[LV] Amendments to the Electronic Mass Media Law adopted for the transposition of the AVMSD

IRIS 2021-1:1/16

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On 17 November 2020, new amendments to the Latvian Electronic Mass Media Law (EMML) implementing the amended Audiovisual Media Services Directive (AVMSD) were announced.

The amendments to the EMML have been developed to transpose the AVMSD and to adapt the regulatory framework to the audiovisual and media environment, which has changed rapidly and significantly over the last decade due to digitalisation and globalisation.

Firstly, the EMML has been supplemented by the clarification of existing definitions or the addition of new definitions for services or service providers. The definition of "audio and audiovisual media service" has been fully transposed from the AVMSD, imposing editorial responsibility on service providers who offer a service with audiovisual content and form, even though the service is not related to and is separate from the service provider's main activity. Such services also include separate parts for online newspapers featuring audiovisual programmes or user-generated videos. Furthermore, the definition of "audio or audiovisual media service", besides television or radio broadcasting and on-demand audiovisual services, also includes the provision of commercial communications, as previously defined in Directive 2010/13/EU and kept in force by the AVMSD.

Amendments have extended the definition of "audio and audiovisual commercial communication" to include user-generated videos; the restrictions applicable to commercial communications will now also apply to user-generated videos, as provided for by the AVMSD. The definition has been supplemented due to the emergence of new types of unregulated service providers who are inherently comparable to audiovisual media. Accordingly, user-generated videos have been included in the EMML definition of product placement as a form of commercial communication.

Secondly, the EMML has been supplemented with an additional chapter that directly transposes the AVMSD regulations for video-sharing platforms, including the audiovisual commercial communications on those platforms. The EMML sets an obligation for the National Electronic Media Council (NEPLP) to assess whether the service provided is substantially compliant with the video-sharing platform

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service. In the case of compliance, and if the service provider is under Latvian jurisdiction, the NEPLP adds the video-sharing platform provider to the register. The register provides transparent information on service providers who are subject to the requirements and rules of the EMML, including the restrictions on commercial communications.

The provisions of the AVMSD which are applicable to commercial communications and product placement have been fully implemented in Articles 35, 41, 42, 44 and 45 of the EMML, providing a wider scope for self-promotion than previously; this also includes self-promotion where it is placed within the same electronic media group, broadcasts and services.

Given that new video-sharing platform providers may quickly appear on the market, the EMML also provides a legal framework for potential infringements with immediate and serious consequences. Section 232 of the EMML stipulates the obligation for video-sharing platform providers to develop a publicly available code of conduct, which is also required of electronic mass media.

Moreover, as the AVMSD pays special attention to the needs of persons with disabilities, the EMML has been supplemented with Article 24.1 setting obligations regarding access to electronic media. Electronic media must ensure that its services are continuously and gradually made more accessible to persons with disabilities, and it must annually report to the NEPLP.

The amendments to the EMML entered into force on 1 December 2020.

Amendments to the Electronic Mass Media Law, published in Latvijas Vēstnesis, No. 223

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