[LV] Draft Act on Political Advertising in Electronic Media

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On 9 March 2006 the *Saeima* (Parliament of the Republic of Latvia) adopted in the second reading a draft law, prohibiting any political advertising in electronic media within 90 days before the elections to the *Saeima* and the European Parliament.

Initially it was proposed that political advertising within 90 days before the elections should be prohibited in all the media. However, at the sitting of 9 March 2006 *Saeima* decided that the prohibition with respect to the printed media should be deleted from the draft. Thus, the prohibition would apply only to radio, television, and outdoor advertisements.

The draft law has been severely criticized by electronic media, including the Latvian Association of Broadcasters. The broadcasters claim that such a provision would involve their being discriminated *vis-a-vis* the printed media. Also, it would constitute an unjustified restriction of freedom of speech, as a certain part of population would not have access to information on candidates and political organisations. In addition, taking into account that the next elections of the *Saeima* will take place in October 2006, it is claimed that the prohibition will be introduced too late and without sufficient warning: some broadcasters have indicated that they have already concluded agreements on the broadcasting of political advertising before the elections. The broadcasters have publicly stated that if the prohibition comes into force, they intend to apply to the constitutional court.

One of the potential threats is the broad definition of “pre-election agitation” to which the prohibition applies. According to the draft, it includes “advertising of a certain political organisation, a union of political organisations, or an individual candidate in mass media, if it contains a direct or indirect invitation to vote for or against a certain political organisation, a union of political organisations, or an individual candidate”.

If the definition were to be interpreted broadly, this might include even opinions and analytical reports. However, a systematic interpretation of the law does not lead to such conclusions. Other sections of the law presuppose that the pre-election agitation is paid for: the law includes a requirement of non-discriminatory

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payment conditions, it also stipulates that after the elections all the broadcasters have to report the payments received to the National Broadcasting Council. Also, the law includes an interesting clause that the journalists of public broadcasting companies may not pursue agitation for or against candidates within 60 days before the elections (i.e., a period shorter than the 90 days prohibition). Moreover, the law specifically states that its provisions do not apply to statements of fact in news broadcasts and direct reporting. These features point to a narrow interpretation, namely, that the prohibition applies only to paid political advertising in its direct meaning. However, much will depend on the interpretation by the authorities, such as the National Broadcasting Council which supervises the compliance of broadcasters with the advertising rules (including political advertising). In its press release of 8 March 2006, the National Broadcasting Council expressed its objections to the law, claiming that the amendments would introduce an unjustified restriction on the freedom of speech, create financial problems for broadcasters, as well as contribute to an increase in the frequency of hidden political advertising.

The amendments still have to be adopted in the third reading. As the deadline for proposals to the third reading was 15 March 2006, the final reading might take place by the end of March. As the final possibility, even if the amendments are adopted, the President has the authority to send them back to *Saeima* for review.

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http://www.saeima.lv/

Draft Amendments to the Law on Pre-Election Agitation before the Elections of Saeima and European Parliament, adopted in 2nd reading on 9 March 2006

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Act on Pre-Election Agitation before the Elections of Saeima and European Parliament was adopted on 9. August 1995, in force as of 12 August 1995, published in Latvijas Vēstnesis, 11 August 1995, no. 120

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