB

In Upper Austria, more than half of all FTTH homes passed (54%) were supplied by an OAN in Q4 2023, followed in ranking by Lower Austria, Carinthia and Tyrol. In Burgenland, Vorarlberg and Vienna, A1 owns a large share of the FTTH network, whereas in Salzburg 93% of FTTH coverage is attributed to the vertically integrated provider Salzburg AG. Nationwide, 44% of all homes passed are supplied by integrated providers, 29% are supplied by A1, and 27% are supplied by open access networks.

The RTR study from December 2023 shows that in networks with primary active access (virtual unbundling, especially in Upper Austria and Lower Austria), a higher number of providers are active than in networks with purely passive access (especially in Tyrol). With passive access (physical unbundling), however, businesses have more freedom when it comes to designing products and pricing.

Broadband wholesale markets: stable progress after deregulation

The TKK decision from 10 October 2022 removed regulation from the broadband wholesale services markets.⁵² Instead of the previous access obligations, private-sector contracts were concluded to govern access to the A1 network through virtual unbundling. With the newly installed FTTB/H connections, a new VHCN contract⁵³ is also used. As a result, operators can agree to certain minimum purchase commitments and advance payment in exchange for discounts on wholesale fees. In this way, investment and utilisation risks are shared, so as to encourage VHCN investments.

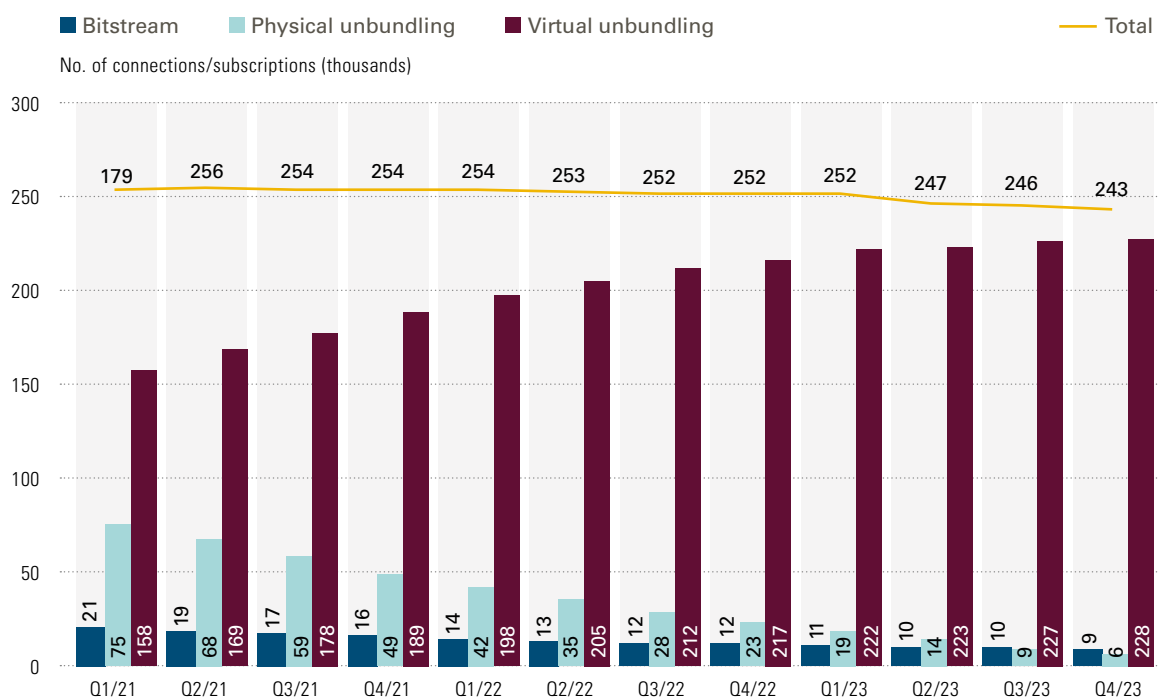
⁵² Refer to https://www.rtr.at/TKP/aktuelles/entscheidungen/entscheidungen/m11_20.de.html (in German)

⁵³ VHCN stands for 'very high capacity network'.

Recent demand at wholesale level is presented in figure 59. Physical unbundling and bitstream services have already been migrated to virtual unbundling for the most part. At year-end 2023, 94% of A1 wholesale services were provided as virtual unbundling. Even after deregulation (Q3 2022), an increase in virtually unbundled connections continued to be observed. However, the number of broadband wholesale requests to A1 fell in 2023 from 252,000 to 243,000. Several reasons account for this. On the one hand, consumer demand for the A1 network has been falling slightly for several years. In addition to competition from cable and mobile networks, increasing competition from alternative fibre networks has led to a decline in demand for copper-based DSL connections. Furthermore, some wholesale customers are setting up their own fibre networks or using alternative open access networks, which reduces dependency on the wholesale services offered by A1. Examining the developments at operator level more closely, it is clear that many small to medium-sized operators are now also able to significantly increase their subscriber bases thanks the new contracts.

With close observation of recent market trends still necessary, a follow-up in-depth analysis of the market is planned within the coming years.

Figure 59: Broadband wholesale services (Q1 2021–Q4 2023)

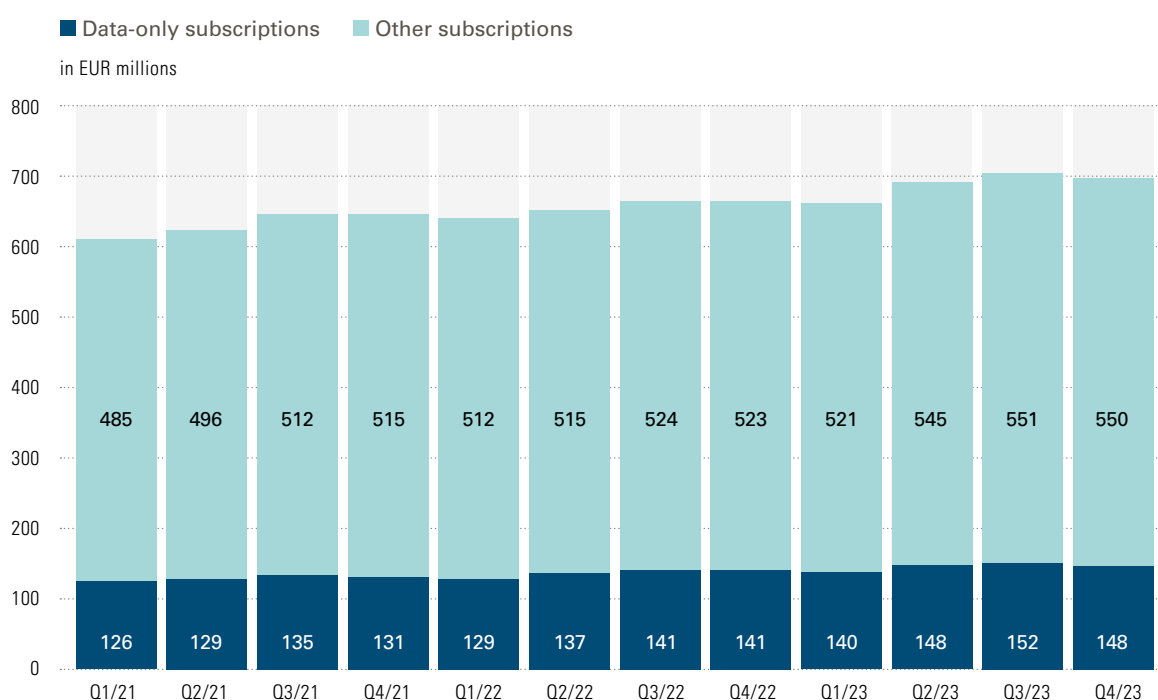


Source: RTR

Mobile telecommunications: revenues increasing, MVNOs gaining market shares

In 2023, retail revenues in mobile telecommunications increased significantly year on year. Although revenue per quarter was still around EUR 600 million at the beginning of 2021, by 2023 it had increased to roughly EUR 700 million per quarter (see figure 60). This is mainly due to the increase in inflation in recent years and the indexing clauses governing monthly basic fees, often included in customer contracts. The increase in revenues as a whole is nonetheless below the 2023 inflation rate (7.8%).⁵⁴ Data-only subscriptions, which mostly represent mobile broadband access for home use, now contribute around EUR 150 million per quarter to the revenue. The other rates, smartphone rates, most recently generated a revenue of around EUR 550 million per quarter.

Figure 60: Retail revenues from mobile (Q1 2021–Q4 2023)



Source: RTR

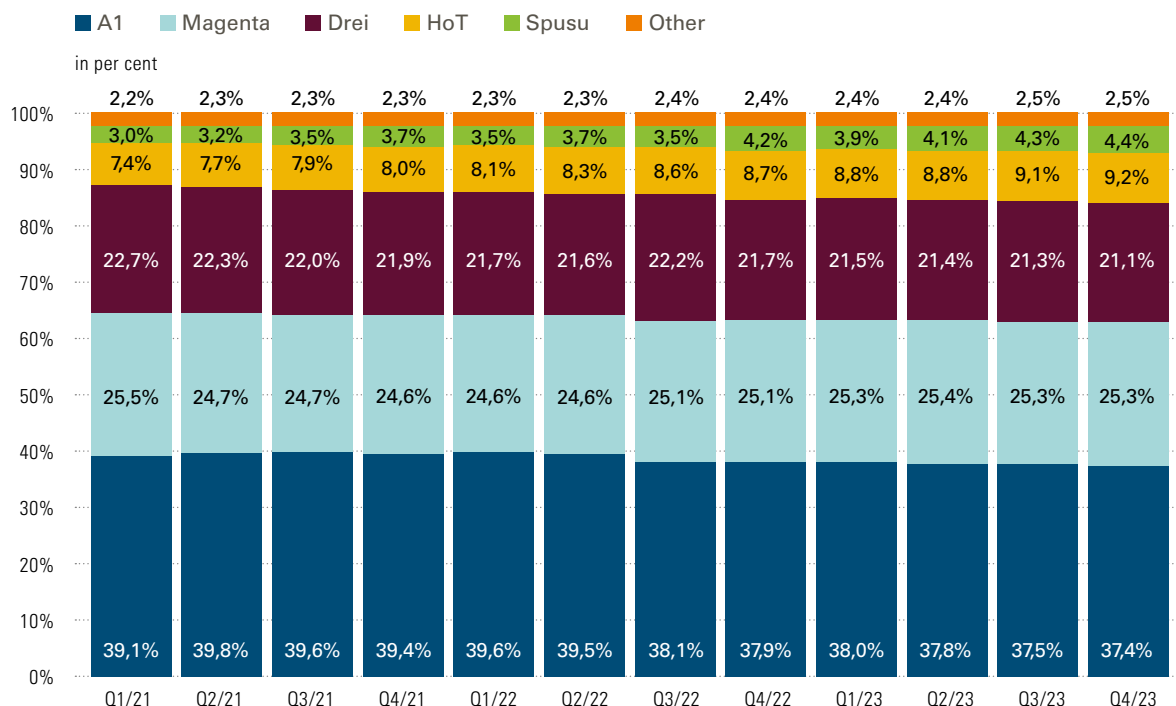
The number of SIM cards issued (all rates excluding M2M⁵⁵) reached around 13.6 million by the end of 2023, a level that has changed little in the last three years. The market leader is still A1, ahead of Magenta and Drei. Nonetheless, virtual providers (MVNOs⁵⁶) are adding competitive pressure and increasing their market shares. Based on the number of SIM cards issued in 2023, Hofer Telekom (HoT) increased its customer base by around 84,000 to 1.25 million, whereas Mass Response with its Spusu brand increased by roughly 38,000 customers to reach approximately 600,000. This contrasts with A1 and Drei, who lost customers. Magenta was the only MNO that succeeded in increasing its customer base by around 54,000 to roughly 3.44 million. By the end of 2023, MVNOs had a market share of around 16% (see figure 61).

⁵⁴ See Statistics Austria, <https://www.statistik.at/en/statistics/national-economy-and-public-finance/prices-and-price-indices/consumer-price-index-cpi/-hicp>

⁵⁵ Machine-to-machine, defined as automated communication between devices or software applications without any or only slight human interaction.

⁵⁶ Mobile Virtual Network Operators, defined as operators without their own access network.

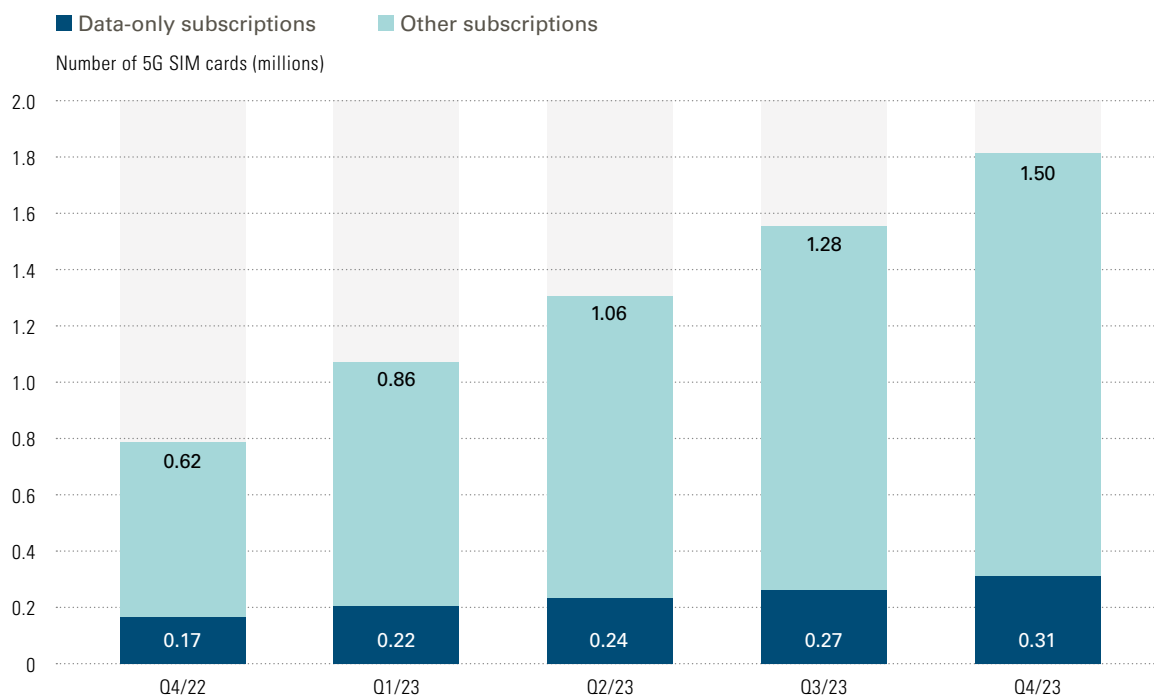
Figure 61: Market shares of mobile telecommunications by SIM card (excl. M2M, Q1 2021–Q4 2023)



Source: RTR

Increasing use in 5G networks

The number of 5G-enabled SIM cards that were used is increasing at a steady rate from quarter to quarter (see figure 62). Smartphone subscriptions with 5G were in use by roughly 1.5 million subscribers as of the end of 2023. With data-only subscriptions and especially 'cubes,' i.e. mobile broadband connections for the home, around 300,000 subscribers used 5G connections, enjoying the often significantly higher capacity and faster speeds available in many cases. Based on the approximately 13.6 million SIM cards as of the end of 2023, the share of 5G-enabled SIM cards remained relatively low at around 13%.

Figure 62: Number of 5G SIM cards (Q4 2022 – Q4 2023)

Source: RTR

By the end of 2023, 5G rates for smartphones were the domain of the major providers A1, Magenta and Drei. Neither sub-brands of the major providers nor smaller providers, leased with major provider networks and known as virtual operators or MVNOs,⁵⁷ offered any 5G rates in 2023. Overall, therefore, 5G was still very poorly distributed at the end of 2023. MVNOs such as HoT or Spusu and sub-brands such as Yesss!, Bob or Lidl Connect have been offering 5G rates since the beginning of 2024, with entry-level prices falling as a result. Another noticeable increase 5G distribution can therefore be expected in 2024.

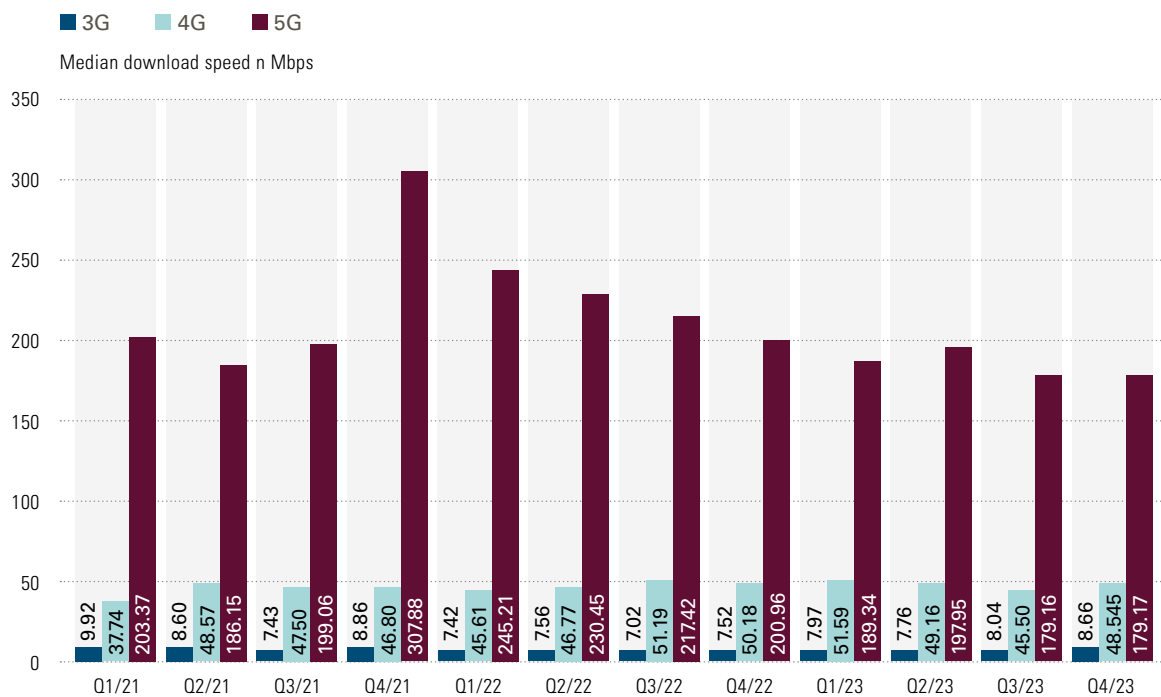
Four network technologies had been rolled out by 2023: 2G, 3G, 4G and 5G. Useful broadband speeds cannot be achieved with 2G. The differences in the average download speed of the 3G, 4G and 5G technologies, as determined using the RTR network test, can be seen in figure 63.

This shows the median of the download speed, that is, the value at the exact midpoint of a list sorted according to magnitude. It is clearly seen that the newer technologies offer higher speeds.

Whereas average 4G download speeds reach around 50 Mbps, 5G achieved 150–200 Mbps in 2023. Although average download speeds were low (<10 Mbps), 3G was still offered nationwide by all operators in 2023. A decline in the average 5G download speed has been seen in the last two years. This is likely caused by more intensive use of the network and, consequently, the load placed on it.

In 2024, all operators will switch off their 3G networks and use the freed-up spectrum for the newer 4G and 5G technologies.

⁵⁷ Mobile virtual network operators

Figure 63: Median download speed in Mbps


Source: RTR NetTest

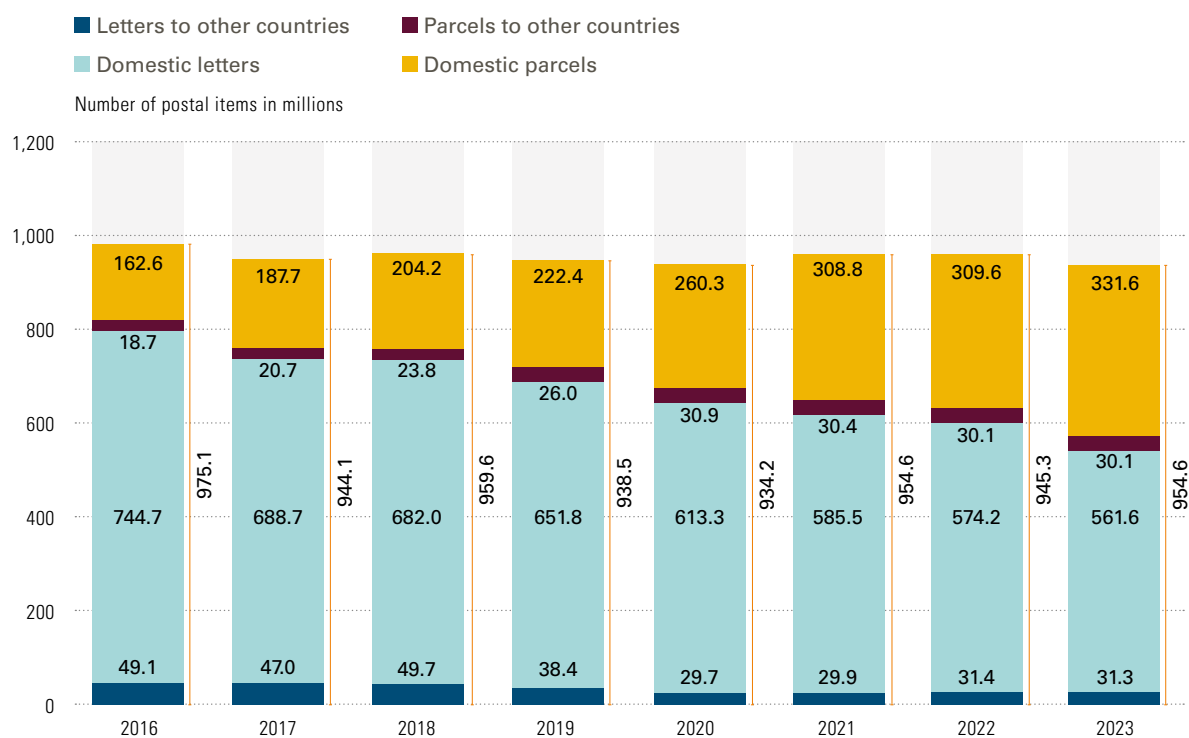
9.3 Developments in the Austrian postal market

To monitor developments in the Austrian postal market, RTR has been collecting quarterly data on Austrian postal service providers – including data on revenues, mail volumes and employees – since 2013. These data on the postal market and related developments are presented every quarter in the RTR Post Monitor.

In line with international developments, the Austrian postal market has experienced a decline in letter volumes as well as a, at times, sharp rise in parcel deliveries in recent years. Substitution through email was the predominant factor accelerating this trend in the letter sector. After the rapid increases in conveyed parcel volumes during the coronavirus pandemic, this sector still continues to show growth, although admittedly slower. The number of parcels that were sent in 2023 rose at a rate comparable to the years before the pandemic.

The total number of postal items conveyed in Austria fell slightly from 954.4 million in 2022 to 930.4 million in 2023. The volume of letters delivered within Austria declined by 9.8%, while letters conveyed to foreign destinations increased by 5.7%. Domestic parcel deliveries increased by 10.2%, whereas the number of parcels delivered abroad fell by 1.6% (see Figure 64).

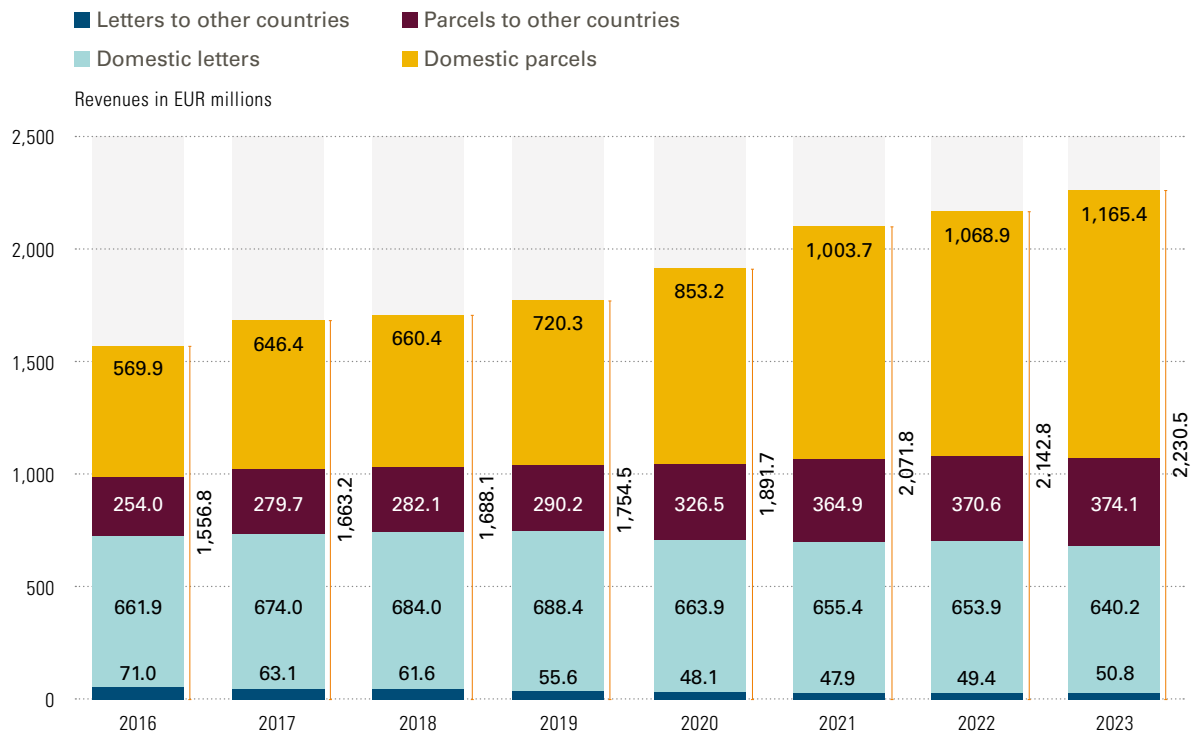
Figure 64: Total letter and parcel volumes in millions



Source: RTR

Despite the decline in conveyed postal items in 2023, the revenues generated by the postal services market overall increased by 4.1%. Yet the slump in letters delivered within Austria could not be absorbed, so that revenues fell by 2.1% compared with the previous year. Revenues from letters delivered abroad increased by 2.8%, while those for domestic parcel deliveries increased by 9.0%. Revenues from out-bound parcel deliveries increased by 0.9%.

Figure 65: Total revenues from letters and parcels in EUR millions

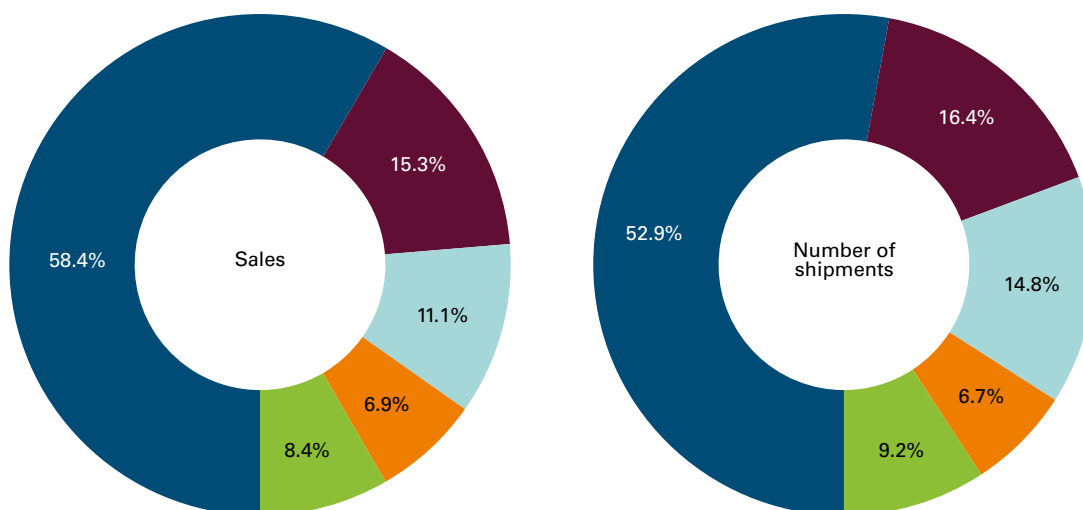


Source: RTR

The Austrian parcel market is typically dominated by only a few major companies. Here a clear distinction needs to be made as to whether the market shares for parcels delivered within Austria or whether the outbound-parcel shares are considered.

Post AG continues to hold the largest market share in the market for parcels delivered to domestic destinations, 58.4% (52.9%) when measured in terms of revenues (volume). As in recent years, Amazon follows with 15.3% (16.4%) in front of DPD Direct Parcel Distribution Austria GmbH with 11.1% (14.8%). General Logistics Systems Austria GmbH holds a market share of 6.9% (6.7%). Other postal service providers account for 8.4% (9.2%).

Figure 66: Market shares – parcels delivered within Austria



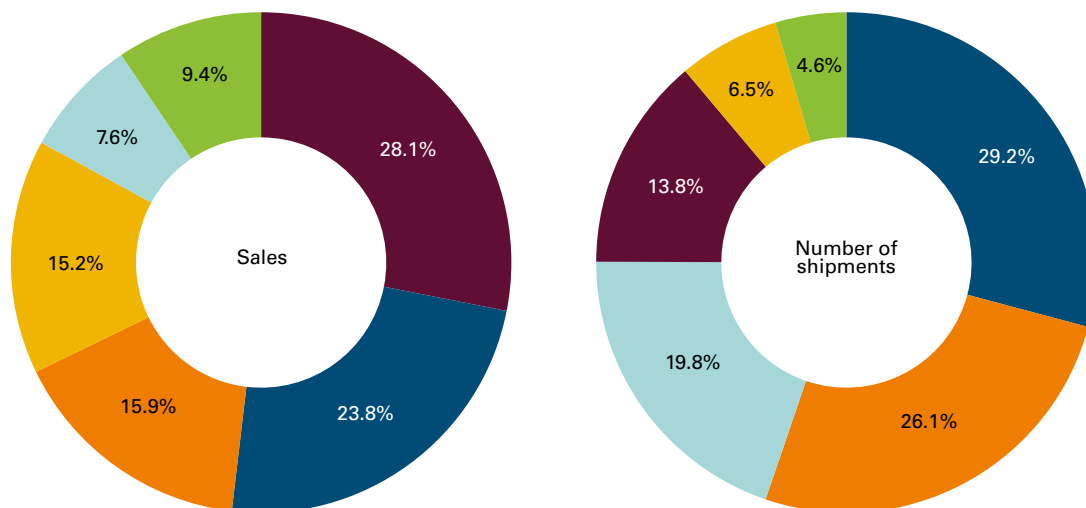
Source: RTR

The market for foreign parcel deliveries presents a somewhat different picture. When viewed in terms of revenues, United Parcel Service Speditionsgesellschaft m.b.H. takes first place (28.1%), followed by Post AG (23.8%), General Logistics Systems Austria GmbH (15.9%), DHL Express (Austria) GmbH (15.2%) and DPD Direct Parcel Distribution Austria GmbH (7.6%). The remaining providers together claim a market share of 9.4%.

When market shares are compared in terms of letter and parcel volumes, Post AG leads with 29.2%, followed by General Logistics Systems GmbH (26.1%), DPD Direct Parcel Distribution Austria GmbH (19.8%), United Parcel Service Speditionsgesellschaft m.b.H. (13.8%) and DHL (Express) Austria GmbH (6.5%). All other providers together conveyed 4.6% of parcels sent to other countries.

Figure 67: Market shares – parcels to other countries

- Österreichische Post AG
- United Parcel Service Speditionsgesellschaft m.b.H.
- General Logistics Systems Austria GmbH
- DPD Direct Parcel Distribution Austria GmbH
- DHL Express (Austria) GmbH
- Other postal service providers



Source: RTR

The RTR Post Monitor describes the Austrian postal market in detail, including quarterly evaluations. It is available (in German) from the RTR website at <https://www.rtr.at/TKP/aktuelles/publikationen/Uebersichtseite.de.html?l=de&q=&t=category%3Dpostmonitor>.



www.rtr.at

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Publishing information

Owner and publisher

Austrian Regulatory Authority for Broadcasting and Telecommunications
(Rundfunk und Telekom Regulierungs-GmbH)
Mariahilfer Strasse 77-79, 1060 Vienna, Austria
Tel.: +43 (0)1 58058-0; e-mail: rtr@rtr.at
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Conceptual design and text

Austrian Regulatory Authority for Broadcasting and Telecommunications

Graphic design and layout

Westgrat – Agentur für Kommunikation
cibus Kreativagentur

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