

# LAW ON TELECOMMUNICATIONS

*On 9 June, 1998 (No. VIII-774) Seimas of the Republic of Lithuania adopted new legislation to regulate the telecommunications sector. The new Law on Telecommunications replaced the Law of the Republic of Lithuania on Radio Communication. The new law introduced a new regulatory body, the Communications Regulatory Authority, the concept of the National Radio Frequency Allocation Table, and an outline of the future relations between local cable operators and dominant telecommunications services providers. Below are extracts of the legislation that are significant to cable and terrestrial broadcasters.*

## Chapter I: GENERAL PROVISIONS

### Article 1. Purpose and Application of the Law

1. This Law shall establish the telecommunications regulatory framework of the Republic of Lithuania, with due regard to the requirements of the European Union law, regulate relations between the telecommunications operators and the users of their services, the management, use and control of radio communication, as well as the import, manufacturing, use and maintenance of equipment radiating electromagnetic waves, ensure an effective use of radio frequencies, and set forth conditions for promoting competition in the telecommunications sector.

2. This Law shall not regulate licensing activities of radio and television program broadcasters, with the exception of the requirement to submit to the Radio and Television Commission the basic terms and conditions of the activity of coordinated radio and television stations frequencies (channels) and of telecommunications networks intended for broadcasting radio and television programs.

9. Dominant telecommunications operator or dominant telecommunications services provider—a person holding a dominant position in the market under the criteria set forth by the Law on Competition of the Republic of Lithuania.

12. National Radio Frequency Allocation Table—an official document establishing distribution of radio frequencies for radio communication, industry, science, medicine and other needs.

17. Radio waves—electromagnetic waves that can travel across space unrestrictedly, in the frequency spectrum from 9 KHz to 3,000 GHz.

18. Assignment of radio frequency (channel)—an authorization issued by the Communications Regulatory Authority to use a radio frequency or a radio channel subject to prescribed terms and conditions.

20. Radio channels—a group of radio frequencies intended for the transmission and reception of certain information.

21. Radio communication—transmission and receiving of information by means of radio waves.

24. Transmission—part of broadcasting of television programs, belonging to the sphere of telecommunications activities and covering transmission and radiation of radio and television programs via telecommunications networks.

26. Telecommunications—transmission, sending, receiving of signs, signals, written texts, images and sounds or other information via wire, radio, optical, and other electromagnetic systems.

27. Telecommunications line—a physical means of connecting any points of a telecommunications network.

28. Telecommunications operator—a person operating his own or another person's telecommunications network (maintaining, developing, managing its functioning and interconnecting it with other networks).

29. Telecommunications services provider—a person providing telecommunications services through his own or another person's telecommunications network.

30. Telecommunications services—services wholly or partially related to the transmission and switching of signals of radio and television programs via telecommunications networks, excluding broadcasters' activities.

31. Telecommunications network—equipment and other devices that ensure transmission and switching of signals via wire, radio, optical and other electromagnetic systems, including cable television and public television receiving networks.

32. Termination point—physical connections conforming to the technical requirements and constituting a part of the public telecommunications network, necessary for connecting the terminal equipment to the public telecommunications network and maintaining effective communication via the network.

33. Broadcaster—a person having a license issued by the Radio and Television Commission who produces radio and television programs for transmission and transmits them or grants permission to a third party to transmit them completely and unaltered.

34. Universal services—a minimum of telecommunications services approved by the Government that is provided to all customers.

## **Chapter II: REGULATORY BODIES OF TELECOMMUNICATIONS ACTIVITIES**

### **Article 3. Regulatory Bodies of Telecommunications Activities**

1. Telecommunications in the Republic of Lithuania shall be regulated, on behalf of the State, in a manner prescribed by this Law by: 1) the Government or an authority designated by it; 2) the Communications Regulatory Authority.
2. Telecommunications for ensuring national defense, security, protection of state borders, civil aviation, safety of railway traffic and the uninterrupted and sound functioning of the energy sector shall be regulated by the relevant public authorities within the limits of their competence.

### **Article 4. Functions of the Government or an Authority Designated by it in the Telecommunications Sector**

1. The Government or an authority designated by it shall perform the following functions:
    - (1) develop and implement state policy in the telecommunications sector;
    - (2) cooperate with telecommunications agencies in foreign countries and, within the limits of its competence, represent the Republic of Lithuania in international organizations;
    - (3) approve the list of universal services;
    - (4) in cases set out by this Law, issue licenses for establishing and operating telecommunications networks, with the exception of the networks established and operated under the licenses issued to broadcasters by the Radio and Television Commission;
    - (5) in cases set out by this Law, issue licenses to provide telecommunications services, with the exception of services provided under the licenses issued to broadcasters by the Radio and Television Commission;
    - (6) after declaration of a state of war or an emergency, or in the event of imminent war, natural disasters or other cases, regulate, within the limits of its powers, telecommunications activities, and issue orders mandatory to all the owners of telecommunications networks and facilities and to telecommunications operators;
    - (7) perform other functions set forth by the laws and other legal acts of the Republic of Lithuania.
- Article 5. The Communications Regulatory Authority 1. The Communications Regulatory Authority shall be an independent institution of the Government regulating communications activities and implementing provisions of this Law, acting in accordance with this Law, other laws of the Republic of Lithuania, and its own regulations. The Agency shall be financed from the State budget.
2. Regulations of the Communications Regulatory Authority shall be approved by the Government.
  3. The Communications Regulatory Authority shall be a legal entity, having a state seal, and shall be able, in its own name, to acquire property and individual non-property rights and obligations.
  4. The Communications Regulatory Authority shall be headed by Director. The Director and the Agency board shall be appointed for a period of five years and may be dismissed by the President of the Republic at the recommendation of the Prime Minister. Its regulations are subject to the approval of the Government,

### **Article 6. Tasks, Functions and Rights of the Communications Regulatory Agency**

1. The Communications Regulatory Authority shall have the following tasks: 1) to ensure that there is no discrimination against telecommunications operators and that they enjoy equal opportunities to enter into agreements on the interconnection of telecommunications networks; 2) to ensure that equipment and devices used in the Republic of Lithuania conform to the technical standards valid in the Republic of Lithuania; 3) to ensure that there is no discrimination against the consumers, that they enjoy equal opportunities of access to public telecommunications networks and telecommunications services; 4) to ensure that operators of public telecommunications network and telecommunications service providers discharge their obligations that may be set in the interests of national defense, national security, the maintenance of public order, as well as during emergencies; 5) to ensure electromagnetic interoperability of equipment and facilities.
2. The Communications Regulatory Authority shall be charged with the following functions:
  - (1) to establish the procedure and terms and conditions for granting authorizations to engage in unlicensable telecommunications activities and to issue authorizations;
  - (2) to monitor compliance with the license terms and conditions;

- (3) to grant authorizations for the manufacture and use of equipment and devices and their sale, for the import and use of radio transmission and radio monitoring equipment and devices;
  - (4) to draft the obligatory requirements for equipment and devices, terminal equipment, for the connection of terminal equipment to the public telecommunications network and for the interconnection of telecommunications networks;
  - (5) to draft and approve regulations for the construction, use and protection of telecommunications networks, general terms and conditions of agreements on the interconnection of telecommunications networks, the procedure for the settlement of disputes between telecommunications operators concerning interconnection of telecommunications networks, as well as rules and regulations establishing the procedure for a joint use of conduits, cable ducts, collectors, towers and poles by telecommunications operators;
  - (6) to establish the maximum telecommunication services prices and tariffs in cases prescribed by this Law;
  - (7) to represent the Republic of Lithuania in international organizations on the issue of Radio Regulations, to prepare plans for the development of radio communication and statutory acts on the regulation of radio communication, to carry out international radio frequency coordination;
  - (8) to prepare and submit to the Government for its approval the National Radio Frequency Allocation Table, develop and implement the strategy for the use of radio frequencies in Lithuania;
  - (9) to prepare, together with the Radio and Television Commission, and submit to the Government for its approval the strategy and the strategic plan of allocation of radio frequencies for broadcasting and transmitting radio and television programs (the "strategic plan"). The strategic plan shall also include the development of telecommunications networks intended for broadcasting of radio and television programs;
  - (10) to prepare, control and supervise the National Telecommunications Numbering Plan;
  - (11) to approve the regulations for provision of telecommunications services, and a model agreement between telecommunications services providers and users;
  - (12) to settle disputes between telecommunications operators concerning the interconnection of telecommunications networks and a joint use of conduits, cable ducts, collectors, towers and poles.
3. The Communications Regulatory Authority shall have a right:
- (1) to control compliance with this Law, telecommunications rules and other legal acts on telecommunications activities;
  - (4) to undertake radio monitoring;
  - (5) to assign radio frequencies (channels);
  - (7) under an obligation of confidentiality, to receive from telecommunications operators all the necessary information related to the fulfillment of the tasks entrusted to it, including financial information.

#### **Article 7. Inspector of the Communications Regulatory Authority**

1. Control functions of the Communications Regulatory Authority shall be performed by the Inspector of the Communications Regulatory Authority. He shall be appointed and dismissed by the Director of the Communications Regulatory Authority.
2. The Communications Regulatory Authority shall be charged with the following functions:
  - (1) to establish the procedure and terms and conditions for granting authorizations to engage in unlicensable telecommunications activities and to issue authorizations;
  - (2) to monitor compliance with the license terms and conditions;
  - (3) to grant authorizations for the manufacture and use of equipment and devices and their sale, for the import and use of radio transmission and radio monitoring equipment and devices;
  - (4) to draft the obligatory requirements for equipment and devices, terminal equipment, for the connection of terminal equipment to the public telecommunications network and for the interconnection of telecommunications networks;
  - (5) to draft and approve regulations for the construction, use and protection of telecommunications networks, general terms and conditions of agreements on the interconnection of telecommunications networks, the procedure for the settlement of disputes between telecommunications operators concerning interconnection of telecommunications networks, as well as rules and regulations establishing the procedure for a joint use of conduits, cable ducts, collectors, towers and poles by telecommunications operators;
  - (6) to establish the maximum telecommunication services prices and tariffs in cases prescribed by this Law;
  - (7) to represent the Republic of Lithuania in international organizations on the issue of Radio Regulations, to prepare plans for the development of radio communication and statutory acts on the regulation of radio communication, to carry out international radio frequency coordination;

- (8) to prepare and submit to the Government for its approval the National Radio Frequency Allocation Table, develop and implement the strategy for the use of radio frequencies in Lithuania;
  - (9) to prepare, together with the Radio and Television Commission, and submit to the Government for its approval the strategy and the strategic plan of allocation of radio frequencies for broadcasting and transmitting radio and television programs (the "strategic plan"). The strategic plan shall also include the development of telecommunications networks intended for broadcasting of radio and television programs;
  - (10) to prepare, control and supervise the National Telecommunications Numbering Plan;
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### **Chapter III: REGULATION OF TELECOMMUNICATIONS SERVICES**

#### **Article 10. Licenses to Radio and Television Programs Broadcasters and Providers of Transmission Services**

1. A license for provision of transmission services shall be issued by the Government or an authority designated by it.
2. The broadcaster using the transmission services provided by a third party must have a license issued by the Radio and Television Commission, while its conditions and terms must be coordinated with the telecommunications operator providing transmission services.
3. The broadcaster who has been awarded a license by the Radio and Television Commission, granting him the right to establish and operate his own telecommunications networks, must obtain authorizations from the Communications Regulatory Authority to establish and operate telecommunications networks. The terms and conditions of these authorizations must comply with the basic conditions for the activities of telecommunications networks submitted by the Communications Regulatory Authority for the tenders organized by the Radio and Television Commission.

#### **Article 14. Duties and Rights of Providers and Users of Telecommunications Services**

1. The provider and the user of telecommunications services shall enter into an agreement on the provision of telecommunications services.
2. The telecommunications service provider must consider the request, suggestions and complaints with regard to telecommunications services provided by him and reply to them within one month from the day of receiving them.
3. If the subscriber is in arrears to the provider of telecommunications services for the services provided, the provider of telecommunications services shall have the right to demand from the subscriber an advance payment for telecommunications services.
4. The provider of telecommunications services shall have the right not to provide telecommunications services to the subscriber if the latter is in breach of the agreement on the provision of telecommunications services.
5. A discontinued provision of telecommunications services must be renewed in accordance with the procedure and terms stipulated in the agreement.
6. The provider of telecommunications services must inform the subscriber about the provided services, as well as about each separate service provided, if the subscriber so requests.
7. The provider of telecommunications services must pay an indemnity for damages to the subscriber in a manner prescribed by the laws of the Republic of Lithuania.
8. The agreement on the provision of telecommunications services must provide for the procedure of establishing and paying an indemnity where the consumer through no fault of his own could not make use of the service provided by the service provider.
9. Telecommunications operators and providers of telecommunications services, at the request of

subscribers, shall not provide information to third persons about the number of terminal equipment, the place of its installation and its owner, except cases provided by the laws of the Republic of Lithuania.

10. The dominant telecommunications operator shall manage the expense accounts of the provided telecommunications services according to their types, including those telecommunications services the rates for which are not regulated.

#### **Chapter IV: CONSTRUCTION, MAINTENANCE, SECURITY OF TELECOMMUNICATIONS NETWORKS AND JOINT USE OF TELECOMMUNICATIONS FACILITIES**

##### **Article 16. Construction and Joint Use of Telecommunications Lines and Telecommunications Facilities**

1. Telecommunications operators shall have the right to lay telecommunications lines and construct telecommunications facilities on land which, under statutory acts, is subject to easement, without changing the intended use of the land. Only upon obtaining authorization under a procedure prescribed by law to change the intended use of the land, may telecommunications operators lay communications lines and construct telecommunications facilities on land which, under statutory acts, is subject to easement.

2. During the construction or reconstruction of buildings, bridges or other structures, the removal of telecommunications lines and telecommunications facilities must be carried out by construction personnel, subject to a prior consent of the owners of telecommunications facilities.

3. During the laying of new lines or construction of telecommunications facilities, the Law of the Republic of Lithuania on Territorial Planning and the requirements of the Law on the Assessment of Impact of Projected Economic Activity on the Environment shall be complied with.

4. Telecommunications operators who are constructing joint telecommunications networks shall have the right, without violating the statutory acts in effect in the Republic of Lithuania, to make use of the roofs and technical premises of multi-occupancy dwellings for installing aerials and other necessary equipment.

5. Telecommunications operators shall have the right to install telecommunications equipment in premises owned by them. For residential premises in which telecommunications operators are tenants, installation shall be subject to permission granted by the owner of the premises. If telecommunications equipment is to be installed in multi-occupancy dwellings (of three or more flats), written, notarized consent from the owners of all residential and non-residential premises on the same landing, on the landing above and below, premises sharing common walls, and of the tenants of non-privatized flats shall be required.

6. In the event a telecommunications operator cannot exercise his right to lay new additional telecommunications lines and install telecommunications facilities, or if the costs for exercising this right are disproportionately high, the Communications Regulatory Authority may request any other telecommunications operator to allow the former operator to jointly use, on a non-discriminatory basis, the existing conduits, cable ducts, collectors, towers, poles and other facilities, or to install telecommunications facilities when this is economically expedient and does not require any additional cardinal work.

7. The terms and conditions of using the conduits, ducts, collectors, towers, poles and other equipment belonging to another operator shall be established by a contract. The telecommunications operator who owns the telecommunications equipment referred to in this paragraph may not refuse to ratify, amend or terminate such a contract with another telecommunications operator if the obligations stipulated in the contract are fulfilled.

8. A telecommunications operator shall pay, under the agreement of the parties, an appropriate fee to another operator for using his conduits, ducts, collectors, towers, poles and other devices.

9. In a manner prescribed by the Government of the Republic of Lithuania, the company Lietuvos Telekomas shall buy out the telecommunications networks installed at the users' expense.

10. The Communications Regulatory Authority shall hear disputes relating to the terms and conditions of contracts on a joint use of conduits, cable ducts, collectors, towers and poles, and on the rate of the fee. If the parties to a dispute disagree with the decision of the Communications Regulatory Authority, they shall have the right to apply to court in a manner prescribed by law.

#### **Chapter V: MANAGEMENT OF RADIO COMMUNICATION**

##### **Article 19. Assignment of Radio Frequencies (Channels)**

1. Radio frequencies (channels) shall be assigned by the Communications Regulatory Authority in

accordance with the international commitments of the Republic of Lithuania, the Radio Regulation, the National Radio Frequency Allocation Table and other radio communication regulatory enactments.

2. Radio frequencies (channels) for broadcasting and transmission of radio and television programs shall be assigned in accordance with the strategic plan.

3. The information about the frequencies of coordinated radio and television stations intended for the broadcasters in accordance with the strategic plan, together with the basic terms and conditions of activities of telecommunications networks shall be submitted to the Radio and Television Commission. The Communications Regulatory Authority shall issue authorizations for the construction and operation of broadcasting transmitters to persons holding licenses issued by the Radio and Television Commission.

4. The frequencies (channels) of coordinated radio and television stations intended, in accordance with the strategic plan, for telecommunications operators providing transmission services, or for the reconstruction and expansion of telecommunications networks used for the broadcasting of radio and television programs, shall be assigned by the Communications Regulatory Authority.

### **Article 23. Radio Monitoring**

1. The Communications Regulatory Authority shall control compliance with the requirements of the legal acts regulating radio communication, and shall carry out radio monitoring. By means of radio monitoring, control and analysis shall be carried out to establish to what extent the range of radio frequencies is occupied by radiation of radio stations, whether the radiation spectrums in the used frequency ranges and industrial radio interference are in conformity with the permissible norms, and whether the non-band, secondary and interfering radiation is in conformity with the limit norms.

2. The information obtained by way of radio monitoring shall be used only in the activities of the Communications Regulatory Authority which are subject to this Law.

### **Article 27. Extraordinary Circumstances**

1. In cases of force majeure and in emergency situations, the Government or an institution designated by it may give mandatory instructions to telecommunications operators and providers of telecommunications services, in a manner prescribed by the laws and other legal acts, to protect and maintain strategic telecommunications networks, and, if necessary, limit public access to telecommunications networks.

2. Telecommunications operators must provide a technical opportunity for entities of operational activities, under a procedure prescribed by the laws of the Republic of Lithuania, to monitor the content of the information transmitted via telecommunications networks, as well as to provide all available information to said entities about the subscribers. The foregoing shall be reimbursed in a manner prescribed by the Government of the Republic of Lithuania.

3. Monitoring of the information transmitted via telecommunications networks shall be carried out by a body designated by the Government of the Republic of Lithuania—an entity of operational activity. Other entities of operational activity of the Republic of Lithuania shall obtain information transmitted via telecommunications networks, necessary for their work, from said body in a manner prescribed by the Government of the Republic of Lithuania. The software and equipment necessary for monitoring the content of information transmitted via telecommunications networks shall be purchased and the activities of the division of the institution monitoring the information shall be financed from the state budget.