[LV] Work in Progress on a New Audiovisual Media Services Law

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The National Broadcasting Council of Latvia (NBCL) is in a process of drafting a new Audiovisual Media Services Law, which would replace the Radio and Television Law currently in force.

The current Radio and Television Law was adopted in 1995, and has been amended numerous times to keep in tune with technological and legal developments, including extensive amendments to implement the Television without Frontiers Directive before Latvia joined the European Union. Already for several years there have been calls from broadcasters and other stakeholders that the law should be repealed completely and replaced with a new one, as it allegedly fails to reflect the contemporary media framework, does not sufficiently address digital media, and improperly captures the needs of public broadcasters. In response to these initiatives, in 2005 two new laws were drafted: a new Radio and Television law envisaged to regulate commercial broadcasters, and a new Public Broadcasters Law. However, the drafts got stuck in the *Saeima* (the Parliament) after having been adopted in the first reading on 16 June 2005, as there was an abundant number of suggestions to the draft, and a compromise among all stakeholders could not be reached.

The NBCL is now determined to solve this deadlock by producing a new draft law, which would include the regulation both for commercial and for public broadcasting organisations. The new draft plans to implement the new Audiovisual Media Services Directive (Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities), thus it should address such novel issues as video on demand services, mobile and Internet television, as well as provide regulation for radio broadcasters.

Another important issue, which should be addressed by the new draft is the legal status and financing of the public broadcasting organisations. Currently, the public broadcasters (the Latvian Television and the Latvian Radio) are financed by an annual state subsidy and they are also allowed to participate in the advertising market. However, the public broadcasters complain about the insufficiency of the

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funding granted by the state, whereas the commercial broadcasters argue that the participation of public broadcasters in the advertising market distorts competition. The new law should solve this problem by either implementing license fees in spite of an unfavourable public opinion towards such an option, or by setting clear and transparent criteria as to how to ensure a sufficient state guaranteed funding. In addition, the probable exit of the public broadcasters from the advertising market should be discussed.

Also, the draft law should clarify and fine-tune the structure and functions of the NBCL itself. Currently, although the NBCL is formally an independent regulator, it has been frequently criticised for being open to potential political influences, taking into account the fact that the members of the NBCL are proposed and elected by the parties represented in the *Saeima* . Stakeholders have suggested that at least a part of the NBCL members should be proposed also by the President and non-governmental organisations. The supervision and control functions of the NBCL should be scrutinised, too, as currently the NBCL is simultaneously the regulator of all media, as well as the supervisor of the national remit and the use of finance in the public broadcasters, which has caused complaints from the commercial broadcasters on a possible conflict of interests.

At the moment it is not clear yet what solutions to the above issues the NBCL will adopt, as the work on the draft law is still in progress. Although some versions of the draft have been unofficially leaked into national media and have already been heavily criticised for failing to be innovative and sophisticated enough, the NBCL stresses that these have been only preliminary drafts, and the final solutions have not been agreed yet. The NBCL hopes to publish its final draft and to submit it to the *Saeima* by the beginning of this summer.

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