

## **INVITATION TO TENDER OF THE STATE MEDIA AUTHORITY OF LOWER SAXONY (NLM)**

**pursuant to Art. 84 Interstate Media Treaty (Medienstaatsvertrag; MStV) on the selection of easy to find audio media services on user interfaces**

### **I. SUBJECT OF THE INVITATION TO TENDER**

This invitation to tender shall initiate the procedure provided in Art. 84 para. 5 Interstate Media Treaty.

The State Media Authority of Lower Saxony (NLM) hereby announces the following invitation to tender, pursuant to Art. 84 para. 5 Interstate Media Treaty in conjunction with Art. 3 of the Statutes for the Implementation of the Provisions, pursuant to Art. 84 para. 8 Interstate Media Treaty, on easy to find private offerings (Public Value Statutes), according to the other Media Authorities, based on the resolution of the Commission on Licensing and Supervision (ZAK) dated 6 July 2021.

### **II. TENDER PROCEDURE**

- (1) The competent media authority for the determination procedure shall be the Media Authority of North-Rhine Westphalia (Landesanstalt für Medien NRW). However, the Commission on Licensing and Supervision (ZAK) shall perform this task, pursuant to Art. 105 para. 1 no. 9, 104 para. 2 sentence 2 Interstate Media Treaty on behalf of the authority.
- (2) Pursuant to Art. 2 of the Public Value Statutes, the following service providers are eligible to tender and thus requested to submit their tender.

#### **ELIGIBLE APPLICANTS ARE**

- Service providers of private radio programmes, pursuant to Art. 84 para. 3 sentence 2 Interstate Media Treaty who make a special contribution to diversity of opinion and offers in the federal territory,  
or
- Service providers of broadcasting-like telemedia, pursuant to Art. 84 para. 4 Interstate Media Treaty, or service providers pursuant to Art. 2 para. 2 no. 14b Interstate Media Treaty who make a special contribution to diversity of opinion and offers in the federal territory, or providers of software-based applications which are used to convey access to those services.

#### **(PROVIDERS OF AUDIO MEDIA SERVICES)**

- (3) Pursuant to Art. 84 para. 5 sentence 3 Interstate Media Treaty the deadline for submitting applications shall be set as follows:

The period to submit tenders shall begin on 1 September 2021, 9 a.m. and end on **30 September 2021, 12 a.m.** (cut-off period).

The date of receipt by the Media Authority of NRW is decisive for the timely submission of the application. The deadline will not be extended and applications received after this deadline will not be considered. The same applies to applications that do not comply with the written form required under Art. 4 sentence 1 Interstate Media Treaty. Restitutio in integrum is excluded.

- (4) Applications should be sent in writing in single copy headed with "Bestimmung von Public-Value Angeboten - Audio" to the following address:

**Landesanstalt für Medien NRW  
Postfach 10 34 43  
40025 Düsseldorf  
GERMANY**

or submitted during normal office hours at the following address:

**Landesanstalt für Medien NRW  
Zollhof 2  
40221 Düsseldorf**

In addition, you can submit your application in writing and during the given period of time

- using the electronic mailbox of the Media Authority of NRW on <https://files.lfm.nrw.de/submit/poststelle>, via which documents can be transmitted using a registered electronic signature in accordance with the Vertrauensdienstegesetz.

or

- using de-Mail (choosing the dispatch type according to Art. 5 para. 5 de-Mail law/sender confirmed) to [poststelle@lfm-nrw.demail.de](mailto:poststelle@lfm-nrw.demail.de).

- (5) With regards to the selection procedure, the Media Authority of NRW will only consider those applications it receives during the above-mentioned period and which meet the requirements of Art. 4 of the Public Value Statutes.

### **III. TENDER PROCEDURE**

The Media Authority of NRW examines the applications received. In doing so, it examines whether the requirements for the selection of audio media services according to Art. 2, 7 and 8 of the Public Value Statutes are met or not. The Commission on Licensing and Supervision will decide by resolution for each service, whether these requirements are met or not.

The resolution on each application shall be communicated by administrative order of the Media Authority of NRW, who shall be bound to the resolution of the Commission on Licensing and Supervision. These decisions shall be valid for a period of three years starting at the date mentioned in the administrative order. Pursuant to Art. 9 of the Public Value Statutes, the audio media services shall be published in a list on the website of the umbrella brand "die medienanstalten" for implementation by the providers of user interfaces.

The applicant shall notify the Media Authority of NRW immediately of any changes in the audio media service that are relevant for the determination of the criteria and principles laid down in Art. 7 and 8 of the Public Value Statutes, which occur before or after his or her application has been selected (Art. 6 para. 3 of the Public Value Statutes). The decision pursuant to Art. 6 para. 1 of the Public Value Statutes may be revoked by the Media Authority of NRW pursuant to Art. 6 para. 4 of the Public Value Statutes if changes subsequently occur in the audio media service, which means that such a service no longer complies with Art. 7 and 8 of the Public Value Statutes.

### **IV. SELECTION CRITERIA AND PRINCIPLES**

When selecting the audio media service pursuant to Art. 84 para. 3 sentence 2 and subsection 4 Interstate Media Treaty, only the criteria specified in Art. 84 para. 5 Interstate Media Treaty are to be considered, according to Art. 7 sentence 1 Public Value Statutes.

These criteria are:

1. the time share of reporting on political and contemporary events,
2. the time share of regional and local information,
3. the ratio between in-house and externally produced programme content,
4. the proportion of accessible programmes,
5. the ratio between trained and trainee staff involved in programme production,
6. the quota of European works and
7. the proportion of offers for young target groups.

These criteria are subject to the definitions set out in Art. 7 sentence 2 of the Public Value Statutes, unless other definitions have been set out in the Interstate Media Treaty.

The services shall be selected after an overall examination pursuant to the principles stated in Art. 8 of the Public Value Statutes.

## **V. DOCUMENTS TO BE SUBMITTED**

Pursuant to Art. 4 sentence 2 of the Public Value Statutes, the application must be accompanied by documents that enable to examine the applicant's service with regards to its contribution to the diversity of opinion and offerings. The application must contain at least the following information:

- (1) Information showing that the service is a private broadcaster pursuant to Art. 84 para. 3 Interstate Media Treaty, or pursuant to Art. 84 para. 4 Interstate Media Treaty a private broadcasting-like telemedia service or a service pursuant to Art. 2 para. 2 no. 14 letter b or a software-based application, which is used to convey access to those services.
- (2) Description of the content of the service and explanation of the circumstances from which the special contribution to the diversity of offerings and opinions in the federal territory results.
- (3) Information on the criteria to be observed in the determination pursuant to Art. 84 para. 5 Interstate Media Treaty and Art. 7 Public Value Statutes.

With regard to the criteria set out in Art. 84 para. 5 no. 1 to 4 and 7 Interstate Media Treaty, the application should illustrate the percentage of the overall service measured against the average of the period from June to August 2021. Insofar as the service is not offered for the entire period, the illustrated period shall be extended accordingly.

As far as the audio media service was started within this period for the first time, pursuant to sentence 1, the offered period shall cover the enquired period.

With regard to the criterion pursuant to Art. 84 para. 5 no. 5 Interstate Media Treaty, at least the number of employees involved in programme production as well as the related percentage of employees covered by Art. 7 No. 5 Public Value Statutes shall be indicated. The positions included in this percentage shall be indicated by specifying their job titles.

These calculation methods must be explained in a comprehensible way. With regard to the protection of trade and business secrets, Art. 58 Interstate Media Treaty applies.

The Media Authority of NRW may request more detailed information or evidence at any time.

## **VI. INFORMATION ON THE PROCEDURE AND FEES**

The selection according to this procedure does not entail any right of representation on user interfaces. No costs (fees and expenses) shall be charged for this procedure.