[LV] New Audio and Audiovisual Media Services Law Submitted to the Parliament

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The National Broadcasting Council of Latvia (NBCL) has finalised the process of drafting a new Audio and Audiovisual Media Services Law (Draft Law), which is planned to replace the Radio and Television Law currently in force (see IRIS 2008-6: 13).

The Draft Law applies to providers of audio and audiovisual media services under the jurisdiction of Latvia who provide their services in public electronic communication networks, notwithstanding the mode of transmission. The Draft Law uses substantially different terminology from the existing Radio and Television Law. The terminology corresponds to that one used by the Audiovisual Media Services Directive (2007/65/EC), as well as to the regulations of the electronic communication services. In addition, the Draft Law provides definitions of concepts previously undefined in Latvian law, such as split-screen advertising, free to air television, on-demand services, product placement, editorial responsibility and interactive advertising. Otherwise, the Draft Law is structurally and content-wise quite similar to the existing Radio and Television Law, with mostly minor differences, clarifications, and certain modernisations.

The Draft Law maintains similar categories of media service providers as the current categories of broadcasters; however, in addition to public and commercial media services providers, it introduces non-commercial media services providers. These are not public broadcasters (as those are defined as exclusively Latvian Radio and Latvian Television), but rather persons who act without a profit intention and target a special auditorium, e.g., religious organisations, educational institutions, etc. As regards public media, the Draft Law suggests their status be re-established as “derived public persons” instead of their current transitional status as non-profit commercial companies. The public media retain their eligibility to become involved in commercial activities, such as advertising.

Broadcasting licences to private (commercial and non-commercial) broadcasters, as previously, will be granted on the basis of a tender. The procedure is very similar to the current one, so it may be argued that the Draft Law does not solve the problems caused by the current procedure, such as lack of transparency, predictability, and clarity. The only innovation is that the Draft Law provides the main criteria for the assessment of the tender applications. However, the criteria

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are defined rather vaguely: the creative, financial and technical basis of the tender offer.

The section on advertising has been expanded by adding more detailed rules with regards to the contents of advertising, sponsorship and other commercial announcements broadcast in the media. The Draft Law also provides special rules for the new types of advertising, such as split-screen, virtual, interactive advertising and product placement. The rules are slightly different for audio and audiovisual media services providers, taking into account technical differences.

The legal status of the NBLC would remain roughly the same under the Draft Law - an independent institution for the supervision of media service providers. The Draft Law suggests new rules for the appointment of the members of the NBLC, reacting to the frequent critique that the members are not sufficiently independent. As previously, the nine members would be elected by the *Saeima* (Parliament). However, the Draft Law stipulates that the members must be selected from candidates proposed by certain governmental and non-governmental organisations. In addition, the Draft Law provides that the candidates must have at least five years of professional or academic experience in media or human rights.

On 17 November 2008 the NBLC announced that it has submitted the Draft Law to the Commission of Human Rights and Social Issues of the *Saeima* . As the NBLC does not have legal initiative rights, it has asked the Commission to submit the Draft Law to the *Saeima* for adoption.

Audio un audiovizuālo mediju pakalpojumu likumprojekts

http://www.nrtp.lv/lv/padome/aktualitates/388-audio-un-audiovizualo-mediju-pakalpojumu-likuma-projekts-

Draft Audio and Audiovisual Media Services Law

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