

Draft Bill of the Federal Ministry for Economic Affairs and Energy

Fourth Law amending the Telecommunications Act

A. Problem and Aim

The digitalisation of radio offers radio programme providers numerous opportunities to increase their programme offer and to provide users with a qualitatively higher-quality product. In comparison with developments in the other EU member states market penetration together with corresponding end devices is progressing very slowly. Even the relevant initiatives by the federation and the states have not led to a noticeable increase in the market penetration of digital devices either. The aim of the legal regulation is to promote the spread of such devices.

B. Solution

The amendment of § 48 TKG is intended to ensure that higher-quality radio receivers should only be able to be merchandised if they are capable of receiving standard-compliant digital signals.

C. Alternatives

None.

D. Budgetary expenditure without compliance costs

None.

E. Compliance costs

E.1 Compliance costs for citizens

No additional legally prescribed compliance costs. Legal regulation does not force citizens to purchase a new device. In addition, the regulation is only valid for higher-quality devices.

E.2. Compliance costs for the economy

For manufacturers of the devices the legal specification entails an additional expense due to the additional equipment needed for a digital receiver. The additional expense can be refinanced via the sale of relevant radio devices.

E.3 Compliance costs for administration

There are no compliance costs for administration.

F. Further costs

It is not expected that there will be any effects on individual prices or price levels, and particularly on the consumer price level.

Draft Bill of the Federal Ministry for Economic Affairs and Energy

Draft of a fourth law amending the Telecommunications Act¹

Of..

The Bundestag passed the following act:

The telecommunications act of 22 June 2004 (BGBl. I S. 1190) that was last amended via article 2 of the act of 23 December 2016 (BGBl. I S. 3346) is amended as follows:

Article 1

Amendment of the Telecommunications Act

1. The table of contents is amended as follows:

In the statement in § 48 the words television set are replaced by the words television and radio sets

2. The following paragraphs are added to § 48:

“(4) Every new receiver offered for sale, hire or any other purpose that is primarily intended for the reception of sound broadcasting, that can display the programme name, must be equipped with at least one of the interfaces appropriate to the recognised rules of technology, which enables the user to receive and play back digitally coded content. Excluded are assembly kits for radio installations.

(5) Before paragraph § 48 comes into effect receivers that are put on the market can be offered for sale for a period of twelve months after the regulation has come into effect.”

Article 2

Commencement of Policy

This law comes into effect on (insert: date of first day of the twelfth calendar month following the announcement).

Justification

¹ Requires notification according to directive (EU) 2015/1535 of the European Parliament, and the advice of 9 September 2015 concerning a notification procedure in the area of technical regulations and of regulations for the services of the information society.

A. General part

I. Aim and need for the regulations

The digitalisation of radio is not satisfactory in comparison to developments in other EU- member states. The initiatives undertaken by the federal government and states have not resulted in the desired outcome. The market penetration with radio devices that are suitable for receiving digital signals is advancing very slowly. At the same time the digitalisation of radio offers providers of radio programmes numerous opportunities to increase their programme offer and to offer users a qualitatively higher-quality product. The change in legislation which is intended to promote the dissemination of suitable radio devices is an important building block towards making the existing technical options useful for radio as well.

II. Essential content of the draft

The aim of the amendment of § 48 TKG is to ensure that higher-quality radio receivers can only be traded if they are capable of receiving standard compliant digital signals.

III. Alternatives

None.

IV. Legislative jurisdiction

The legislative jurisdiction of the federal government ensues from article 74, paragraph 1, number 11 of the basic law (economic law). A regulation governed by federal law is necessary to protect legal unity i.S of article 72, paragraph 2 GG. The requirement to equip devices with a digital receiver or to supply a relevant interface can only happen at a national level.

V. Compatibility with EU law and international agreements

The regulations are compatible with directive 2014/53/EU of the European Parliament and the advice of 16 April 2014 concerning the harmonisation of legislation of the member states regarding the provision of radio equipment on the market, and the repeal of directive 1999/5/EG (ABl. L 153 from 22.5.2014, S. 622014/53/EU). The main aim and purpose of directive 2014/53/EU is to ensure that only those radio devices that essentially do not cause interference, that conform to specific safety specifications, and that are interoperable should be introduced onto the market or put into circulation throughout the community. The additional equipping of devices with a digital receiver or the provision of a relevant interface, which is specified by this law, do not contradict these fundamental requirements and moreover serve the purpose of an aim not specified in this directive (aim: promotion of the digitalisation of radio).

VI. Legal consequences

The law leads to an extension of the diversity of provision. With additionally equipped devices consumers have the option of availing themselves of qualitatively and quantitatively improved radio broadcasts.

1. Legal and administrative simplification

None

2. Sustainability aspects

The legal amendment is consistent with the guiding principles of the federal government in relation to sustainable development in the sense of the sustainability strategy. In particular, it should be stressed that the exception included in paragraph 5 makes provision for a sell-off of devices that were already in circulation before the ruling came into effect (twelve months after the law came into effect) and thereby a green exchange. In addition, users can continue to use their old devices which are equipped with VHF. The proposed changes strengthen the rights of the end users, establish stimuli for an intensification of competition and thereby promote innovative developments of the end-device market.

3. Budgetary expenditure without compliance costs

None.

4. Compliance costs

5. Additional costs

It is not expected that there will be any effects on individual prices or price levels, particularly on the consumer price level.

A. Special part

Concerning article 1

The regulation in paragraph 4 is intended to provide a stimulus for the digitalisation of radio. Whatever form this finally takes in the competition for the transmission routes, however, is down to the market or the consumer.

The restriction to reception devices that are primarily used for the reception of radio prioritises the primary purpose of the reception of the transmission of radio and excludes end-devices such as smartphones and tablets.

The restriction to newly provided devices excludes used devices from the scope of application of the regulation. This exclusion supports the sustainability and compatibility of the regulation by allowing used radio devices of any type to continue to be able to be freely used; this means they do not have to be disposed of.

By limiting the regulation to devices that are able to display the station name, simple reception devices in the lower price range are excluded from the regulation, which means that there are expected to be no or only minimal effects on the consumer price level.

The restriction to devices that can “display the programme name” excludes VHS-only receivers that are only able to access one frequency. However, most car radios are included because as a rule they are equipped with an RDS reception component and can display the programme name. The equipment requirement exists in an interface that corresponds to the generally recognised rules of technology. This can relate to any kind of air interface (electrical or optical interface). This takes account of the fact that content from the internet is mainly received via interfaces that have been standardised according to IEEE (eg Wifi) or other norms of non-European standardisation organisations. The interface can be an air interface for the direct reception of a digital radio signal (eg DAB+) but it can also serve as the connection to a telecommunication network or a telecommunication end-device. This takes account of the fact that an internet connection is only possible via such a network or end-device. The exclusion of all types of construction kits from the scope of applications of the regulation ensures that radio construction kits that are not suitable for digital reception continue to be freely available and can therefore be used particularly for purposes for youth training as well as professional education and training.

In the final analysis, the regulation is intended to support both the digitalisation of radio and alongside it also the penetration of end-devices into all digital transmission routes. At the same time the device-manufacturing industry should be given sufficient time for the conversion of their production processes. The scheduled exception in paragraph 5 for those devices that are already in circulation before the regulation comes into force (twelve months after the law comes into effect) is intended to ensure that a sell-off to a reasonable extent remains possible.

Concerning article 2

By having a twelve months' period of grace after the law has come into effect, the device-manufacturing industry should have sufficient time to convert their production processes.

