[LV] Amendments adopted to the Electronic Mass Media Law

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On 19 January 2016, new amendments to the Latvian Electronic Mass Media Law (EMML) came into force. The amendments have been adopted by Saeima (the Latvian Parliament) on 17 December 2015. The amendments are substantial, as they introduce new concepts in the EMML, supplement the list of must-carry provisions, and supplement the conditions on which the Latvian regulatory authorities may suspend broadcasts and on-demand services from other countries, including European Union countries.

Among the newly introduced concepts the most important is the “service of the distribution of television programmes”, which is defined very broadly as a service that ensures an option to receive a television programme in the end equipment of the user. Accordingly, the concept of entities under Latvian jurisdiction is broadened, including within it the “providers of the service of the distribution of television programmes”, which carry out their economic activity within the territory of Latvia or offer the services of the distribution of television programmes within the territory of Latvia.

The definition of retransmission was also changed. It is defined as the receiving of the programme and immediate full or partial distribution in Latvia in a public electronic communication network, without making any changes to the programme or the contents of the broadcast. Before the amendments, the definition included that the programme must be distributed in Latvia in another public electronic communication network, but the word “another” is now eliminated. According to the annotation of the amendments to the EMML, the new concepts are introduced in order to provide fair competition between the cable operators and other operators who substantially offer retransmission services, but so far did not fit into the retransmission concept, such as satellite operators.

The list of must-carry provisions included in Section 19 of the law is substantially supplemented. Firstly, the scope of subjects of must-carry obligations is broadened: now the must-carry obligation applies not only to the retransmission operators who retransmit programmes by cable, but also to any “provider of the service of the distribution of television programmes”. Secondly, the scope of obligations is extended. The previous must-carry obligations applicable to cable operators remain in force, but now in addition all retransmission operators and all

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“providers of the service of the distribution of television programmes” must include in their programmes:

- At least one programme that mainly includes news, analytic and information broadcasts made within the EU and in one of the official languages of the EU;

- At least one programme of which within at least 50% of the total broadcasting time is the state language, provided that the total broadcasting time of this programme is at least 18 hours daily, and the broadcaster has received the broadcasting permit for this programme in Latvia;

- At least one programme that mainly includes popular science broadcasts made within the EU and in one of the official languages of the EU;

- At least one programme that mainly includes broadcasts for children and youth audience made within the EU and in one of the official languages of the EU;

The listed programmes must be included in the programme catalogue before other programmes and in the order as provided above. According to the annotation of the amendments to the EMML, the new must-carry provisions are introduced in order to facilitate access to diverse information and to promote democracy and plurality of opinions.

Finally, the amendments supplement the EMML with the new III.1 chapter “Prohibition of distributing programmes of electronic mass media and on-demand services of other countries”. The chapter includes new articles 21.1 to 21.6, listing lengthy conditions on which the National Electronic Mass Media council may temporarily suspend broadcasts and on-demand services from another EU Member State, EEA Member State, Member State of the European Convention on Transfrontier Television, or third country. The conditions and the procedure differ depending on which category of countries the relevant broadcast stems from.

The strictest conditions apply to broadcasts coming from another EU or EEA Member State, which may be suspended only if the broadcaster clearly, seriously and substantially violates Article 24 parts 9 and 10 of the EMML (prohibition of violence and broadcasts harmful to minors) and Article 26 of the EMML (pornography, incitement to violence, racial or other hatred or discrimination, incitement to war, incitement to violently change territorial unity or structure, or to discredit Latvian state symbols). The violation must be repeated twice within a 12 month period. Before the suspension the Council must inform the relevant broadcaster, the relevant jurisdiction country, as well as the European Commission. If no settlement is reached within 15 days, the Council may suspend the broadcasting for a definite period (the maximum length is not indicated in the EMML). The decision may be appealed to the Administrative Court.

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The suspension criteria are less strict if the relevant programme broadcast from another EU or EEA Member State is fully or mainly directed to the Latvian territory (Article 21.2 of the EMML). The Council must only inform the relevant Member State and the broadcaster on the observations that the broadcaster does not comply with the stricter provisions of the EMML, and if no settlement is reached, the suspension may be applied. The Council may also apply a penalty to the broadcaster if it can prove that the relevant broadcaster has obtained jurisdiction in another Member State in order to circumvent stricter rules applicable in Latvia. However, in such a case the Council must inform the European Commission in advance, and the European Commission must decide on the conformity of the planned activities with the European law.

The remaining articles of the new chapter deal with the suspension conditions for on-demand services coming from other EU or EEA countries, as well as to broadcasts and on-demand services coming from other Member States of the European Convention on Transfrontier Television and third countries.

Grozījumi Elektronisko plašsaziņas līdzekļu likumā

http://likumi.lv/ta/id/278985-grozijumi-elektronisko-plassazinas-lidzeklu-likuma

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