

Four initiatives of the Austrian legislator

Dear Ladies and Gentlemen,
Dear Friends and Colleagues,

Since the outbreak of the Corona pandemic in Central Europe, at the beginning of 2020, it seems as if the Austrian legislator is only enacting regulations to combat the pandemic. However, this is actually not the case. The Austrian legal system is also developing in other areas and in the following we would like to inform you about four important legislative initiatives of the last weeks and months. Some of the new legal regulations will enter into force at the beginning of this year.

Telecommunications Act

At the beginning of November last year, the new Telecommunications Act 2021 (TKG 2021) came into force. The TKG 2021 transposes the European Union Directive 2018/1972 of 11th December 2018 on the European Electronic Communications Code, into Austrian law. The new law aims in particular to promote competition in the field of electronic communications and to ensure the provision of reliable, affordable, high-quality and innovative communications services to the population and the economy. In addition, the level of consumer protection will be further increased.

The law contains detailed regulations on network expansion and infrastructure use, a separate chapter on competition regulation, such as the definition of companies with significant market power, as well as provisions on the content, terms and termination of contracts between telecommunications companies and their customers (consumers).

Antitrust law

Amendments to the Cartel Act and the Competition Act resulted in a revision of Austrian antitrust law. The amendments transposed Directive 2019/1 of the European Union to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market, into Austrian law.

The main contents of the new legal provisions are, for example, the exemption of corporate collaboration for the purpose of an ecologically sustainable or climate-neutral economy from the ban on cartels, the more precise definition of the criteria for determining market power, the creation of independent definitions of relative market power and absolute market power as well as the extension of the merger control provisions to include the test criterion of significant impediment of effective competition (SIEC).

Condominium Act

The focus of the latest amendment to the Condominium Act is to promote and enable structural changes to buildings to reduce energy consumption, increase thermal insulation, install photovoltaic systems and solar thermal systems. In order to achieve this, the majority requirements for a valid resolution of the community of condominium owners are newly regulated. In future, a positive resolution will not only be possible if a simple majority of all co-ownership shares is reached, but also if two thirds of the condominium owners who have cast their vote are in favour of the resolution and these two thirds represent at least one third of all co-ownership shares.

The new legal regulations must be taken into account by the condominium organisers already when building a new condominium and also when drafting the condominium contract. However, the amended legal regulations also bring new opportunities for each individual condominium owner who wishes to make changes to the building and to his or her condominium property in accordance with the legal objectives.

Copyright Act

On the last day of last year, an amendment to the Copyright Act was also published in the Austrian Federal Law Gazette. With this amendment, the European Union Directive 2019/790 of 17th April 2019 on Copyright and Related Rights in the Digital Single Market is implemented in Austrian law.

The extensive new legal provisions aim at adapting free uses of works to the digital and cross-border environment, improving licensing practice and ensuring broader access to content, creating a functioning market for copyright protection, promoting the cross-

border availability of European radio and radio broadcasts, creating a modern copyright contract law that prevents unfair gagging contracts and strengthens artists vis-à-vis production and distribution companies.

Conclusion

All the legal initiatives described only briefly above are very extensive in detail. The BMA LAW and TAX team is available for legal advice in these areas of law as well.

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