

The International Comparative Legal Guide to: Telecommunication Laws and Regulations 2008

A practical insight to cross-border Telecommunication Laws and Regulations



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1 Framework

1.1 When did Latvia first liberalise telecommunications networks and/or services?

The liberalisation of Latvia's telecommunications networks services started in 2003, after the exclusive right to provide the services of public fixed electronic communications networks, which was held by the company LATTELEKOM SIA, came to an end.

1.2 Has Latvia fully implemented the EU 2003 regulatory framework? If Latvia has not fully implemented the new regulatory framework, have proceedings been brought against Latvia by the European Commission and if so, for which contraventions?

As there are proceedings by the European Commission against Latvia, the EU 2003 regulatory framework has not been fully implemented. Three proceedings have been brought against Latvia by the European Commission - that is procedure No. 2005/2095 regarding art. 30 of the *Directive 2002/22/EC*; procedure No. 2005/2211 regarding art. 5 and 25 of the *Directive 2002/22/EC*; and procedure No. 2006/2116 regarding art. 26.3 of the *Directive 2002/22/EC*.

1.3 Please give an overview of the different laws and regulations governing the operation of electronic communications networks and the provision of electronic communication services.

The main legal regulation governing the operation of electronic communications networks and the provision of electronic communication services is the *Electronic Communications Act (Elektronisko sakaru likums)*. The *Electronic Communications Act* entitles the Latvian Government (Cabinet of Ministers) to pass subordinated regulations and they are:

- Regulations No 276 of 19.04.2005 on radio frequency spectrum band allocation by radio communications types and classification by radio communications systems;
- Regulations No 447 of 21.06.2005 on a national numbering plan;
- Regulations No 591 of 09.08.2005 on the procedures by which an electronic communications merchant shall install, in the electronic communications network, equipment, which shall ensure the acquisition of investigatory information from technical facilities and the investigatory wiretapping of conversations;

- Regulations No 622 of 23.08.2005 on the radio frequency spectrum band, the efficient utilisation of which it is necessary to limit the assignment of right of use of the radio frequency spectrum for commercial activities in the electronic communications sector;
- Regulations No 893 of 22.11.2005 on the procedures and the time period for the transition to a closed eight-digit numbering scheme;
- Regulations No 256 of 04.04.2006 on procedures for the installation and construction of electronic communications networks;
- Regulations No 453 of 06.06.2006 on radio frequency assignment use permit;
- Regulations No 565 of 11.07.2006 on procedures by which the numbering resources shall be allocated, used, reserved or annulled and given up; and
- Regulations No 1013 of 19.12.2006 on the transfer of information regarding caller location.

There are a number of Regulations still in preparation, which will partly cover or replace already existing ones - including those, which are applicable providing they do not contradict the *Electronic Communications Act*. They are:

- Regulations No 44 of 21.01.2003 on procedures for the issuance of radio frequency spectrum use permits;
- Regulations No 53 of 28.01.2003 on procedures by which telecommunications undertakings install telecommunications networks with equipment, which ensures the acquisition of investigatory information from technical facilities and investigatory wiretapping of conversations;
- Regulations No 251 of 13.05.2003 on procedures for the protection of telecommunications infrastructure;
- Regulations No 465 of 19.08.2003 on methodology for specification of exploitation zones along telecommunication network lines; and
- Regulations No 497 of 02.09.2003 regarding radio communication facilities and telecommunications terminal equipment distribution, design, structures, installation and exploitation procedures, as well as regarding the limitation and prohibition of utilisation thereof.

It has to be considered, that the operation of electronic communications networks and the provision of electronic communication services are regulated in such legal acts as *Regulators of Public Utilities Act (likums Par sabiedrisko pakalpojumu regulatoriem)*, *Standardisation Act (Standartizācijas likums)*, *Protection Zones Act (Aizsargjoslu likums)*, *Conformity Assessment Act (likums Par atbilstības novērtēšanu)*, *Radio and Television Act (Radio un televīzijas likums)*, *Personal Data Protection Act (Fizisko personu datu aizsardzības likums)*.

- 1.4 Please describe the regulatory framework, in terms of regulatory authorities and associated agencies, e.g. national competition authority (where different).

General supervision of electronic communications networks and the provision of electronic communication services are performed by the Ministry of Transport (*Satiksmes ministrija*). The *Electronic Communications Office (Elektronisko sakaru direkcija)*, which is subordinated to the Ministry of Transport, performs the administration of the radio frequency spectrum and numbering resources. The electronic communications industry is regulated by the *Public Utilities Commission (Sabiedrisko pakalpojumu regulešanas komisija)*. Data protection is supervised by the *State Data Inspection (Datu valsts inspekcija)*, but consumer protection is dealt with by the *Consumer Rights Protection Centre (Pateretaju tiesibu aizsardzibas centrs)*.

- 1.5 Which principal aspects of electronic communications regulation fall under the supervision of the national regulatory authority for electronic communications?

The *Public Utilities Commission* promotes the development of electronic communications market and competition, sets up methodology for the calculation of tariffs and costs, and informs the European Commission about intended measures regarding definition of the electronic communication market, establishing of status of market participants with significant market power, as well as the establishment, amendment or annulment of the SMP obligations to such market participants. The *Electronic Communications Office* performs the administration of the radio frequency spectrum and numbering resources; from the 2008 this authority will start the supervision of the installation and construction of electronic communications networks as well.

- 1.6 In order to be properly authorised to provide electronic communications networks and services, is a registration, declaration or notification required and if so to whom and for which purposes? What rules or conditions, if any, may be attached to a registration, declaration or notification?

In order to be authorised to provide electronic communications networks services the General Authorisation of the *Public Utilities Commission* is required. It could be obtained by submission of registration notification. General Authorisation Regulations are attached to such registration notification. Those Regulations (such as conditions relating to investments in universal service, information on the state fee, mandatory transmission of radio or television programmes, protection of data and such like) are established by *Public Utilities Commission* and published in official newspaper *Latvijas Vestnesis*.

- 1.7 Are any network operators or service providers subject to rules governing their operations over and above rules and conditions governing authorisations and imposing SMP obligations, for example under competition law?

It is very unlikely that network operators or service providers are subject to rules of competition law over and above rules governing authorisations and imposing SMP obligations. The Latvian Competition Authority (*Decision of 21.01.2004 in Case No 620/03/05/09*), has previously established, that the Competition Authority does not apply the rules of the Competition Law for telecommunication services covered by Public Utilities Commission authority governing authorisations and imposing SMP obligations.

- 1.8 How and to what extent is content delivered over electronic communications networks regulated and by whom?

Generally, the content delivered over electronic communications networks is not regulated by the Latvian Telecommunications Law. However, there are regulations put in place regarding content. Such regulation has been put forward in the Consumer Law, which is supervised by the *Consumer Rights Protection Centre*, and in the *Data Protection Law*, which is supervised by the State Data Inspection.

- 1.9 Which (SMP) markets have been notified to the European Commission under Article 7 of the Framework Directive?

Markets from No 1 to No 16 have been notified to the European Commission under art. 7 of the Framework Directive 2002/21/EC.

2 Licensing

- 2.1 If a licence or other authorisation is required to install or operate electronic communications networks or provide services over them, please briefly describe the process and timescales.

The authorisation of *Public Utilities Commission* is required for the rights to use: (1) the radio frequency spectrum; or (2) the numbering. Such authorisation can be obtained by application to the Authority. The *Public Utilities Commission* is required to carry out the decision (1) during 6 weeks from the submission of the application for the authorisation of the radio frequency spectrum; and (2) during 3 weeks for the authorisation of the numbering. In the case where the tender or auction is organised, the timescale is (1) 8 months for the radio frequency spectrum; and (2) 6 weeks for the numbering starting from the date of submission of application. Moreover, the winner of the tender or auction is required to obtain a Radio Frequency Assignment Use Permit from the *Electronic Communications Office*. As well Data Protection Permit is required from the *State Data Inspection*.

- 2.2 What other requirements, permits or approvals must be met or obtained before networks may be installed or operated and services provided?

The Installation and Construction Permits are required for the facilities of electronic communications networks from the Construction Authority (*Buvvalde*) of municipality, where such facilities will be located. From January 1, 2008 the *Electronic Communications Office* will start the supervision of the installation and construction of electronic communications networks as well.

- 2.3 May licences or other authorisations be transferred and if so under what conditions?

The Authorisation of *Public Utilities Commission* for the rights to use the radio frequency spectrum or the numbering may be transferred to another market participant. Conditions of transfer might be specified already in the requirements of the Authorisation. The application form and conditions for transfer are provided in the Regulations of the *Public Utilities Commission* (Regulations adopted by the PUC decision No 155 of 30.05.2007; and Regulations adopted by the PUC decision No 168 of 20.06.2007).

2.4 What is the usual or typical stated duration of licences or other authorisations?

The Authorisation of *Public Utilities Commission* for the rights to use the radio frequency spectrum generally is provided for a 1, 5 or 10-year period.

3 Public and Private Works

3.1 Are there specific legal or administrative provisions dealing with access to public and private land in order to install telecommunications infrastructure?

Access to public and private land in order to install telecommunications infrastructure is possible only with the agreement of owner or possessor of such real property. The blueprints of the telecommunications facilities have to be accepted by such owner or possessor as well.

3.2 Do any specific rules exist which assist in securing or enforcing rights of way over public or private land, for the installation of network infrastructure?

The protection zone shall be established around electronic communications network infrastructure, which shall be accepted by owner or possessor of the property and municipality as well. The certain performance of other persons are restricted and limited in such protection zones. The owner of the telecommunication facilities is entitled to perform maintenance works if he has previously warned the land owner at least one day prior to such works. In case of emergency no warning is necessary. The owner of the telecommunication facilities is entitled to establish the servitude by the agreement of land owner or by court ruling.

3.3 Is there a specific planning or zoning regime that applies to the installation of network infrastructure?

General requirements of municipality planning or zoning regime for engineering communications apply to installation of network infrastructure.

3.4 Are there any rules requiring established operators to share their infrastructure, e.g. masts, sites, ducts or cables?

Established operators are required to negotiate for contracts to share their infrastructure, e.g. masts, sites, ducts or cables. The *Public Utilities Commission* is entitled to set up the timeframe in which such contracts shall be concluded - if there is no exceptional case, such time period shall not exceed 3 months. In order to ensure that end-users of one communication network are able to communicate with en-users of another communication network, the *Public Utilities Commission* is entitled impose obligations to the established operator regarding the access to its facilities. To impose such obligations the principles of fairness, proportionality and equality shall be observed. The *Public Utilities Commission* is entitled to impose shared utilisation of infrastructure facilities to those operators, which are in SMP position.

4 Access and Interconnection

4.1 Is network-to-network interconnection and access mandated, and what are the criteria for qualifying for the benefits of interconnection?

In order to ensure interoperability of electronic communications services, an operator has the right and, if such is requested by other market participants, has also an obligation to negotiate an agreement regarding interconnection or access and to enter into such contract. The contractual proposals, which the operator offers to other market participant, shall conform to the obligations, which have been imposed by *Public Utilities Commission*. The interconnection and access contract between the parties shall include the technical, commercial and other interconnection or access provisions. Such contract shall be drawn up in three copies; and within 10 days after the entering into force, one copy of such contract shall be submitted to the *Public Utilities Commission*.

4.2 How are interconnection or access disputes resolved? Does the national regulatory have jurisdiction to adjudicate and impose a legally binding solution?

Interconnection or access disputes between the parties shall be resolved by the *Public Utilities Commission* in procedural order set up by the Commission. In order to ensure that the end-users of one communications network are able to communicate with end-users of another communications networks, the *Public Utilities Commission* is entitled to impose legally binding obligations regarding interconnection or access. To impose such mandatory obligations the principles of fairness, proportionality and equality shall be observed. Prior to such a solution the *Commission* shall consult with the electronic communications market participants.

4.3 Are charges for interconnection and/or network access subject to price or cost regulation and, if so, how?

Taking into account market survey results, the *Public Utilities Commission* may impose, amend or withdraw for operator with SMP tariff regulation and cost accounting obligations (including a duty to approximate prices to costs and a requirement in relation to cost accounting and assignment system). In imposing such obligations, the *Commission* shall take into consideration the investments made by the relevant operator and shall allow them to acquire a proportional profit from the invested capital in provision of interconnection or access in conformity with the risks involved.

4.4 In the local loop are existing owners of access infrastructure required to unbundle their facilities and if so, on what terms or regulatory controls?

Order of unbundled access is set up by Public Utilities Commission. The Commission is entitled upon its own initiative or by request of one of the parties to ascertain the conditions to be included in unbundling of the local loops contracts, as well as to impose what needs to be observed by one or several of the contracting parties. The operator with SMP is required to publish reference offers for unbundling in a way, what ensures that the receivers of services do not have to pay for equipment of facilities that are not necessary for the requested services.

- 4.5 How are existing interconnection and access regulatory conditions to be applied to new network technologies such as so-called next generation networks or IP-based networks?

In order to ensure for a user the possibility of access to digital radio and digital television broadcasting services, the *Public Utilities Commission* is entitled considering fair, proportional and non-discriminatory treatment to impose to the operator the obligations to ensure access to application software interfaces and electronic programme guides.

5 Price and Consumer Regulation

- 5.1 Are (i) retail or (ii) wholesale price controls imposed on any operator in relation to fixed, mobile, or other services?

The *Public Utilities Commission* is entitled to impose retail or wholesale price control to electronic communications operators with SMP. That may include specifying the method for calculating price, approving price, imposing the obligation to approximate price to costs or any other price regulation measure.

- 5.2 Is the provision of electronic communications services to consumers subject to any special rules and if so, in what principal respects?

Additionally to the provisions of the Telecommunication Law regarding consumers - such as operators shall ensure transparency and public accessibility to the price of their service - the provisions of Latvian Consumer Law, Civil Law and Information Society Law may be applicable to the electronic communications services provided to consumers.

- 5.3 Are there any rules governing use and retention of customer call information?

There are Telecommunication Law rules governing use and retention of customer call information for the necessities for the needs of public security and criminal investigation.

6 Numbering

- 6.1 How are telephone numbers and network identifying codes allocated and by whom?

Telephone numbers are allocated by the *Public Utilities Commission* and afterwards registered and included in a database by the *Electronic Communications Office*. Network identifying codes are allocated by Regulations of Government (Cabinet of Ministers).

- 6.2 Are there any special rules which govern the use of telephone numbers?

For now the usage of telephone numbers are governed by Government *Regulations No 565 of 11.07.2006 on procedures by which the numbering resources shall be allocated, used, reserved or annulled and given up*, which will be in force until September 1, 2007. After this date the new Government Regulations will take effect.

- 6.3 How are telephone numbers made available for network use and how are such numbers activated for use by customers?

Telephone numbers are made available for network by *Public Utilities Commission* after the application of operator; or by organising tender or auction. The *Commission* is required to carry out the decision for entitlement to use the numbering during 3 weeks after the request. In case of the tender or auction being organised, the timescale is 6 weeks starting from the date of submission of application. The numbering can be used as soon as such rights are authorised by the *Commission*.

- 6.4 What are the basic rules applicable to the 'porting' (i.e. transfer) of telephone numbers (fixed and mobile).

The Authorisation of *Public Utilities Commission* for the rights to use the numbering may be transferred to another market participant. Conditions of transfer might already be specified in the requirements of the Authorisation. The application form and conditions for transfer are provided in the Regulations of the *Public Utilities Commission* (Regulations adopted by the PUC decision No 155 of 30.05.2007; and Regulations adopted by the PUC decision No 168 of 20.06.2007).

7 Fees

- 7.1 What fees and levies are payable and to whom with respect to the grant of a licence or other authorisation for the installation or use of network infrastructure or the provision of communication services?

The authorisation of *Public Utilities Commission* for the rights to use the radio frequency spectrum or numbering is subject to the annual fee, which shall not exceed the 0.2% of the net turnover of the operator in the previous year.

8 Submarine Cables

- 8.1 What are the main rules governing the bringing into Latvia's territorial waters, and the landing, of submarine cables? Are there any special authorisations required or fees to be paid with respect to submarine cables?

For the moment there is no specific regulation for the bringing into Latvia's territorial water and the landing of submarine cables regarding authorisations and fees; therefore general rules for construction could be applicable. The requirements of the Latvian Environmental Law shall be observed as well and the authorisation of the *State Environmental Service (Valsts vides dienests)* is required. The *Protection Zone Act* provides, that the protection zone along the submarine cable lines shall be 0.25 miles from the cable on each side.

9 Radio Frequency Spectrum

- 9.1 Is the use of radio frequency spectrum specifically regulated and if so, by which authority?

The usage of radio frequency spectrum is specifically regulated by *Public Utilities Commission*, which provides the authorisation of radio frequency spectrum, and *Electronic Communications Office*, which provides the Radio Frequency Assignment Use Permit.

9.2 In the grant of spectrum rights are distinctions made between mobile, fixed and satellite usage?

There are distinctions made between different types of usage, which shall correspond to a particular type of radio frequency spectrum.

9.3 How is the installation of satellite earth stations and their use for up-linking and down-linking regulated?

The installation of satellite earth stations and their use is regulated by the general requirements of the Telecommunication Law.

9.4 How is the use of radio frequency spectrum authorised in Latvia? Do the procedures available include spectrum auctions and comparative selection of candidates?

The authorisation of *Public Utilities Commission* is required for the rights to use the radio frequency spectrum. Such authorisation can be obtained by application to the Authority. The *Public Utilities Commission* is required to carry out the decision during 6 weeks from the submission of the application. The tender or auction can be organised as well - in this case the timescale is 8 months from the submission of the application. Moreover, the operator afterwards is required to obtain a Radio Frequency Assignment Use Permit from the *Electronic Communications Office*.

9.5 Can the use of spectrum be made licence-exempt? If so, under what conditions?

The use of spectrum without the authorisation of Authorities is allowed for those radio frequency spectrums, which are indicated at shared access permit on the conditions provided there.

9.6 If licence or other authorisation fees are payable for the use of radio frequency spectrum, how are these applied and calculated?

The authorisation of *Public Utilities Commission* for the rights to use the radio frequency spectrum is subject to the annual fee, which shall not exceed the 0.2% of the net turnover of the operator in the previous year.

9.7 Are spectrum licences able to be traded or sub-licensed and if so on what conditions?

The Authorisation of *Public Utilities Commission* for the rights to use the radio frequency spectrum may be transferred to another market participant. Conditions of transfer might be specified already in the requirements of the Authorisation. The application form and conditions for transfer are provided in the Regulations of the *Public Utilities Commission* (Regulations adopted by the PUC decision No 155 of 30.05.2007; and Regulations adopted by the PUC decision No 168 of 20.06.2007).

10 Interception

10.1 What are the essential rules applicable to the interception of messages, traffic data and other call records? Which rules apply to the retention of such call data, and over which period(s)?

Only authorised state authorities performing investigatory operations are entitled to the interception of information going

through electronic communications networks. Detailed order for the interception is provided by the *Regulations No 591 of 09.08.2005 on the procedures by which an electronic communications merchant shall install, in the electronic communications network, equipment, which shall ensure the acquisition of investigatory information from technical facilities and the investigatory wiretapping of conversations* and general investigation procedure rules. The operators are obligated for retention of certain call data for a minimum period of 18 months. The operators are prohibited to disclose any information regarding such interception of information except otherwise provided by law.

11 The Internet

11.1 Are services over the Internet regulated in any different way to other electronic communications services? Which rules, if any, govern access to the Internet at a wholesale and/or retail level?

The services over the Internet are not regulated in any different way to other electronic communications services - the general rules provided in *Electronic Communications Act* are applicable as far as it does not concern the provision of information society services and the content thereof, which are transmitted or received in electronic communications networks utilising publicly accessible electronic communications services. From March 15, 2009 operators providing internet services will be required to retain certain data regarding the use of their service by end-users.

11.2 Are there any rules to prevent, restrict or otherwise govern Internet or email communications, in particular, marketing and advertising communications?

Marketing and advertising communications over the Internet are subject to the requirements of Latvian Consumer Law. Therefore, provisions of the *Information Society Services Act*, *Advertising Act*, and the *Consumer Protection Rights Act* may be applicable as requirements for unsolicited communications, distance contracts, and withdrawal rights among other things.

12 USO

12.1 Is there a concept of universal service obligation; if so how is this defined, regulated and funded?

There is a concept of USO in Latvia. Universal service is defined as the minimum volume of electronic communication services with a specified quality, which for an affordable price is accessible to all existing and potential end-users irrespective of the geographical location thereof. The USO are determined and supervised by *Public Utilities Commission*. The funding order of the USO is provided by the Commission as well, which shall be made in accordance of principles of transparency, equality and proportionality and deforms the market as less as possible. Net costs of USO shall be calculated by the operator and be audited by sworn auditors. The net costs shall be compensated, if the operator proves that is subject to an unfair burden and the fulfilment of the USO is causing losses. Such losses shall not be compensated, if the USO creates additional benefits and such benefits exceed the losses caused by the unfair burden.

13 Foreign Ownership Rules

13.1 Are there any rules restricting direct or indirect foreign ownership interests in electronic communications companies whether in fixed, mobile, satellite or other wireless operations?

There are no direct or indirect restrictions for foreign ownership interests in electronic communications companies whether in fixed, mobile, satellite or other wireless operations.

14 Future plans

14.1 Are there any imminent and significant changes to the legal and regulatory regime for electronic communications?

There are no imminent and significant changes expected to the legal and regulatory regime for electronic communications. A number of new Regulations of Government (Cabinet of Ministers) is laid out to specify the regulatory regime already taking place.



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