

[LT] Must-Carry Rules Revised

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In September 2009 the Ministry of Culture prepared a Draft Edition of the Law on Provision of Information to the Public (Draft). Its main aim is the implementation of the AVMSD into national law. Besides this, there is a new provision essentially changing the currently valid must-carry rules. It envisages that network operators shall transmit all uncoded terrestrial public TV programmes.

The present law obliges all network operators to transmit one terrestrial public TV programme and all uncoded Lithuanian national scope terrestrial TV programmes. According to this a broadcaster is considered as having a national scope if its programme broadcast by a terrestrial TV network is received within a territory inhabited by more than 60 % of the population. Consequently, this obliges all operators in Lithuania to transmit all national scope TV programmes regardless of whether they are digital or analogue. The wider the penetration of digital TV achieved, the more TV programmes must be carried. According to the present provision operators are obliged to transmit 12 TV programmes in total. In future, due to technological developments the number of such programmes will increase as the provision does not specify must-carry regulation independent of the broadcasting technology used.

The modification will oblige operators to transmit only two public TV programmes. According to research by the Monitoring Department of the Radio and TV Commission few operators were implementing the stipulation presently in force. The main reasons for this are the lack of free channels and of resources. Every new must-carry programme requires additional equipment and infrastructure. Operators note that there is no compensation paid for those expenses.

The new rules seem to favourably influence operators, as they could avoid an increasing number of obligatory programmes. But operators fear that national scope commercial broadcasters will demand fees for including their programmes in the operators' packages. Currently operators do not pay broadcasters for the transmission of their programmes. With the change operators will have to start paying broadcasters, which will have a negative impact on the cable TV subscription fee. The broadcasters' motivation in demanding a change lies in the costs of the creation of original programmes they invest in and which the operators then get free and offer to subscribers at a fee. The broadcasters think that this is unfair and that operators should pay for the programmes. But in their opinion this issue should be left for the market and the State should not interfere,

as must-carry rules are not relevant to today's regulative aims and are not based on the public interest. Since the present must-carry rules were set in 1996 when there were only four national scope programmes (transmitted in an analogue terrestrial mode) which for technical reasons did not cover the whole country, in order to ensure the public interest it was determined by law that all national scope programmes should be transmitted by cable networks. But, with the ongoing technological development, national scope programmes are now broadcast in both analogue and digital formats, cover the whole territory and are free to air for all inhabitants. So such regulation has lost its relevance. The broadcasters underline that such regulation would force them to acquire rights for the re-transmission of programmes. Thus, they claim they would be in favour of the new rules.

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Draft Law on Provision of Information to the Public

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