

Latvia

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COMMUNICATIONS POLICY

1 Policy

How would you summarise government and regulatory policy for the telecoms and media sector? What is the policy-making and policy-development procedure?

The Latvian government has adopted a policy for electronic communications sector for the years 2004–2008. The main priorities are the following:

- to foster uniform regulation of the electronic communications sector;
- to ensure quality of the services rendered;
- to promote competition in the electronic communications market;
- to determine telecoms companies with significant market power (SMP);
- to develop a policy for tariffs;
- to implement digital terrestrial television and radio;
- to ensure the accessibility of Internet services.

As regards the media sector, currently there is no special policy.

There are no predetermined regulations and guidelines for development of policies in the telecoms and media sectors. Policy in the telecoms sector is elaborated by the Ministry of Transportation in cooperation with the Public Utilities Commission (the PUC) and finally approved by the Cabinet of Ministers. The responsible body for the elaboration of policies in the media sector is the National Radio and Television Council (NRTC).

2 Convergence

Has the telecoms-specific regulation been amended to take account of the convergence of telecoms, media and IT? Are there different legal definitions of 'telecoms' and 'media'?

The Electronic Communications Law, which replaced the old Law on Telecommunications, was adopted on 28 October 2004 and has been in force since 1 December 2004. In contrast to the old Law, it applies also to the networks necessary for the broadcasting of radio and television, as well as to the Internet networks. Accordingly, one could say that convergence has been taken into account.

The Electronic Communications Law does not contain the term 'telecoms', but a wider term, "electronic communications network", which covers fixed and mobile telephony, Internet, radio and television broadcasting, cable TV and cable radio. The Law On Press and Other Means of Mass Communication contains the term "press and other means of mass communication", which covers newspapers, magazines, other periodicals, television and radio, and the announcements of information agencies.

3 Broadcasting sector

Are the broadcasting sector and/or content regulated separately from telecoms?

Telecoms are exclusively covered by the Electronic Communications Law; however, it also applies to networks for the broadcasting of radio and television. Other aspects of the broadcasting sector, as well as content, are covered by the Radio and Television Law.

TELECOMS REGULATION

4 WTO Basic Telecommunications Agreement

Has your country committed to the WTO Basic Telecommunications Agreement and, if so, with what exceptions?

With the accession to the WTO on 10 February 1999, Latvia has accepted the WTO Basic Telecommunications Agreement and value-added telecoms commitments and currently there are no exceptions applicable.

5 Public/private ownership

What, if any, proportion of the stock of any incumbent operator is in the ownership of the public or of private enterprise?

51 per cent of the fixed public telecoms company SIA Lattelekom is owned by the Republic of Latvia.

Shares of the mobile telecoms operator SIA Latvijas Mobilais Telefons (LMT) are owned as follows: 5 per cent are owned by the Republic of Latvia, 23 per cent are owned by a fully state owned company, another 23 per cent are owned by SIA Lattelekom, and the rest of the shares are fully privately owned.

All other telecoms operators are fully privately owned.

6 Foreign ownership

Are there any foreign ownership restrictions applicable to authorisation to provide any telecoms services?

There are no restrictions in respect of foreign ownership.

7 Operator exclusivity

Does any operator have exclusivity, and, if so, for which service(s), and for how long?

As from 1 January 2003, the monopoly for the fixed public telecoms company SIA Lattelekom has been cancelled. Accordingly, any company is free to provide telecoms services. Of course, as in many other countries, the number of mobile telecoms operators is limited as a result of the unavailability of frequencies.

8 Fixed, mobile and satellite services

Comparatively, how are fixed, mobile and satellite services regulated?

Under what conditions may publicly available telephone services be provided?

Fixed and mobile services are extensively regulated by the Electronic Communications Law. Although the Law indicates that it applies also to satellite networks, there is no other specific regulation regarding satellite services. It should be noted that Latvia has accessed to various international agreements in respect of satellite services, such as the Eutelsat Agreement and the Inmarsat Convention. Otherwise Latvian law does not contain any other binding provisions relating to satellite services.

Any company wishing to provide the following services is subject to registration with the PUC:

- voice telephony services;
- public payphone services;
- public data and electronic message transmission services;
- leased line services;
- public Internet access services;
- distribution of radio and television programmes in public electronic communications networks;
- public electronic communications network services;
- interconnection services.

Additional restrictions in respect of access, interconnection and tariffs have to be observed if it is established that the service provider has SMP.

9 Satellite facilities and submarine cables

In addition to the requirements under question 8 above, are there any other rules applicable to the establishment and operation of satellite earth station facilities and, where applicable, the landing of submarine cables?

As indicated in 8 above, there are no other specific rules applicable to establishment and operation of satellite services.

As regards submarine cables, the Protection Zone Law sets forth the minimum width of the protection zone on both sides of the submarine cable (0.25 miles).

10 Radio frequency (RF) requirements

For wireless services (eg mobile), are radio frequency (RF) licences/permits required in addition to any telecoms services authorisations and is an RF licence available on a competitive or non-competitive basis? Are RF licences allocated using auctions or other procedures? Is licensed spectrum tradable in any circumstances?

The PUC issues regulations stating which frequency ranges are available for commercial activities. In addition to the registration procedure described in 8 above, a company wishing to provide wireless services must submit to the PUC a request to issue a permit for the use of RFs. Each separate radio device must be registered and approved at the Electronic Communications Directorate.

The use permit for RFs is not required in case of wireless broadband transmission systems (RLAN and HIPERLAN). There are certain restrictions for frequency ranges and the power of the transmission systems.

The Cabinet of Ministers (government) determines the frequency ranges where the use of the spectrum is restricted (for example, GSM-900/1800). In this case the PUC arranges a public tender or auction. The winner of the tender or auction receives a use permit for the specific frequency range.

The frequency spectrum is assigned for a specific legal entity. It may not be sold or transferred to another entity in any way.

11 Third generation (3G) services

Is there any regulation for the specific roll-out of third generation (3G) mobile services (eg in terms of licences, geographic coverage, national roaming for new entrants, etc)?

There are no specific rules related to UMTS 3G mobile services. The UMTS frequency range is subject to the same regulations as GSM services; public auctions are arranged by the PUC for the relevant free frequency spectrum. Specific requirements on roll-out, geographic coverage, etc, if any, may be included on a non-discriminatory basis in the auction regulations and eventually in the licence.

Currently there are no national roaming obligations imposed on the operators.

12 Fees

What fees are payable for each type of authorisation?

All companies engaged in the provision of electronic communications services are subject to a public regulatory duty of 0.2 per cent of the net turnover of the company for the previous year in the electronic communications sphere. The duty is split into four payments throughout the year. If the company has just commenced rendering electronic communications services, the duty is paid from the estimated net turnover. Any overpayment or underpayment is balanced out during the next year.

The latest public auction for GSM/UMTS licence took place on 31 March 2005. The starting price was LVL1,300,000 (approximately €1,850,000) and the final and winning bid was LVL6,707,000 (approximately €9,540,000).

There are also some minor fees payable for approval of specific radio transmission devices as well as technical supervision of those devices.

13 Authorisation timescale

How long does the licensing authority take to grant licences or other necessary authorisations?

As regards the general registration as a company providing electronic communications services (see 8 above), the company is considered as registered from the moment of sending the registration application to the PUC. The company may request the PUC to issue a registration certificate, which is usually done in two weeks.

Use permits for RF spectrum are issued within six weeks from submission of the application. In the case of a tender or auction, the decision is taken not later than eight months from the submission of the application.

If numbering resources are requested for RFs, the decision is taken within three weeks from the submission of the application. In the case of a tender or auction, the decision is taken not later than six weeks from the submission of the application.

14 Licence duration

What is the normal duration of licences?

The general registration as a company providing electronic communications services (see 8 above) is in force for an indefinite period of time. Of course, the registration may be terminated upon request of the company.

An RF use permit is usually issued for five years, unless there are some specific circumstances.

Restricted RF licences (GSM/UMTS) are usually issued for 15 years.

15 Modification/assignment of licence

How may licences be modified? Are licences assignable or able to be pledged as security for financing purposes?

A company providing electronic communications services may submit an application to the PUC regarding the termination of certain types of activities or commencement of new types of activities. The application is reviewed according to the general procedure. Otherwise the liabilities and obligations of the company are set forth in the Electronic Communications Law and respective regulations; therefore, modification is not possible.

Licences may not be transferred, sold, donated, leased or alienated in any other way to another legal entity or individual without the consent of the PUC. Accordingly, it is not possible to pledge the licences as a security for financing purposes.

16 Radio spectrum

Is there a regulatory framework in your country for the assignment of unused radio spectrum (so-called refarming)?

The PUC in its regulations provides for the RF spectrums that can be used by individuals and legal entities for commercial activities. Thus, any individual and legal entity is entitled to apply for the right to use certain RF spectrum (as described in 10 above). However, there is no regulatory framework with regard to refarming.

17 Cable networks

Is there any restriction in your country regarding ownership of cable networks, in particular by telecoms operators?

The Electronic Communications Law provides that a separate legal entity must be established for provision of cable TV services in the case that a company has SMP in the market of electronic communications network services or voice telephony market, or if the company has established an electronic communications network in the same geographical area on the basis of specific rights (for example, monopoly).

There are no other restrictions for telecoms operators or any other company in respect of ownership of cable networks.

18 Local loop

Is there any specific rule in your country regarding access to the local loop or providing for local loop unbundling?

Rules in respect of local loop unbundling are contained in the Electronic Communications Law as well as respective regulations of the PUC.

In order to ensure efficient competition in the electronic communications sector, the PUC is entitled, on its own initiative or upon the justified request of the parties, to establish the conditions to be included in local loop unbundling agreements, as well as to determine what must be observed by one or both parties in order to amend, delete or agree on certain conditions of the agreement.

The PUC is entitled to demand the making of amendments to local loop unbundling agreements that have already been concluded, if it is necessary to ensure efficient competition or economic efficiency, or interoperability of electronic communication networks or services.

The PUC is also entitled, on its own initiative or upon the justified request of the parties, to set a term during which negotiations on the conclusion of the local loop unbundling agreement must be completed. The term may not be longer than three months; however, it may be extended in exceptional cases. If an agreement is not reached during the set term, the PUC adopts measures in order to finalise the agreement in the procedure determined by the PUC.

There are additional obligations in respect of local loop unbundling for companies with SMP. If the PUC finds that refusal or unjustified access conditions may hinder the development of a long-term and competitive retail market, or if it does not comply with the interests of end-users, the PUC is entitled to determine, amend or cancel obligations in respect of local loop unbundling.

19 Internet

How are Internet services, including voice over the Internet (VoIP), regulated?

The provision of Internet services is subject to the general registration procedure as described in 8 above. There are no specific provisions in relation to VoIP.

All Internet service providers must comply with the provisions on transmission of information with unacceptable contents. The service provider may not promote access to information, the distribution of which over the Internet is prohibited, such as commercial secrets, insider information, child pornography, etc.

The Internet service provider is responsible for the information placed on its servers by the clients in the following cases:

- if the service provider is in the possession of data or facts indicating illegal actions or information;
- if the service provider fails to take action in order to delete information or restrict access to information stored by the service provider after knowing that the information has been removed from the public electronic communications network at the source of origin or access to it has been restricted, or the court or competent state institutions have requested that the information should be removed or access to it restricted.

The Internet service provider is not obliged to monitor contents of the information transmitted or stored by it, nor is it obliged to actively search for facts and circumstances indicating illegal operations.

20 Broadband

Is there a government financial scheme in your country to promote broadband penetration?

Currently the Latvian government has adopted a programme 'e-Latvia 2005–2008'. The programme recognises the problem of broadband penetration and provides for measures to be taken; it is planned to establish 10,000 broadband connections in remote regions. Most of the financing will come from the European Regional Development Fund.

21 Interconnection

How is interconnection regulated? Can the regulator intervene to resolve inter-operator disputes? Are wholesale (interconnect) prices controlled and, if so, on what basis? What are the basic interconnect tariffs?

All companies engaged in the provision of electronic communications services have a general obligation to negotiate on interconnection or access with any other company which has requested interconnection or access.

The PUC is entitled in a fair, proportional and equal manner to determine obligations for companies providing electronic communications services in relation to interconnections and access. Before such obligations are determined the PUC consults with the market participants.

In order to ensure efficient competition in the electronic communications sector, the PUC is entitled, on its own initiative or upon the justified request of the parties, to establish the conditions to be included in the interconnection or access agreements, as well as to determine what must be observed by one or both parties in order to amend, delete or agree on certain conditions of the agreement.

The PUC is entitled to demand the making of amendments to interconnection or access agreements that have already been concluded, if it is necessary to ensure efficient competition or economic efficiency, or interoperability of electronic communication networks or services.

The PUC is also entitled, on its own initiative or upon the justified request of the parties, to set a term during which negotiations on the conclusion of interconnection or access agreements must be completed. The term may not be longer than three months; however, it may be extended in exceptional cases. If an agreement is not reached during the set term, the PUC adopts measures in order to finalise the agreement in the procedure determined by the PUC.

The PUC determines a dispute resolution procedure for disputes between operators related to interconnections and access.

Operators with SMP have certain obligations in relation to wholesale (interconnect) prices. The basic offer of the operator must be non-discriminatory and publicly available. The basic offer should be detailed to such a level as to allow customers not to pay for devices and equipment that are not necessary for the customer.

The basic interconnect tariffs of the three operators with SMP are the following (€1 = LVL0.7028):

- fixed telephone operator SIA Lattelekom:
 - ◆ Riga and Riga region: LVL0.0088 for connection, LVL0.014 per minute;
 - ◆ other parts of Latvia: LVL0.0088 for connection, LVL0.023 per minute;
- mobile operator SIA Latvijas Mobilais Telefons: LVL0.072 per minute;
- mobile operator SIA Tele 2: LVL0.075 per minute.

22 Mobile call termination

In your country, does the originating calling party or the receiving party pay for the charges to terminate a call on mobile networks? Are calls to mobile networks regulated, and, if so, how?

In the case of local calls in mobile networks, the receiving party does not have to cover any charges, including termination of calls. Calls to mobile networks are regulated only as far as interconnection issues are concerned, as described in 21 above.

23 International mobile roaming

Are charges for international mobile roaming regulated in your country?

Charges for international mobile roaming are determined solely by the bilateral agreements entered between the relevant operators. Latvian law does not contain any binding provisions.

As regards national roaming, see 11 above.

24 Retail tariffs

Are retail tariffs regulated? If so, which operators' tariffs are regulated and how?

Retail tariffs are regulated by the Electronic Communications Law. All companies have a general obligation to make their tariffs available to the public.

The PUC is entitled to adopt the following regulatory measures in respect of the retail tariffs of operators with SMP:

- to determine the methodology for calculation of tariffs;
- to approve tariffs;
- to impose obligations in respect of approximation of tariffs with costs or with tariffs in comparable markets;
- to impose methodology for the calculation of costs;
- other regulatory measures.

If an operator is obliged to approximate tariffs with costs, it must prove to the PUC that the tariffs are comprised of substan-

tiated costs, including reasonable profit for the investments made. The PUC may request such operator to submit full substantiation of its tariffs and costs. If the PUC establishes that the costs included in the tariffs are not fully substantiated or the tariffs have not been approximated with costs, the PUC is entitled to suspend application of the tariffs and determine the upper limit or impose an obligation to adjust the tariffs. The above restrictions are in force only during the time period during which the operator has SMP in the relevant market.

25 Customer terms and conditions

Are customer terms and conditions required to be filed with and/or approved by the regulator or other body?

The Electronic Communications Law does not require that the customer terms and conditions be submitted to any authority; however, it determines the information to be included in the agreements with subscribers. Such information includes, for example, description of services, payment procedure, terms of use of the services, procedure for dispute resolution and filing of complaints, and termination provisions.

Subscribers are entitled to terminate the agreement without any penalties if a notice has been received from the service provider on amendments to the agreement and the subscriber does not accept such amendments. The service provider is obliged to inform the subscribers on the amendments and the rights to terminate the agreement without penalties not later than one month before such amendments come into force.

Agreements with telecoms customers are also subject to the Consumer Rights Protection Law, which prohibits the inclusion of unfair conditions in consumer agreements.

26 Changes to telecoms law

Are any major changes planned to the telecoms laws of your country?

Taking into account the fact that the Electronic Communications Law has just come into force (1 December 2004), it is unlikely that any major changes will be made in the foreseeable future. However, there are several governmental and PUC regulations still to be adopted/amended in order to implement the new Law.

MEDIA REGULATION

27 Ownership restrictions

Are there any restrictions on the ownership and control of broadcasters? Can foreign investors participate in broadcasting activities in your country?

A political party or a legal entity established by the party may not own any broadcasting companies. A person who holds an elected position in the management body of a political party and is a sole shareholder or a controlling shareholder in a broadcasting company may not use his/her voting rights in the management bodies of the broadcasting company.

There are no other restrictions in respect of ownership and control of broadcasters, including the participation of foreign investors. Several large broadcasters are actually owned by foreign companies.

28 Cross-ownership

Are there any regulations in your country in relation to the cross-ownership of media companies, including between radio, television and newspapers?

An individual who is the sole shareholder or a controlling shareholder in a broadcasting company may not own more than 25 per cent of the share capital in another broadcasting company. The restriction also applies to the spouse of such individual.

The Radio and Television Law provides that the monopolisation of electronic mass media in the interests of a political party, company, association of persons or an individual is not permissible. The Law does not provide a definition for the term 'monopolisation'. Accordingly, an assessment would be made on case-by-case basis.

It is prohibited to connect the networks of regional and/or local broadcasting companies.

29 Licensing requirements

What are the licensing requirements in order to be able to broadcast in your country, including the fees payable and the timescale for the necessary authorisations?

The Radio and Television Law sets forth a different licensing procedure for cable TV/radio and ordinary TV/radio.

Receipt of a licence for cable TV and radio is relatively easy. After the submission of all necessary documents, the NRTC adopts a decision within 14 days. The licence is valid for 10 years. The fee for the licence is LVL100 (€142) if the number of subscribers is up to 10,000, and LVL500 (€715) if the number of subscribers is larger than 10,000.

As regards ordinary TV and radio broadcasting companies, the procedure is more complicated. The NRTC advertises a tender for free frequencies in accordance with the national policy for the development of electronic mass media. Accordingly, the decision to allow a new TV or radio station in the market is political. Restrictions in respect of broadcasting time, proportion of languages and sound and picture quality may be included in the tender regulations. At least one month before the decision is made, information on the tender participants and their general policy for the programme is published in the official newspaper.

The winner of the tender is determined by comparing the general concepts of the programmes submitted. Preference is given to that tender participant whose general concept of the programme is directed towards the broader demands of society.

Taking into account the above decision-making and tender procedure, it is hard to indicate the specific timescale for receipt of TV and radio broadcasting licences. Radio licences are valid for five years, TV licences for seven years.

Licence fees	LVL	
local radio and TV stations	100	(€142)
regional radio station	500	(€715)
regional TV station	1,500	(€2,142)
regional radio station in Riga	2,000	(€857)
regional TV station in Riga	15,000	(€21,428)
nationwide radio station	3,000	(€4,285)
nationwide TV station	20,000	(€28,571)

30 Broadcast of foreign-produced programmes and local content requirements

Are there any regulations concerning the broadcasting of foreign-produced programmes? Are there any rules requiring a minimum amount of local content?

The total amount of all visual programmes scheduled by a broadcasting company in one week (except news, sports, games, advertising, teletext and teleshopping) should comply with the following:

- not less than 51 per cent should be European audio-visual works;
- of the European audio-visual works, not less than 40 per cent should be transmissions made in the Latvian language.

The amount of broadcasting time in the programmes made by broadcasting companies in foreign languages may not exceed 25 per cent of the total broadcasting time over 24 hours. This requirement does not apply to cable TV and cable radio.

31 Advertising

How is broadcast media advertising regulated?

Advertising in broadcast media should comply with the general requirements on advertising contained in the Advertising Law (prohibition of misleading advertising, fair competition, comparative advertising, etc), as well as the specific provisions contained in the Radio and Television Law.

Advertising and teleshopping should be clearly distinguishable from other parts of the programme. Advertising should be either in the same language as the transmission or in the state language. Advertising should be placed in blocks. The visual image or voice of persons leading news transmissions or transmissions on socially important issues may not be used in advertising.

The amount of advertising and teleshopping may not exceed 20 per cent of the whole broadcasting time in 24 hours. The amount of advertising may not exceed 15 per cent of the whole broadcasting time in 24 hours. The amount of advertising and teleshopping may not exceed 20 per cent in each hour.

32 Must-carry obligations

Does your country have regulations which specify a basic package of programmes that must be carried by operators broadcasting distribution networks, ie 'must-carry obligations'? Is there a mechanism for financing the costs of such obligations?

In Latvia there are two public television channels and three public radio channels, which are subsidised by the state and which serve the needs of the public. Commercial broadcasting companies do not have any must-carry obligations, except in emergency situations when officials should be given the opportunity to make announcements to the public.

33 Changes to the broadcasting laws

Are there any changes planned to the broadcasting laws of your country?

No significant changes are planned to the broadcasting laws in the near future.

REGULATORY AGENCIES

34 Regulatory agencies

Which body or bodies are regulatory agencies for the communications sector? Is the body that regulates telecoms separate from the one that regulates broadcasting?

The NRTC operates under the provisions of the Radio and Television Law, effective as of 11 September 1995. The NRTC's mandate is to represent the interests of society in the area of electronic mass media, primarily by supervising broadcasters' compliance with the legislation and how they ensure freedom of speech and information. The NRTC, among other tasks, prevents the formation of monopolies in the area of electronic mass media.

The NRTC also issues broadcasting and re-transmission permits (either according to the results of invitations to tender or on the basis of a request), as well as special permits (licences) for cable TV and cable radio operation, etc.

The PUC operates in compliance with the Law on Regulators of Public Services, effective as of 1 June 2001, and is responsible for regulatory work in telecoms and broadcasting in public electronic networks.

The PUC carries out the function of setting the tariff calcula-

tion methodology and approves tariffs for utilities. The PUC issues licences and supervises implementation of the set conditions, supervises compliance of utilities with requirements for quality and environmental protection, technical regulations, standards, performs out-of-court dispute settlement, etc.

Another institution related to telecoms and broadcasting sector is the Electronic Communications Directorate. Its functions are set forth in the new Electronic Communications Law, effective as of 1 December 2004, and include the management of the RF spectrum and numbering, provision of electromagnetic compliance and numbering services, assigning identification signals to radio equipment, performance of radio monitoring of the RF spectrum, measurement of radio equipment parameters, etc.

The State Data Inspectorate monitors personal data protection in the electronic communications sector. The Consumer Rights Protection Centre monitors and controls consumer protection rights as provided for under the Consumer Rights Protection Law.

35 Establishment of regulatory agencies

How is each regulator established and to what extent is it independent of network operators, service providers and government?

The NRTC is established under the Radio and Television Law. The NRTC is an independent institution; a fully autonomous institution, which represents the interests of the public in the field of electronic mass media and supervises the electronic mass media.

The NRTC is established by parliament (Saeima) by electing nine members to it. No fewer than five members of parliament, who submit their proposal to the presidium of the parliament, may nominate a member of the NRTC. The NRTC elects the chairperson of the NRTC and his/her deputy. NRTC members are elected for four years and may be re-elected for not more than two consecutive terms. Parliament may recall a member of the NRTC before the end of his/her term if he/she has committed an intentional violation of the Radio and Television Law or has acted negligently and such violation or action has had material consequences.

The PUC is established for the state regulated sectors and operates as an independent state institution supervised by the Minister of Economics.

The decision-making body of the PUC is the Council. The Council is appointed by parliament. Parliament, pursuant to the recommendation of the Cabinet of Ministers, appoints the chairperson of the PUC who is also the chairperson of the Council for five years. The Cabinet of Ministers by means of a competition selects applicants for the office of Council member.

The Electronic Communications Directorate operates under the Electronic Communications Law. The Directorate is under the functional and institutional supervision of the Ministry of Transportation. The Directorate is established in the form of a state company wherein the Ministry of Transportation holds all shares.

36 Appeal procedure

How can decisions of the regulator(s) be challenged or appealed and on what basis – merits, law and/or procedure?

The general rules of the appeal procedure for an administrative act are set forth in the Administrative Procedure Law, effective as of 1 February 2004. Several specific provisions are included in the Radio and Television Law, the Law on Regulators of Public Services and the Electronic Communications Law. Also, the Personal Data Protection Law and Consumer Protection Law include provisions for the appeal procedure and may be applied if the issue in question concerns data protection or consumer protection.

An administrative act may be appealed by a submitter, addressee, third party or a private person whose rights or legal interests are restricted by the relevant administrative act and who has not been invited to participate in the administrative proceeding as a third party. An administrative act may be appealed to a higher authority in accordance with the procedures regarding subordination. The relevant laws of the specific sector may determine another institution to which an appeal may be made. If there is no such institution, the administrative act may be immediately appealed to the administrative court.

The administrative act may be appealed within a one-month period from the day it comes into effect. The application regarding the appeal of the administrative act suspends its operation from the time when the submission is received at the institution. If a higher institution leaves the administrative act unvaried, the operation of the administrative act resumes as of the day when the time period for appealing the administrative act has expired and it has not been appealed.

Decisions of the NRTC may be appealed to the court. The specific provisions of the Radio and Television Law provide that the decision on the results of the broadcasting licence tender may be appealed to the court within 10 days after the decision has been published in the official newspaper.

There are no specific provisions applicable to the decisions of the PUC.

The decisions passed by the Electronic Communications Directorate may be appealed to the Ministry of Transportation. The appeal of such a decision does not suspend its operation, unless the appealed institution takes the decision to suspend the Directorate's decision during the process of the appeal review.

37 Competition and telecoms/broadcasting regulation

To the extent that there are separate national regulatory bodies for the telecoms and broadcasting sectors responsible for sector-specific regulation and a national competition authority responsible for general competition rules, what is the respective scope of their jurisdiction in the telecoms and broadcasting sectors? Are there any mechanisms under national law to avoid conflicting exercise of jurisdiction by the various authorities? Is there a specific mechanism to ensure the consistent application of competition and sector-specific regulation?

The Competition Council supervises the telecoms and broadcasting sectors within the field of competition law. The related authorities of the telecoms and broadcasting sectors are not entitled to take decisions in the field of competition law, but in some cases their decisions may indirectly affect the field of competition law, for example, regarding tariffs, granting licences, etc.

38 Interception

Are there any special rules requiring operators to assist government under certain conditions in the interception of telecoms messages?

There are general provisions on assistance to governmental institutions with telecoms interception. Those provisions are set forth in the Investigatory Operations Law, effective as of 14 January 1994, providing that, if a body performing investigative operations is in possession of well-founded information with respect to the involvement of persons in crime or threats to interests of importance to the state, it is permitted to carry out investigative monitoring of correspondence (ie outgoing and incoming postal, telegraphic and other types of correspondence of such persons), electronic communications and other types of systems that are at their disposal for the sending and receipt of such correspondence.

39 Unsolicited communications

Is there any legislation in your country prohibiting unsolicited communications (eg by e-mail, SMS)? Are there any exceptions to the prohibition?

Unsolicited communications are not governed by any specific regulations; the general provisions of the Advertising Law, effective as of 24 January 2000, apply to the format and content of the advertisement. However, communications via SMS to some extent may concern the personal data protection laws, meaning that only a certain circle of people (companies) may be able to send communications/advertisements via SMS notifications.

COMPETITION AND MERGER CONTROL**40 Competition law in the telecoms and broadcasting sectors**

Are anti-competitive practices in these sectors controlled by regulation and/or general competition law? Which regulator and/or competition authority controls such practices?

Anti-competitive practices in the telecoms and broadcasting sectors are primarily governed by the Competition Law, effective as of 1 January 2002. The secondary legislation in the area of competition law is comprised of Regulations issued by the Cabinet of Ministers of the Republic of Latvia.

The Competition Council is the authority which investigates anti-competitive practices in the telecoms and broadcasting sectors.

41 Regulatory thresholds for the review of telecoms and broadcasting mergers, acquisitions and joint ventures

What are the jurisdictional thresholds and substantive test for regulatory or competition law review of telecoms sector mergers, acquisitions and joint ventures? Do these differ for transactions in the broadcasting sector?

Mergers and acquisitions meeting certain criteria are subject to merger control rules, which apply when:

- there is a merger within the meaning of the Competition Law;
- there is a link to Latvia, ie at least one of the parties (including foreign parties) performs or is going to undertake economic activity in the territory of Latvia or its activity affects or may affect competition in the territory of Latvia;
- the relevant thresholds are met.

Mergers as defined by the Competition Law must be notified to the Competition Council if one of the following thresholds is satisfied:

- The combined turnover of the parties to the merger during the previous financial year was not less than LVL25 million (approximately €35.5 million). According to current practice, when calculating turnover of the market participant, the turnover generated in Latvia is taken into account.
- The joint market share of the merger parties exceeds 40 per cent in the relevant market.

Joint ventures which fulfil the criteria for a notifiable merger are analysed pursuant to the merger review rules.

There is no specific regulatory framework for review of telecoms and broadcasting sector mergers and acquisitions.

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42 Regulatory authorities for the review of telecoms and broadcasting mergers, acquisitions and joint ventures

Which regulatory and/or competition authorities are responsible for the review of mergers, acquisitions and joint ventures in the telecoms and broadcasting sectors?

The Competition Council performs the review of mergers, acquisitions and joint ventures in the telecoms and broadcasting sectors in Latvia. No separate authority is established.

43 Procedure and timescale for the review of telecoms and broadcasting mergers, acquisitions and joint ventures

What are the procedures and associated timescales for review and approval of telecoms and broadcasting mergers, acquisitions and joint ventures?

Notification must be filed before the merger occurs. Notification is submitted on a standard form notice on merger between market participants, accompanied with the requested appendices. Requirements for the above-mentioned documents can be found

in the Cabinet of Ministers Regulations No. 897 of 26 October 2004.

After receipt of the complete merger notification from the parties, the Competition Council has one month to review the notification and adopt a decision either to authorise or prohibit the merger. It can also adopt a decision regarding additional investigation of the merger. Additional investigation may last up to four months from the day the complete notification is submitted. At the end of this period a decision is taken to clear or prohibit the merger.

The Competition Council may prohibit a merger, as a result of which a dominant position is created or strengthened or competition is significantly lessened in any relevant market.

If the Competition Council fails to adopt a decision within four months from the day of complete notification, the merger is deemed to be cleared.

The decision of the Competition Council to authorise a merger may be subject to conditions and obligations imposed on the market participants.