

# TAKEOVER-RELATED DISCLOSURES<sup>3</sup>

As a publicly traded company whose voting shares are listed in an organized market as defined by Section 2 (7) of the German Securities Acquisitions and Takeover Act (WpÜG), ProSiebenSat.1 Media SE is obliged to disclose the information stipulated in Section 315a (1) of the German Commercial Code (HGB) in the Group Management Report. The disclosures are intended to enable a third party interested in taking over a publicly traded company to inform itself about the company, its structure, and any obstacles to the takeover. In addition to these statutory disclosures, the following section also includes the related explanations in accordance with Section 176 (1) Sentence 1 of the German Stock Corporation Act (AktG) in conjunction with Article 9 (1) lit. c) ii) SE Regulation.

## COMPOSITION OF THE SUBSCRIBED CAPITAL

As of December 31, 2021, the share capital of ProSiebenSat.1 Media SE amounted to EUR 233,000,000. It is divided into 233,000,000 no-par registered common shares with a pro rata share in the share capital of EUR 1.00 per share. All shares entail the same rights and obligations. Each share in ProSiebenSat.1 Media SE grants one vote at the Annual General Meeting and an identical share in profits.

→ [Organization and Group Structure](#)

As of December 31, 2021, the total number of treasury shares held by the Company was 6,694,738; this corresponds to 2.9% of the share capital.

→ [Financial Performance of the Group](#)

## RESTRICTIONS AFFECTING VOTING RIGHTS OR THE TRANSFER OF SHARES, AND SHAREHOLDINGS THAT EXCEED 10% OF THE VOTING RIGHTS

The Executive Board has no information on any restrictions on the exercise of voting rights or the transferability of shares that go beyond general regulatory requirements, especially of the law governing the capital market and competition as well as the media laws of the German federal states.

In accordance with Section 63 Sentence 1 of the German Interstate Media Treaty (MStV), the competent state media authority must be notified in writing of any planned change in participating interests or other influences prior to their implementation. The competent state media authority may confirm that no objections exist to such changes only if a license could still be issued under such changed conditions. If a planned change is implemented to which confirmation pursuant to Section 63 Sentence 3 MStV has not been given, the license necessary for the operation of national TV stations pursuant to Section 52 MStV shall be revoked.

Checks will be made for the impermissible participation of domestic or foreign state institutions, their legal representatives or political parties, as well as compliance with the rules for ensuring diversity of opinion in broadcasting (Sections 53 and 60 et seq. MStV).

For minor changes in participating interests or other influences, the body responsible for the state media authorities in this matter pursuant to Section 105 (3) MStV – the Commission on

<sup>3</sup> This section is part of the audited Group Management Report.

Concentration in the Media (KEK) – has provided for the following exceptions: Pursuant to Section 2 in conjunction with Section 3 of KEK's Reporting Obligation Directive, changes in participating interests are minor if they are effected by acquisition, disposal, or in any other way with less than 5% of capital or voting rights.

This does not apply if (1) the participating threshold reaches, exceeds or falls below the 25%, 50% or 75% threshold, (2) an increase or decrease in a notified shareholding interest of at least 5% is effected by one or more consecutive transactions, or (3) a shareholding in a listed stock corporation reaches or exceeds 5%, and the exceeding of this threshold has not already been reported within the preceding twelve months (see Section 5 of the Reporting Obligation Directive).

The German federal states intend to reform media concentration legislation. In the states' Broadcasting Commission, there is a working group developing proposals for an amendment of the German Interstate Media Treaty, while amendments are also being made to the states' individual media laws. The aim is to further strengthen the pluralistic media system.

On the basis of the voting rights notifications according to Sections 33 and 34 of the German Securities Trading Act (WpHG) received by the Company by December 31, 2021, the following investments in the Company exceed 10% of the voting rights:

MFE-MEDIAFOREUROPE N.V., Amsterdam, Netherlands ("MFE-MediaForEurope") holds 19.11% of the shares with voting rights, partly directly and partly indirectly via Mediaset España Comunicación, S.A., Madrid, Spain ("Mediaset España Comunicación").

Due to its direct and indirect investments in MFE-MediaForEurope and in Mediaset España Comunicación, Finanziaria d'investimento Fininvest S.p.A., Milan, Italy ("Finanziaria d'investimento Fininvest") is attributed an indirect investment of 19.11% of the shares with voting rights.

Due to his direct and indirect investments in Finanziaria d'investimento Fininvest, in MFE-MediaForEurope, and in Mediaset España Comunicación, Silvio Berlusconi, born September 29, 1936, is in turn attributed an indirect investment within the meaning of Section 34 of the German Securities Trading Act (WpHG) of 19.11% of the shares with voting rights according to the voting rights notification dated December 3, 2021.

In addition, Silvio Berlusconi indirectly holds instruments within the meaning of Section 38 (1) of the German Securities Trading Act (WpHG) amounting to 4.58% of the voting rights via the entities named above.

According to the voting rights notifications received by the Company by February 15, 2022, pursuant to sections 33 and 34 of the German Securities Trading Act (WpHG), the level of the aforementioned shareholdings has changed compared with the reporting date of December 31, 2021; according to these notifications, Silvio Berlusconi holds an indirect shareholding within the meaning of section 34 of the German Securities Trading Act (WpHG) amounting to 21.61% via the aforementioned companies and instruments within the meaning of section 38 (1) of the German Securities Trading Act (WpHG) amounting to 2.29% of the voting rights indirectly also via the aforementioned companies. The attributions of direct and indirect shareholdings correspond to the presentation as of the reporting date December 31, 2021.

## **SHARES WITH SPECIAL RIGHTS THAT CONFER CONTROLLING POWERS AND VOTING CONTROL IF EMPLOYEES HOLD A CAPITAL SHARE**

No shares with special rights that confer controlling powers have been issued.

There is no control over voting rights in the event that employees hold a capital share of ProSiebenSat.1 Media SE and do not exercise their controlling rights directly.

## APPOINTMENT AND REMOVAL OF EXECUTIVE BOARD MEMBERS

In accordance with Section 7 (1) Sentence 1 of the Company's articles of incorporation, the Executive Board of ProSiebenSat.1 Media SE comprises one or several people. The exact number is determined by the Supervisory Board in accordance with Section 7 (1) Sentence 2 of the articles of incorporation. Members of the Executive Board are in principle appointed and removed by the Supervisory Board as the supervisory body in accordance with Article 39 (2) SE Regulation. In accordance with Section 7 (2) Sentence 1 of the articles of incorporation in conjunction with Article 46 SE Regulation, Executive Board members are appointed for a maximum period of five years. Reappointments are permitted for a maximum of five years respectively. Executive Board members can be removed by the Supervisory Board prematurely for major cause. The appointment and removal of Executive Board members require a simple majority of the votes cast in the Supervisory Board. In the event of a tie, the vote of the Chairman of the Supervisory Board shall prevail (Article 12 (1) Sentence 3 of the Company's articles of incorporation). In urgent cases, the court shall appoint a member at the request of one of the parties involved if the Executive Board does not have the required number of members (Section 85 (1) Sentence 1 AktG in conjunction with Article 9 (1) lit. c) ii) SE Regulation).

## AMENDMENTS OF THE ARTICLES OF INCORPORATION

The Annual General Meeting must generally decide on changes to the articles of incorporation (Article 59 (1) SE Regulation). In the case of ProSiebenSat.1 Media SE, a resolution by the Annual General Meeting to change the articles of incorporation requires the simple majority of the votes cast if at least half of the share capital entitled to vote is represented when the resolution is being passed (Article 59 (2) SE Regulation, Section 51 Sentence 1 of the German SE Implementation Act (SEAG)). Otherwise, this requires a majority of two thirds of the votes cast (Section 59 (1) SE Regulation) unless the articles of incorporation or the law require a greater majority. For example, this is the case for changing the purpose of the Company (Section 179 (2) Sentence 1 AktG in conjunction with Article 59 (1) and (2) SE Regulation and Section 51 Sentence 2 of the German SE Implementation Act) and creating Contingent Capital (Section 193 (1) Sentences 1 and 2 AktG in conjunction with Article 57 SE Regulation, Section 51 Sentence 2 of the German SE Implementation Act) or Authorized Capital (Section 202 (2) Sentences 2 and 3 AktG in conjunction with Article 57 SE Regulation, Section 51 Sentence 2 of the German SE Implementation Act) for which a majority of at least three quarters of the valid votes cast is required respectively. The Supervisory Board is authorized to pass amendments that relate solely to the wording of the articles of incorporation (Section 179 (1) Sentence 2 AktG in conjunction with Article 9 (1) lit. c) ii) SE Regulation and Section 13 of the Company's articles of incorporation).

## EXECUTIVE BOARD'S POWERS TO ISSUE OR REPURCHASE SHARES

In accordance with section 71 (1) no. 8 of the German Stock Corporation Act (AktG), the Annual General Meeting of June 12, 2019, authorized the Company, with the approval of the Supervisory Board, to acquire, in accordance with the more detailed conditions of the authorization, its treasury shares on or before June 11, 2024 (inclusive), in the total amount of up to 10.0% of the Company's share capital on the date the authorization was granted or – if this figure is lower – on the date the authorization is exercised, and to use these, also under exclusion of preemptive rights in the cases described in more detail in the authorization. Treasury shares may also be acquired using derivatives up to a total of 5.0% of the share capital on the date the authorization was granted or – if this figure is lower – on the date the authorization is exercised in accordance with the more detailed conditions of the authorization. No treasury shares were acquired in the financial year 2021.

By resolution of the Annual General Meeting of June 1, 2021, the Executive Board was authorized, subject to the consent of the Supervisory Board, to increase the share capital of ProSiebenSat.1

Media SE on one or more occasions on or before May 31, 2026 (inclusive), by not more than EUR 46,600,000.00 in return for contributions in cash and/or in kind by issuing new registered no-par value shares (Authorized Capital 2021). Subject to the consent of the Supervisory Board, the Executive Board is authorized to determine the further content of the share rights and the conditions of the share issue. The dividend rights of the new shares can also be designed in deviation from Section 60 (2) of the German Stock Corporation Act (AktG); in particular, the new shares can also be given dividend rights from the start of the financial year preceding their issue if, on the date the new shares are issued, the Annual General Meeting has not yet passed a resolution on the allocation of profits from this financial year. Shareholders shall generally be granted the statutory preemptive right to the new shares. The preemptive rights can be entirely or partially designed as indirect preemptive rights within the meaning of Section 186 (5) Sentence 1 of the German Stock Corporation Act (AktG). However, the Executive Board is authorized, with the consent of the Supervisory Board, to exclude the shareholders' preemptive rights in accordance with the more detailed conditions of the authorization if the shares issued on the basis of Authorized Capital 2021 excluding the shareholders' preemptive rights do not exceed a total of 10% of the share capital either at the effective date or at the exercise date of the authorization to exclude preemptive rights.

By resolution of the Annual General Meeting of June 30, 2016, the Executive Board was authorized, subject to the consent of the Supervisory Board, to increase the share capital of ProSiebenSat.1 Media SE on one or more occasions on or before June 30, 2021 (inclusive), by not more than EUR 87,518,880 in return for contributions in cash and/or in kind by issuing new registered no-par value shares (Authorized Capital 2016). Following the capital increase in November 2016 resulting from the partial utilization of Authorized Capital in the amount of EUR 14,202,800, Authorized Capital 2016 amounted to EUR 73,316,080. Authorized Capital 2016, if unutilized, was repealed by resolution of the Annual General Meeting of June 1, 2021, with effect from the date the amendment of the articles of incorporation to create Authorized Capital 2021 was registered with the commercial register.

By resolution of the Annual General Meeting of June 1, 2021, the Executive Board was authorized, subject to the consent of the Supervisory Board, to issue bearer and/or registered convertible and/or warrant-linked bonds in the total nominal amount of up to EUR 800,000,000.00 with a limited or unlimited term, on one or more occasions on or before May 31, 2026 (inclusive), and to grant conversion or option rights to the holders or creditors of such bonds in order to acquire up to 23,300,000 new registered no-par value shares in the Company in the pro rata amount of up to EUR 23,300,000.00 of the Company's share capital as specified in more detail in the terms and conditions of the bonds and/or to stipulate the corresponding conversion rights of the Company ("2021 authorization").

By resolution of the Annual General Meeting of June 30, 2016, the Executive Board was also authorized, subject to the consent of the Supervisory Board, to issue bearer and/or registered convertible and/or warrant-linked bonds in the total nominal amount of up to EUR 1.5 billion with a limited or unlimited term, on one or more occasions on or before June 29, 2021 (inclusive), and to grant conversion or option rights to the holders or creditors of such bonds in order to acquire up to 21,879,720 new registered no-par value shares in the Company in the pro rata amount of up to EUR 21,879,720 of the Company's share capital as specified in more detail in the terms and conditions of the bonds and/or to stipulate the corresponding conversion rights of the Company ("2016 authorization"). The 2016 authorization, which the Company did not utilize, was repealed with effect from the effective date of the 2021 authorization.

By resolution of the Annual General Meeting on June 1, 2021, there was a contingent increase in share capital by up to EUR 23,300,000.00 due to the issuance of up to 23,300,000 new registered no-par value shares (Contingent Capital 2021). The Contingent Capital increase serves to grant shares to holders or creditors of convertible bonds in addition to holders of option rights attached to warrant-linked bonds to be issued before May 31, 2026 (inclusive), as a result of the authorization granted by resolution of the Annual General Meeting of June 1, 2021, by the Company or by a

domestic/foreign entity in which the Company either directly or indirectly holds the majority of votes and capital.

By resolution of the Annual General Meeting on June 30, 2016, there was a contingent increase in share capital by up to EUR 21,879,720 due to the issuance of up to 21,879,720 new registered no-par value shares (Contingent Capital 2016). The Contingent Capital increase serves to grant shares to holders or creditors of convertible bonds in addition to holders of option rights attached to warrant-linked bonds to be issued before June 29, 2021 (inclusive), as a result of the authorization granted by resolution of the Annual General Meeting of June 30, 2016, by the Company or by a domestic/foreign entity in which the Company either directly or indirectly holds the majority of votes and capital. Contingent Capital 2016 was likewise repealed by resolution of the Annual General Meeting of June 1, 2021, with effect from the date the 2016 authorization was repealed.

## **SIGNIFICANT AGREEMENTS OF THE COMPANY SUBJECT TO A CHANGE OF CONTROL, PURSUANT TO SECTION 315A SENTENCE 1 NO. 8 HGB**

ProSiebenSat.1 Media SE concluded the following significant agreements that entail regulations for the event of a change of control, which could result from a takeover bid:

- ProSiebenSat.1 Media SE has a syndicated facilities agreement which, as of December 31, 2021, includes a term loan of EUR 1.2 billion (previous year: EUR 2.1 billion) and a revolving credit facility with an amount of EUR 750 million. In the event of a change of control over ProSiebenSat.1 Media SE due to the direct or indirect acquisition of more than 50% of the voting rights in ProSiebenSat.1 Media SE by a third party, the lenders are entitled to terminate their participation in the facility and to demand repayment of outstanding amounts allocable to them within a certain period after the change of control takes place.  
→ Borrowings and Financing Structure
- In 2016, ProSiebenSat.1 Media SE issued promissory notes totaling EUR 500 million with maturity ranges of seven years (EUR 225 million at a fixed interest rate and EUR 50 million at a variable interest rate) and ten years (EUR 225 million at a fixed interest rate). In the reporting period, the Company issued another promissory notes totaling EUR 700 million with maturity ranges of four years (EUR 115.5 million at a fixed interest rate and EUR 110.5 million at a variable interest rate), six years (EUR 193 million at a fixed interest rate and EUR 153 million at a variable interest rate), eight years (EUR 46 million at a fixed interest rate and EUR 34 million at a variable interest rate) and ten years (EUR 48 million at a fixed interest rate). In the event of a change of control over ProSiebenSat.1 Media SE due to the direct or indirect acquisition of more than 50% of the voting rights in ProSiebenSat.1 Media SE by a third party, the lenders are entitled to terminate their loan participation and demand repayment.  
→ Borrowings and Financing Structure
- In the reporting year, ProSiebenSat.1 Media SE had access to a program on the Luxembourg stock exchange for issuing debt securities with a framework volume of up to EUR 2.5 billion. No bonds have been issued under the program to date. If bonds are issued, they may contain a change of control agreement. Such a change-of-control agreement can give creditors the right to demand repurchase of the bonds in the event of a change in control of ProSiebenSat.1 Media SE of more than 50% of the voting rights by a third party and the occurrence of a negative rating event.
- In addition, some license agreements for films, TV series and other programs that are important for the Company include regulations that, in the event of a change of control, entitle the provider of the program content to terminate the corresponding license agreement prematurely. In addition, individual contracts with distribution platforms also grant the contract partner the right to terminate the respective agreements in the event of a change of control.

The contractual relationships underlying these matters have a total volume of around EUR 1.1 billion.

- There is a framework agreement between ProSiebenSat.1 Media SE and, among others, RTL Deutschland and its indirect Group subsidiary Ad Alliance GmbH (“Ad Alliance”) with regard to the investment in d-force GmbH (“d-force”). Ad Alliance is entitled to extraordinary termination of the framework agreement if a third party directly or indirectly holds more than 50% of the shares and/or voting rights in ProSiebenSat.1 Media SE. Upon the termination taking effect, Ad Alliance shall cease to be a shareholder of d-force as soon as possible.
- ProSiebenSat.1 Media SE is also subject in particular to media concentration law and the relevant media laws of the German federal states, as described in the “Restrictions Affecting Voting Rights or the Transfer of Shares, and Shareholdings That Exceed 10% of the Voting Rights” section, which can result in requirements in the event of a change of control.

## **COMPANY’S COMPENSATION AGREEMENTS WITH EXECUTIVE BOARD MEMBERS OR EMPLOYEES FOR THE EVENT OF A CHANGE OF CONTROL**

The employment contracts of Executive Board members generally contain a change of control clause in the event of a change of control at the Company. In the financial year 2021, in the event of a change of control Executive Board members had the right to terminate their employment contract with three months’ notice at the end of the month and resign from the Executive Board if the change of control would have significantly affected the position of these Executive Board members. This right existed under the Executive Board employment contracts valid in the financial year 2021 up to and including September 30, 2021 and was not utilized in the financial year 2021. If this right of termination had been exercised effectively, the Executive Board member would have received cash compensation, the full amount of which would have been credited against any waiting allowance. The cash compensation would have corresponded to three – in the case of Wolfgang Link and Christine Scheffler two-years’ compensation, but at most to the compensation for the remaining term of the service contract discounted to the termination date. For the purposes of the cash compensation, the annual compensation to be recognized is generally the sum contractually due to the Executive Board member for the last completed fiscal year, comprising the fixed compensation, the performance bonus, the multi-year compensation components and the addition to the pension plan. The new Executive Board compensation system, which was approved by a broad majority of around 96% at the Annual General Meeting on June 1, 2021, will apply to new contracts and contract extensions effective in the financial year 2022. The change of control clause has been amended to the effect that, in the event of the exercise of the special right of termination in the course of a change of control, the Executive Board member will no longer be entitled to payment of a severance package in the future. For more detailed information, please refer to the Compensation Report.

**→ Compensation Report**

Apart from that, the employment contracts of ProSiebenSat.1 Media SE employees only rarely included change of control clauses up to December 31, 2021, but these will cease to apply as of January 1, 2022.