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Law . Tax

April 2015

TRANSMIT

Communications, media and sports update



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Welcome to TRANSMIT

April 2015

● This is your update on the latest regulatory and legal developments in the communications, media and sports industries. This edition includes contributions from across Europe, China, the US and South America.



Europe

Communications

Commission seeks views on spectrum use for wireless broadband

On 12 March 2015, the European Commission launched a public consultation on how to use the Ultra High Frequency ('UHF') spectrum most effectively in the future. The UHF TV broadcasting band (470-790 MHz) is currently used in the EU for digital terrestrial television and wireless audio equipment. However, these frequencies are becoming particularly appropriate to provide wireless broadband at higher speeds and with better geographical coverage.

The Commission is seeking views, in particular, on two options proposed in the Lamy Report, published by the Commission in September 2014. Under the first option, the 700 MHz band should be dedicated to wireless broadband across Europe by 2020 but the remaining UHF spectrum below 700 MHz would be safeguarded for terrestrial broadcasters until 2030 (with a review of technology and market developments by 2025). Under the second 'flexibility' option, broadcasting use would always have priority, but specific channels or locations could become available for downlink-only wireless broadband applications depending on national circumstances.

The Commission invites responses to its questionnaire by 12 April 2015. It will use responses to this consultation (as well as the Lamy Report, input from the Radio Spectrum Policy Group and Commission studies) to design a long-term strategy for the future use of the UHF band.

For more information, please go to: <https://ec.europa.eu/digital-agenda/en/news/commission-seeks-views-spectrum-use-wireless-broadband>

Council publishes Latvian Presidency roadmap on Connected Continent telecoms reform proposals

On 8 March 2015, the Council of the European Union published a roadmap prepared by the Latvian Presidency for further consideration of the European Commission's proposed 'Connected Continent' regulation. This confirms that the focus of the Council's future examination will be on provisions concerning roaming and net neutrality. The Presidency does not intend to examine further the proposals in relation to spectrum.

An annex to the roadmap sets out a proposal for a possible new approach to considering roaming, following on from BEREC's report on the 'Roam Like At Home' ('RLAH') proposals. Under this proposal, the Commission will review the roaming wholesale market and present proposals on wholesale regulation within 24 months. Until entry into force of the regulation resulting from that review, operators would be allowed to charge consumers a surcharge for roaming services (in addition to the retail domestic price). There could be a 'basic roaming allowance' to allow customers to roam at domestic prices up to a minimum level.

For more information, please go to: <http://data.consilium.europa.eu/doc/document/ST-5071-2015-INIT/en/pdf>

Sports

Platini tells EU to outlaw third party ownership of players

Michel Platini, President of UEFA, has urged the European Union to outlaw third-party ownership ('TPO') of footballers and has cast doubt on whether FIFA will act effectively to stamp out the practice.

TPO can see a player partly owned by a club, and partly by one or more investors. Critics say such arrangements can lead to conflicts of interest and the potential for corruption, whereas advocates of the system argue that it enables poorer clubs to hang on to their best players by generating funds to match the wages of bigger and wealthier rivals.



Under this proposal, the Commission would review the roaming wholesale market and present proposals on wholesale regulation within 24 months

Bowing to pressure from UEFA, in September 2014 the FIFA Executive Committee took the decision of general principle that TPO of players' economic rights shall be banned with a transitional period. FIFA have said that it will need three to four years to implement its decision, with the exact timescale not to be decided until March 2015.

British football has already banned TPO and Platini said that the whole of the European Union should create a legal framework to ensure the elimination of the practice. Platini told ministers that 'players see their contractual freedom restricted as their owners abuse

their power and do lucrative deals on their backs. It has very little to do with human dignity of the fundamental rights on which the European Union is based.' FIFA has set up a TPO working group to address the topic. FIFA's website states that they 'remain fully committed to reaching a solution that best protects football and that corresponds to the evolving needs of the game after hearing the positions of all members of the football community.'

For more information, please go to: <http://www.fifa.com/aboutfifa/organisation/footballgovernance/news/newsid=2435566/>



Czech Republic

Communications

Czech Telecommunications Authority: New Market Analysis

On 29 October 2014, six years after its previous analysis, the Czech Telecommunication Authority (the 'CTA') released, after a thorough market investigation, its third analysis of the relevant market category No. 5, which covers the market of wholesale (physical) broadband access in electronic communication networks. The CTA stated that the relevant market is not sufficiently competitive as it is dominated by a single company, O2 Czech Republic a.s., which has significant market power. It also confirmed that remedies available under Czech or EU competition law are not adequate to address this issue.

The CTA included in the definition of market category No. 5, access at a fixed location, xDSL and FTTx but not access through cable or Wi-Fi. When compared to the previous analysis of market category No. 5, the class is now more broadly defined as it includes optic fibres (FFTH, FTTB and FTTC). Geographically, the relevant market covers the Czech Republic.

The CTA stated that the operator O2 has significant market power due to its overall size of business, control of infrastructure which is not easily duplicated, diversification of products and services, economies of scale, vertical integration, barriers to market entry and a high market share of 72.4%.

The CTA's proposed remedial measures against O2 are to require O2 to provide bitstream access; to create Service Level Agreements; to put into place measures to ensure duplicability, transparency and non-discrimination; to create Equivalence of Inputs for access to O2's NGA networks; and to separate accounts. However, there is no duty for O2 with regard to price as, according to the CTA, price regulation would be inappropriate in the Czech market.

New ADR rules for domain disputes. A return to arbitration in dealing with cyber-squatters?

From March 2015, the rules for alternative dispute resolution of '.cz' domain names will be considerably changed. In 2014, the Supreme Court of the Czech

Republic ruled the existing on-line arbitration clause to be invalid, leading to a steep increase in civil court proceedings to resolve domain disputes. New rules which came into force at the start of 2015 should result in the parties opting for arbitration again.

The previous Rules of ADR contained an arbitration clause applicable to any disputes between the domain holder and CZ.NIC (the Czech domain name Administrator), as well as disputes between the domain holder and any third-party challenging the domain holder's registration (typically an owner of a trademark or similar intellectual property right pursuing a cease and desist / domain transfer claim against a domain holder, often a cyber-squatter).

In the recent decision on a dispute concerning a cyber-squatter the Supreme Court considered the arbitration clause to be invalid. Prior to the Supreme Court's decision it was held that, by accepting the Rules of a domain name holder upon registering a domain, the registering domain holder is deemed to make a public arbitrary offer. Should such a domain holder be sued by a third party for using the domain, the previously made arbitrary offer resulted in the formation of an arbitration agreement, establishing the competency of the arbitration court. On the contrary, the Supreme Court ruled that accepting the Rules of a domain holder cannot be considered as a public offer vis-à-vis third parties resulting in an arbitration agreement if such parties file a claim with the Arbitration Court, specifically because it lacks a mutual agreement of the parties.

As a reaction to the decision, the Administrator has decided to renew the Rules of ADR, which reflects the Supreme Court's complaints. The new Rules of ADR in their current form reveal some substantial changes coming to dispute resolution concerning '.cz' domains. The new Rules of ADR reflect these findings and completely change the concept of '.cz' domain names. Any disputes will soon be brought before an 'Expert' or a 'Panel of Experts', a qualified person(s) registered with the Administrator. Under the new Rules of ADR, only a

cancellation or a transfer of the registration of a domain name may be claimed for, not the costs of proceedings or compensation for damages. Claimants will need to assert their damages and costs in civil court proceedings.

Further, the dispute resolution proceedings before an Expert will be purely of a 'private' nature and, therefore, will not impede the right to bring a claim before an arbitration or civil court.

It is important to note that the current '.cz' domain name holders must accept the new Rules of ADR once renewing their existing registrations. However, since some of the holders have their registrations valid for up to 10 years, it may take a significant amount of time before the new ADR rules have full effect on all domain holders.

“ The CTA stated that the relevant market is not sufficiently competitive as it is dominated by a single company, O2 Czech Republic a.s., which has significant market power



Germany

Communications

Qualification procedure for spectrum auction opened

On 29 January 2015 the Federal Network Agency (Bundesnetzagentur) published its spectrum auction decision regarding frequencies for mobile broadband services in the 900 MHz and 1800 MHz bands. As the first country in Europe, Germany plans to also auction spectrum in the 700 MHz band for these services. Due to a switch to DVB T2 by television broadcasters in total 2 x 30 MHz of spectrum in the 700 MHz band will gradually become available from 2017 on. The 700 MHz spectrum will be auctioned together with the spectrum in the 900 MHz and 1800 MHz bands for which usage rights expire at the end of 2016.

Along with spectrum auction decision the Bundesnetzagentur opened the qualification procedure for all companies interested in taking part in the auction. Companies wishing to take part in the auction have until 6 March 2015 to submit their applications. The auction is due to be held in Mainz in May/June 2015.

For more information, please go to:
www.bundesnetzagentur.de/mobilebroadband

Media

Implications of Payment Service Directive 2 for Online Portals

Online portals that accept payments from customers in order to pass them on subsequently to the dealers (registered with the Online Portal) provide so-called 'payment services' according to the legal situation in Germany. Consequently, they generally require a licence from the German Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)). In the current legal situation, this licence requirement can be circumvented by a relatively minor adjustment of the business model: it suffices for the relevant online portal to act as a 'commercial agent'. The reason for this is that the law provides an exemption from the licence requirement for such commercial agents.

Payment Service Directive 2, which will presumably come into force this year, will, however, contain a considerable restriction for the commercial agent exemption. Thus, in the future, the exemption is to be limited to persons who act either for the payer or for the payee. The exemption will no longer apply to persons that act for both parties. This applies specifically to online portals that process payments between registered customers and dealers.

The directive is expected to be transposed into German law as of 2017. Operators of online portals need to act earlier, however: if they do not take action, there is, above all, a risk (apart from fines and imprisonment) that a continuation of business operation is prohibited by order of a court. This risk can be avoided by obtaining a licence from BaFin. Depending on the business model, a modification of the contractual relationships may also be possible, with the consequence that there is no duty to obtain a licence. Enough time should be scheduled for both variants, because a licensing procedure at BaFin can easily take one year (or more). It takes just as long to obtain the confirmation from BaFin that a – possibly modified – business model does not require a licence (so-called negative clearance certificate).

German Federal Government Passes IT Security Act

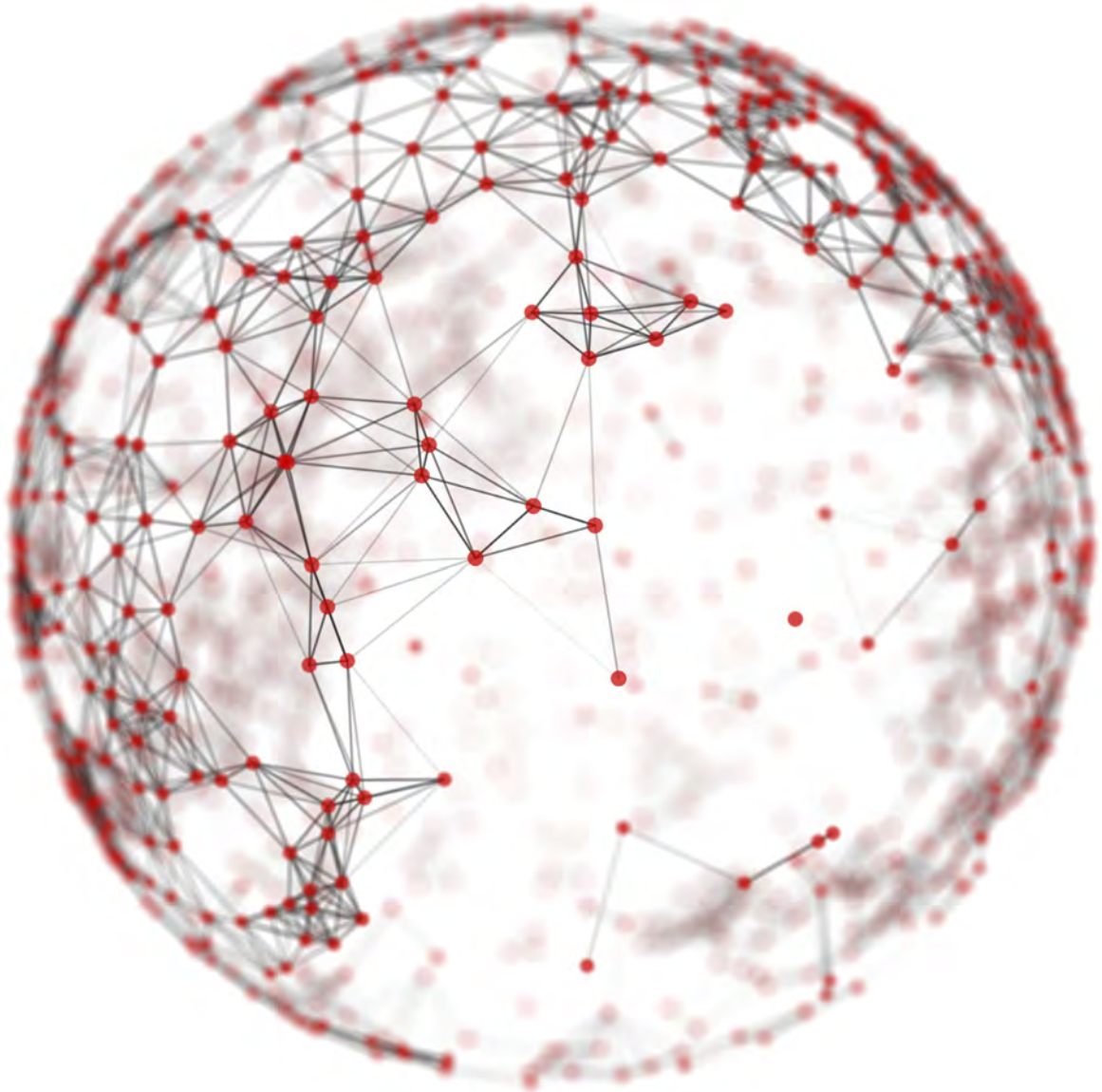
The German federal government has passed the Act to Increase the Security of Information Technology Systems ('IT Security Act'). After the parliamentary procedure has been completed and the IT Security Act has come into force, operators of so-called 'critical infrastructures' must meet certain organisational and technical minimum standards corresponding to state-of-the-art technology. The German Federal Office for Information Security ('BSI') is supposed to be authorised to review compliance with the standards.

Moreover, the Act is also supposed to include reporting obligations to the BSI, for example, in the event of IT security incidents, such as hacker attacks. According to the bill, it is generally supposed to be possible to

report anonymously. Only in the event that a loss has already occurred must the reporter of the incident identify himself.

The Act applies only to operators of 'critical infrastructures', thus companies from the sectors of health, energy, transport, water, food, finance and insurance and IT and telecommunications, in particular.

It is estimated that some 2,000 companies will be affected, for example, hospitals, energy suppliers, banks, but also operators of commercial web sites and access providers that make available potential distribution channels for malware. According to estimates of the industry association Bitkom, these companies are in for annual costs amounting to approximately 1.1 billion euros.



The German federal government has passed the Act to Increase the Security of Information Technology Systems ('IT Security Act')

Hungary

Communications

Internet Tax: Planned then scrapped

On Tuesday 21st October 2014, the Hungarian government submitted a bill to the Parliament on amending the Act on Telecommunications Tax. The proposed internet tax was 150 HUF (€0,5) per GB. The ministry said that the reason for this extra tax was the change in the inefficiency of the current 'telephone & SMS' tax, so that VoIP and OTT providers would not avoid the tax (currently, telecom service providers in Hungary have to pay 2-3 HUF per minute or per SMS.) The tax would have been payable by the service providers, with strong, consumer protection type safeguards in place prohibiting sharing of this burden with consumers (for the sake of comparison: 5 GB monthly traffic of mobile internet access costs around 4000 HUF, the tax for the same traffic would have amounted to 750 HUF, a 19% increase).

Following large protests against the internet tax, on 31st October, the Prime Minister announced giving up on the bill on internet tax and the bill was then withdrawn.

Hungarian regulatory authority introduced new decree for subscriber contracts and new draft for frequency management

In December 2014, the National Media and Info Communications Authority published plans for a new decree to recodify all national frequency allocation plans, and the rules on the use of frequencies being brought together into a single piece of legislation. It is planned that this decree will enter into force by mid-2015.

In March 2015, a new decree on subscriber contracts was published and introduced further restrictions on the provision of service to subscribers (including consumers and SMEs). The current regulatory regime in Hungary regarding subscriber contracts is very detailed, resulting in general terms and conditions for such services being a minimum of 40 pages long. The purpose of the new decree is to address consumer complaints, and to make the contracting process more unified for all service providers. The new rules will become effective in two phases, and service providers will have to adjust their general terms and conditions by 31st August and 30th November accordingly.

New and updated government plans for internet access

In November 2014, the Government published a new work programme called the 'Digital National Development Program'. Based on the plans of Digital Agenda for Europe 2020, among others, the aim is to roll-out internet access to the full area of Hungary with 30 Mbps bandwidth by 2018, to introduce 280 integrated government contact points and, by 2020 to have all government services available electronically, together with mandatory electronic access for all businesses.

Also, a new 'Green Book on the directions of development of the ICT sector' was published and incorporated into the previously accepted National Info Communications Strategy 2014-2020. The new green book is actually an action plan and, once approved in Brussels, it will form the basis of the future operative programmes in the ICT sector, fleshing out details on the use of development funds.

New guidelines from the Hungarian Data Protection Authority on internal policies and organisational measures

The Hungarian Data Protection Authority ('DPA') imposed a fine of HUF 750,000 (approx. €2,500) on a direct marketing company, ordered it to revise its policies, and seek new privacy consent from its users. During the investigation, the DPA requested extensive internal records and information on the data processing, which are not expressly required by the applicable law, but the DPA may have reasonably expected their availability. For example, the DPA requested for the mandatory Internal Data Transfer Registry of the company, and also for documents which contain information regarding the selection criteria a company uses to decide who receives the users' data, together with the protocol on the specific data transfer. The DPA also requested detailed information from the company on its databases, and asked it to name the IT professionals who were authorised to send out DM messages. Furthermore, the DPA asked the company to provide (i) its policy regulating the fulfilment of data access and erasure requests, including the identification of the user exercising such right; and (ii) additional information on how the company ensures data security when transporting physical data.



Following large protests against the internet tax, on 31st October, the Prime Minister announced giving up on the bill on internet tax

The DPA emphasised that internal policies and organisational measures should be clear in sufficient detail on how the employees / contractors who carry out their data processing duties and access databases shall comply with the applicable laws and regulations. The DPA also commented on the company's external privacy policy and found that it would be important to (i) specify the actual data transfers and to avoid reference to 'potential' data processing (e.g. use 'will transfer data' instead of 'may transfer data'); (ii) indicate whether the transferee is a controller or a processor; (iii) adjust the terms and conditions to the definitions used by the law; (iv) identify all data processors; and (v) detail the data processing purposes and the rights and remedies of the relevant people. The DPA also pointed out that data processing consent is not free and express if the 'yes' checkbox is ticked in advance by default and does not require any action from the user besides proceeding with the registration. According to the DPA, in case of multiple data transfers with different processing purposes, users shall provide their consent to each type of transfer separately.

It is advisable for all companies to review their own practices, internal processes, newsletters, advertisements and privacy policies in view of the findings of the DPA. It is a novelty in the DPA's practice that in this particular case it advised the company to seek a new consent from the existing users, in line with the privacy policy amended to the DPA's findings. The company shall delete the data of those users who do not repeat their consent. The DPA's order which contains the guidelines above can be found at http://naih.hu/files/2298_2013_H_HATAROZAT_anonim.pdf (only available in Hungarian).

New recommendation from the Hungarian Data Protection Authority on the operation of drones

Hungary does not have a specific regulation on drones but legislation is being prepared by the Parliament to regulate this area. Until this Act comes into effect the use of drones is only possible upon a preliminary license by the Aviation Authority of the National Transport Authority. Now the Hungarian Data Protection Authority (DPA) has issued a recommendation on the privacy aspects on the operation of drones, and the potential issues to be considered in the legislative process.

The proposed Act should declare that data processing via drones is permissible only for a lawful purpose. To ensure this, the DPA suggests the introduction of an authorisation procedure, which would be performed by the Hungarian Aviation Authority (HAA). Data recorded for a specific purpose may not be used for purposes not included in the original permit granted by the HAA for

the data collection. The law should provide for an identification method for the users and operators of drones with the help of which the relevant people can easily identify the data controller. A system needs to be set up which is capable of showing, searching and retrieving the flight route. The relevant person needs to be aware of the place and time the user of the drone starts / is able to start the data processing. The DPA also suggests creating an official register for users and operators of drones for commercial purposes which would make handling data protection, flight security and liability insurance issues easier and more effective. The DPA also recommends setting up a new method for data transmission, which is more secure than the currently used Wi-Fi-based data transfer. The use of drones for private purposes should be restricted to an area officially designated for such use, and such use would be subject to a simplified authorization procedure and registration. The DPA's recommendation can be found at: http://naih.hu/files/ajanlas_dronok_vegleges_www1.pdf (only in Hungarian).

Media

Changes to the Media Act

The Media Act was amended two times during the autumn of 2014. The most important rule of the first amendment, effective as of 30 September 2014, was that media service providers of linear audiovisual media services with significant powers of influence ('SPI') may not charge any program fee (license fee) to program distributors for the distribution of such media services until a Governmental Decree is adopted which shall set out the rules concerning the license fee. The media providers of TV2 and RTL Klub, Hungary's two largest channels were targeted by the new regulation as they purposed to charge for licensing as of 1 March 2015. The Governmental Decree has not been adopted up to this day and no drafts were circulated for public consultation either.

The second amendment affected the 'must carry' obligation with the effect of 1 July 2015, the main points of which are as follows:

- The number of must carry public service channels will increase from 4 to 6. The public service broadcaster will launch a new sports channel and an entertainment channel targeting young audiences (between 16 and 35 years of age).
- The HD feeds of the must carry public service channels shall be distributed under the same conditions as the SD feeds by program distributors providing digital program distribution subscriber services and having any HD channel in their channel line up.
- All must carry public service channels (SD+HD feeds as well) have to be allocated to the first channel slots in the program distributor's EPG.



Italy

Communications

Tender procedure for the allocation of rights frequencies in the L-band range

On 13 March 2015 the Italian Communications Authority ('**AGCOM**') approved a resolution relating to the allocation of rights to use radio frequencies on the so-called L-band (1452-1492 MHz). The frequencies will be allocated via a tender process and are reserved for ultra-broadband and broadband mobile communication services adopting 4G technology. The regulations for the tender shall be issued by AGCOM before 15 March 2015. To assist in the preparation of the regulations, AGCOM has started a public consultation procedure open to all interested parties, which will cover the methods of allocation of L-band frequencies, the definition of the lots of frequency that will be put to tender and the rules of conduct for the tender process. Information on the public consultation, which will last for 30 days, can be found on the AGCOM's website (www.agcom.it)

Data on the procedures to remove infringing contents published by the Italian Communications Authority

The Italian Communication Authority ('**AGCOM**') has published data (for up to 16 March 2015) on the application of the new AGCOM procedures on copyright infringement on the internet and on audiovisual media services. As mentioned in previous issues of Transmit, the new AGCOM regulation on the protection of copyright on electronic communications networks came into force on 31 March 2014. The regulation introduced specific procedures allowing for people to contact AGCOM to request removal of copyright infringing contents on the Internet and on audiovisual media services. AGCOM have so far received 159 requests for removal, of which 157 related to content published on the internet and 2 concerned content on other types of media.

In 30 cases AGCOM ordered the relevant service provider to remove access to the infringing material. In 59 cases the infringing materials were removed spontaneously before involvement from AGCOM, 48 requests were dismissed by AGCOM, 5 requests were withdrawn by the complainant and 5 procedures are currently on-going. Based on the above information, the new procedure seems to be working quite efficiently. However, a complaint before the Italian Constitutional Court has been filed in the last few months, arguing

that intellectual property matters should only be within the remit of the ordinary courts and that AGCOM should not have the power to issue decisions on these types of cases. We will inform you through Transmit about the outcome of the Constitutional Court proceedings. More information can be found on www.cms-aacs.com/The-new-regulation-on-copyright-of-the-Italian-Communication-Authority-AGCOM-coming-into-force-on-31-March-2014-19-03-2014

Italian Communication Authority passes resolutions on the evolution of the TV Broadcasting market in Italy

On 13 March 2015 the Italian Communication Authority ('**AGCOM**') approved a package of resolutions relating to the evolution of the TV broadcasting market in Italy and its impact on AGCOM's regulatory policies. One such resolution concerns the results of the preliminary investigation on 'Television 2.0 in the age of convergence', aimed at assessing the consistency of existing regulations with the dynamics of a market in continuous evolution.

The consultation revealed a situation of regulatory asymmetry between the rules applicable to traditional linear television and those relating to audiovisual services offered via the internet. According to AGCOM, the sector of audiovisual production is particularly affected by structural changes in the television market. The regulatory framework no longer seems in line with the latest technological developments which is why there is a necessity to adopt new regulations and commence a new investigation. The investigation will also have the objective of providing recommendations to the Italian government and parliament for a review of the legal framework applicable to the audiovisual sector (if deemed necessary).

AGCOM also announced its intention to draft a Consolidated Text of all the regulations approved by AGCOM since 2009 that concern the audiovisual sector. The draft of this Consolidated Text will be submitted to a public consultation procedure before its formal approval.

More information on the recent AGCOM's resolutions can be found on AGCOM's website (www.agcom.it).

Romania

Communications

Controversial Cyber Security Law declared unconstitutional

In December 2014 the Romanian Parliament passed a law on cybersecurity that stirred a wide debate over the balance between privacy rights and the fight against anti-terrorism.

The new law named the Romanian Intelligence Agency ('SRI') as the national cyber security authority and granted it, as well as eight other public authorities (comprised of three additional intelligence services, two ministries, and the telecoms regulator) the possibility of accessing data from IT systems owned, possessed, managed, operated or used by legal entities, upon a 'substantiated' request from these institutions, but without any judicial authorisation. The new law does not specify the types of data that may be accessed and does not contain any safeguards against possible abuses. The law does not oblige the requesting authorities to implement personal data protection policies.

The new rules generated a wave of NGO protests at the end of 2014 which culminated with the referral of the law to the Romanian Constitutional Court. On 21 March 2015, the Court found the law to be unconstitutional in its entirety, on grounds that it lacks consistency, coherence, clarity and predictability and that it failed to obtain the necessary approval from the Country's Supreme Council of Defence.

However, the debate on the topic of privacy and access to data versus national security is expected to continue. The recent terrorist outbursts in Western Europe have fuelled initiative by Romanian authorities around a possible revival of the so-called 'Big Brother Laws' quashed by the Constitutional Court in July and September 2014, the domestic data retention law (which transposed the EU Data Retention Directive stifled by the ECJ in April 2014) and the law providing for the mandatory identification of telephony pre-paid cards users and internet access users via public Wi-Fi networks. Government authorities, SRI and the General Prosecutor publicly advocated the need to have access to data which they see as a crucial tool enabling effective protection against terrorism.

Romanian regulator launches an online tool measuring performance of internet access services

On 8 October 2014 the Romanian Authority for Management and Regulation in Communications ('ANCOM') launched an application for testing and monitoring the quality of internet access services, available online at Netograf.ro. This application allows users to measure the data transfer rate and other service parameters (such as delay and packet loss ratio) of their service and compare actual performance to that declared by the provider.

According to ANCOM regulations, all internet service providers have the obligation to use a web interface to input the quality parameters announced in their active commercial offers into the new online tool. The application is also able to compute the average values of the quality parameters offered by each provider, both nationwide and locally. Naturally, statistics will become relevant once a sufficient number of tests are performed.

This tool may also allow ANCOM to monitor the quality of the internet access service offered to users and assess the need for future regulatory interventions aimed at promoting competition and protecting users' rights.

This is the second online user application developed by ANCOM after Veritel.ro, a telecom offer comparison tool launched in 2013 where users entering their consumption profile are quoted the best 25 service offers available in the market matching their needs.

Media

Auction for the digital television multiplexes continues

In December 2014, the Romanian National Authority for Management and Regulation in Communications ('ANCOM') launched the auction for the award of the two national digital television multiplexes which had not been awarded in the previous auction held in 2014, as

well as 40 regional and 19 local multiplexes. Romania undertook to switch-off analogue television broadcasting by 17 June 2015 and this auction is a necessary step towards the switchover to digital terrestrial television.

ANCOM announced on 20 March 2015 that the five companies which submitted applications (the Romanian players 2K Telecom, Radio M Plus, Regal, Cargo Sped and Digital Video Broadcast) qualified for the next stage of the auction. The regulator will now assess the initial bids submitted by the applicants and announce by the end of March either the winning bidders or the necessity of bidding rounds if the demand exceeds the number of available multiplexes.

The multiplexes will be awarded for a 10-year period and the winners will be able to commence commercial television broadcasting services as of 17 June 2015. The

winners of the two national multiplexes will have to put into operation at least 36 transmitters by 1 May 2017. By the same date, the winners of the regional or local multiplexes will have to launch into operation at least one transmitter in each assignment area. The minimum licence fee, i.e. the starting price of the auction, is €300,000 for each of the two national multiplexes, and ranges between €1,000 and €12,000 for the local and regional multiplexes.

The first auction for the award of digital television multiplexes resulted in the award of three multiplexes to the state-owned company Societatea Nationala de Radiocomunicatii which ensures the broadcasting of the public television and radio channels, for a licence fee of €1,020,002. The company won the only multiplex falling under the free to air broadcasting obligation and two other multiplexes in the UHF band.





Spain

Communications

The Spanish Competition and Market Authority ('CNMC') has decided to close the case and to take no further action in relation to the complaint filed by Orange Espagne, S.A., Unipersonal and Vodafone España, S.A.U. against Telefonica for Telefonica's auction offer on the 10Mb and 100Mb for fibre-optic cable networks.

For more information, please go to: <http://bit.ly/1NJddFt>

The Spanish Competition and Market Authority ('CNMC') is considering the possibility of obliging Telefonica to share its fibre-optic cable network with competitors in the whole of Spain except for the 9 biggest cities.

A draft decision has been submitted for public consultation by the CNMC. No final decision has been made yet.

For more information, please go to: <http://bit.ly/1G54b4k>

Mobile telephone lines keep declining with a loss of 78,177 lines in October 2014

According to a report by the Competition and Market Authority, broadband access increased by 99,422 new connections in the same month. The decrease of mobile lines in October comes after 7 months of growth and is caused by the decrease in the use of prepaid phone cards.

For more information, please go to: <http://www.expansion.com/2014/12/22/empresas/tmt/1419240870.html>

Media

Royal Decree 805/2014, dated 19 September 2014, approves National Technical Plan for Digital terrestrial television and regulates some aspects for the release of the digital dividend.

The object of the National Technical Plan is to:

- simplify the release process while avoiding any cost to citizens;
- anticipate the deployment of new mobile telephone networks; and

- promote more advanced and competitive technological innovations and services.

The new regulation relates to a process for reorganisation of the spectrum and for the release of the channels so that they can be used by those operators who acquired a right to use them in auctions which were conducted in 2011.

The Royal Decree also contains provisions relating to better quality television broadcasts with a particular emphasis on broadcasting in high definition, and discusses some measures to improve telecommunications services within buildings in anticipation of the release of the digital dividend.

For more information, please go to: <http://www.boe.es/boe/dias/2014/09/24/pdfs/BOE-A-2014-9667.pdf>

A resolution of the Secretary of State for Telecommunications and the Information Society dated 16 October 2014, establishes the timeframe in which to relocate digital television as set out in the National Technical Plan for Digital terrestrial television

This resolution regulates the timeframe in which authorised operators should relocate their channels, taking into account the complexity of the process and the need for coordination of the technical actions which are required.

For more information, please go to: <http://www.boe.es/boe/dias/2014/10/21/pdfs/BOE-A-2014-10661.pdf>

Royal Decree 920/2014 dated 31 October 2014, regulates the awarding of grants to offset the costs incurred in making adaptations to buildings in readiness for the release of the digital dividend.

Taking measures to adapt buildings in order to ensure the reception of, or access to, broadcasting services in buildings will have a cost implication for citizens. Therefore, the grants are justified because they are going to compensate citizens for any extra costs. The Decree discusses regulation of the grants.

For more information, please go to: <http://www.boe.es/boe/dias/2014/11/01/pdfs/BOE-A-2014-11219.pdf>

Switzerland

Communications

Telecommunications Report 2014

The Telecommunications Report 2014 of 19 November 2014, produced by the Swiss government highlights developments in the Swiss telecommunications market.

The report sheds light on international roaming, previous and new phenomena in relation to consumer and youth protection, net neutrality, as well as the challenges in relation to fast broadband coverage. The Telecommunications Report 2014 concludes that the current Telecommunications Act does not provide adequate responses to many questions and should be revised. Issues requiring review include for example network access issues, introduction of increased ex-ante regulation powers for OFCOM, increased flexibility in the use of network elements (spectrum sharing), and other measures.

For more information, please go to: <http://www.bakom.admin.ch/dokumentation/gesetzgebung/00512/03498/index.html?lang=de>

Launch of an information portal for the .swiss internet domain

The new www.dotswiss.ch web portal provides details about the .swiss domain, answers important questions about applications and deadlines and keeps interested parties abreast of the latest news with a free newsletter. The website was created by the Federal Office of Communications ('OFCOM') who, from Autumn 2015, will be assigning the domain name to any business or organisation that has a clear connection with Switzerland. The launch of this information portal follows the signing of a contract with the Internet Corporation for Assigned Names and Numbers, the American body responsible for administering internet domain names, which assigned the .swiss domain to the Swiss Confederation.

For more information, please go to: <http://www.bakom.admin.ch/dokumentation/medieninformationen/00471/index.html?lang=en&msg-id=55481>



The report sheds light on international roaming, previous and new phenomena in relation to consumer and youth protection, net neutrality, as well as the challenges in relation to fast broadband coverage



The Netherlands

Communications

Businesses talk on implementing new 'cookie rules'

Businesses have been complaining about the practical implications of the legal information and acceptance requirements as set out in article 11.7a of the Dutch Telecommunications Act, the so called 'cookie law'. The significant increase in information and acceptance requirements has also led to consumer complaints about lack of clarity. These complaints resulted in a bill to amend article 11.7a of the Act.

The proposed change in regulations is aimed at putting an end to the significant growth in cookie pop-ups. The bill must still be accepted in the Dutch upper house.

The proposed regulations serve as a starting point for businesses, focusing on a voluntary instrument to improve the implementation process and standard. The aim is to reach an agreement in the first half of 2015. The Dutch regulators ACM and the Dutch Data Protection Authority ('**CBP**') will facilitate the talks.

For more information, please go to: <https://zoek.officielebekendmakingen.nl/kst-24095-378.pdf> (in Dutch).

Agreement between Dutch mobile operators regarding emergency roaming system

The Dutch mobile operators KPN, T-Mobile and Vodafone have agreed to share networks in the event of a major service disruption in the Netherlands. The emergency system will be deployed if at least 500,000 customers are affected for more than three days. Because of the high costs, the system will not apply to data services. This is a first agreement of this kind in the world.

The agreement states that customers who are affected by the service disruption will be able to make calls and send text messages on other networks, without incurring additional costs.

The agreement was reached following an extensive disruption to services on the Vodafone network in 2012, which affected over 1 million customers.

Updated spectrum plan published

The National Frequencies Plan 2014 has been published by the Dutch government. This is an update to the 2005 version.

The plan is more technology-neutral, brand-neutral, relevant and clear. The spectrum table covers frequencies from 8.3 kHz to 3000 GHz. The plan entered into force on 26 November 2014.

For more information, please go to: <https://zoek.officielebekendmakingen.nl/stcrt-2014-33116.pdf> (in Dutch).

UMTS licenses will be extended until 2020

The Dutch Ministry of Economic Affairs has organised a consultation on extending the current UMTS licences until 31 December 2020. The UMTS licences concern the 2.1 GHz band.

See: http://www.internetconsultatie.nl/ontwerpbesluit_verlengbaarheid_2100mhz_vergunningen (in Dutch).

Proposal to increase powers of the Dutch Data Protection Authority

The Dutch government has sent a proposal to the House of Representatives to increase the powers of the Dutch Data Protection Authority ('**CBP**'). The proposal introduces new cases in which the CBP may impose a fine. The fines will also be higher, ranging from € 20,250 up to € 810,000.

The CBP may at present only impose a penalty for violation of an administrative regulation, such as the requirement to notify the CBP regarding processing of personal data. The proposal allows the CBP to impose a fine when obligations under the Data Protection Act regarding the use and handling of personal data are violated. This would include cases in which data is not processed or stored in a proper and careful manner, or the security of data is not good, or the management of data is poorly organised.



The levies on storage devices to cover copyright on personal copies of media have fallen by 30 percent as of March 1, 2015

However, the CBP will not be able to impose a fine unless a prior warning has been issued. The proposal was submitted to the House of Representatives on 24 November 2014.

For more information, please go to: <https://zoek.officielebekendmakingen.nl/ag-tk-2015-01-09.pdf> (in Dutch).

Media

Lower tax on media storage devices

The levies on storage devices to cover copyright on personal copies of media have fallen by 30 percent as of March 1, 2015. The lower rates are the result of an EU court ruling in April that found the levy could not include estimated copyright fees on illegal downloads. The fees now range from €0.02 on a blank CD or DVD to €3.50 on a computer or smartphone.

See for the actual rates: http://www.thuiskopie.nl/nl/opgave_2/tarieven (in Dutch).

Plans to investigate the broadcasting market in 2015

In 2015 the Dutch Government plans to investigate a number of developments and possible problems regarding the broadcasting market. The goal of this investigation is to balance the interests of the broadcasting sector with those of the internet industry.

One of the developments is the plan to allocate the 700 MHz band for 4G use. The Ministry of Economic Affairs plans to hold a public consultation about the allocation as well as about the status of television (DVB-T) in the Ethernet stream and the use of microphones and temporary connections.

The Ministry will also consult the market about the future of radio (AM, FM and DAB+), on the assumption that licences will again be auctioned. Furthermore the Ministry intends to look at media distribution over fixed networks.

The Ministry of Economic Affairs has noted tensions in the market for IP interconnection but believe these can be solved commercially. Nevertheless the Dutch regulator ACM will perform a quick scan on this matter next year.

Finally, the Dutch Media Act does not allow providers to provide analogue TV without analogue radio, or vice versa. The Dutch government will investigate if it is possible to propose a bill regarding a possible phase-out of analogue radio and TV packages via cable. The government will also examine what this would mean for end-users.

For more information, please go to: <http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2014/12/23/kamerbrief-over-voortgangsrapportage-uitwerking-visie-op-telecommunicatie-media-en-internet/kamerbrief-over-voortgangsrapportage-uitwerking-visie-op-telecommunicatie-media-en-internet.pdf> (in Dutch).



Turkey

Communications

Companies permitted to provide postal services

From 3 June 2014, companies meeting certain criteria are permitted to provide postal services. Accordingly, companies wishing to provide postal services on a national level are required to have share capital of at least TL 250,000 (€93,000), whereas those wishing to provide such services on a provincial level must have a share capital amount of at least TL 12,000 (€4,460).

Share capital increase requirement for fixed telephone line service providers

The Regulation regarding Authorisations within the Electronic Communications Sector was amended on 13 July 2014 so as to require companies providing fixed telephone line services to have share capital of at least TL 1 million (€372,000). Companies below the minimum share capital requirement have until 30 March 2015 to increase their share capital.

Media

New Advertisements Board Regulation adopted to bring Turkish legislation in line with European Union legislation

The Advertisements Board Regulation was enacted on 3 July 2014, replacing the previous regulation. The new regulation expands the Board's authorities and also provides that the authority to temporarily halt the broadcast of advertisements may be delegated to the chairman of the Board. The Board will not only monitor commercial advertisements, but also any type of advertisement which is aimed at consumers. This will harmonise Turkish and European Union legislation.



The Board will not only monitor commercial advertisements, but also any type of advertisement which is aimed at consumers

Ukraine

Communications

Tender for 3G-communication licensing

On 9 December 2014 the National Commission for the State Regulation of Communications and Information announced a tender to award licenses for 3G communication on the IMT-2000 (UMTS) standard.

The Ukrainian government will offer three licences, each of which will ensure 30 MHz of frequency band coverage in each region of Ukraine. Each licence will be valid for a period of 15 years.

The terms and conditions of the tender state that: (i) only Ukrainian residents are eligible to bid for a licence; (ii) each winning bidder will be awarded with one licence only; and (iii) all bidders must submit a tender proposal with a list of documents attached.

UAH 2.7 billion (ca. €135 million) was announced as a starting price for each licence. The deadline for submitting the bids was 15 March 2015 and the tender is planned to be held as a voice trading (unless there is only one bidder) on 16 February 2015.

For more information, please go to: <http://nkrzi.gov.ua/index.php?r=site/index&pg=99&id=705&language=uk>.



The Ukrainian government will offer three licences, each of which will ensure 30 MHz of frequency band coverage in each region of Ukraine



United Kingdom

Communications

Ofcom statement authorising high duty cycle NRPs in the 870-873 MHz spectrum band

On 9 December 2014, Ofcom published a statement authorising high duty cycle ('HDC') Network Relay Points ('NRPs') in the 870-873 MHz spectrum band. NRPs are used in some networks to connect individual consumer devices together and to connect them to networks. Ofcom considers that introducing licensing for NRPs will assist the early development of emerging Internet of Things ('IoT') and machine-to-machine ('M2M') uses. It, therefore, proposes to make available, from 12 March 2015, non-exclusive licences that which will permit holders to install and use HDC NRP devices in the 870-873 MHz band. The network licences will require the licensees to keep records of where they deploy HDC NRPs and ensure that HDC NRPs use effective politeness protocols.

Ofcom comments that it expects the EU to reach final conclusions on a pan-European regulatory solution for these NRPs by 2016. Ofcom will review how it licences networks using HDC NRPs in 2016 to take account of this and also of the expected clarity in demand for spectrum for HDC NRP devices.

For more information, please go to: http://stakeholders.ofcom.org.uk/binaries/consultations/network-relay-points/statement/NRP_statement.pdf

Home Office launches consultation on updated communications data codes of practice

The Home Office has launched a consultation on the updated acquisition and disclosure of communications data code of practice and the new retention of communications data code of practice. This follows the passing of the Data Retention and Investigatory Powers Act 2014 ('DRIPA') and the Data Retention Regulations 2014 (SI 2014/2042) in July 2014, which replaced the UK's previous data retention regime after the ECJ held, in April 2014, that the Data Retention Directive (2006/24/EC) was invalid.

The new Data Retention Code sets out how the government implements the requirements in DRIPA and the 2014 Regulations. The consultation also includes an additional document setting out further changes that

would be made to the code should the Parliament adopt the Counter Terrorism and Security Bill introduced on 26 November 2014.

The Acquisition Code was last published in 2007 and the current proposal seeks to make a number of clarifications and updates to bring the code in line with current approaches and processes, reflecting the experiences of public bodies using the code. The consultation closes on 20 March 2015.

For more information, please go to: <https://www.gov.uk/government/consultations/communications-data-codes-of-practice-acquisition-disclosure-and-retention>

and http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr14/icmr/EU_Scorecard_2014.pdf

Ofcom 2014 International Communications Market Report and third European Broadband Scoreboard

On 11 December 2014, Ofcom published its 2014 review of the international communications market. This benchmarks the UK television, radio, telecommunications and postal industries against 17 comparator countries. Ofcom has also published its third European Broadband Scoreboard. This research reveals that the UK's internet economy is one of the strongest in the world, with higher online spending than any other country analysed. The UK also has the highest coverage of superfast broadband among Europe's five leading economies.

For more information, please go to: http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr14/international/?utm_source=icmr-14&utm_medium=updates&utm_campaign=email



The new Data Retention Code sets out how the government implements the requirements in DRIPA and the 2014 Regulations

Media

Broadcast Committee of Advertising Practice ('BCAP') extends scope of review of payday loans TV advertisements

BCAP has extended the scope of its review of payday loan advertising on television to consider whether scheduling restrictions are necessary and proportionate to protect children. BCAP originally confined its review to examining the effectiveness of its content rules. However, since the commencement of the review it has been made aware of research carried out by the Children's Society into the effects of payday loan advertising, and has been asked to extend its review to consider fully the scheduling of payday loan advertising in the context of research and any other relevant pieces of evidence.

BCAP intends to report on the outcome of its review in the spring of 2015.

For more information, please go to: <http://www.cap.org.uk/News-reports/Media-Centre/2014/BCAP-publishes-updated-Terms-of-Reference-for-its-payday-loans-review.aspx>

Ofcom consults on review of the pay TV wholesale must-offer

On 19 December 2014, Ofcom published a consultation on the first part of its review of the pay TV wholesale must-offer obligation imposed on Sky in 2010. Ofcom is considering whether regulation of the supply of key sports content remains appropriate given market developments and, if so, whether any changes to that regulation is necessary. It is seeking views on its analysis so far and on what, if any, regulation should be retained. Responses are invited by 27 February 2015.

Ofcom has identified live coverage of Premier League football matches and, to a lesser extent, live coverage of Champions League matches as key content. It considers that, given the importance of the rights it holds and its continued wholesale and retail market power, there are circumstances under which Sky may have incentives to engage in a practice of limiting distribution of key sports content to rival pay TV retailers. This may be prejudicial to fair and effective competition. On this basis, it may be appropriate to continue to impose some form of regulation on Sky requiring it to make such content available to retailers on specified terms.

Ofcom does not currently believe that any form of regulation on BT in relation to distribution of its key sports content is warranted at this time. Even if BT were to engage in limited distribution of the key sports content that it holds, Ofcom does not consider that this would have a material effect on competition at this time.

For more information, please go to: http://stakeholders.ofcom.org.uk/consultations/wholesale-must-offer/?utm_source=updates&utm_medium=email&utm_campaign=wmo-condoc

Sports

Ofcom opens Competition Act investigation into sale of live UK audio-visual media rights to Premier League matches

On 18 November 2014, Ofcom announced that it had opened an investigation into the joint selling arrangements by the Football Association Premier League Limited for live UK audio-visual media rights for Premier League football matches.

Ofcom is investigating whether the object or effect (actual or potential) of the joint selling arrangements of the Football Association Premier League Limited ('FAPL') for live UK audio-visual media rights to Premier League ('PL') matches is the restriction or distortion of competition in the UK and/or the EU in breach of the Chapter I prohibition of the Competition Act 1998 and/or Article 101(1) of the Treaty on the Functioning of the European Union.

The investigation follows a complaint from Virgin Media alleging that the arrangements for the 'collective' selling of live UK television rights by the FAPL breaches competition law. Under the FAPL membership rules (an agreement between each of the PL clubs and the FAPL), the FAPL has authority to enter into contracts for the sale of rights to PL matches. Virgin Media is concerned about the number of PL matches for which live broadcasting rights are made available, arguing that the proportion under the current FAPL rights deals (41%) is lower than for some other leading European leagues. It alleges that this contributes to higher prices for consumers of pay TV packages that include premium sport channels and for the pay TV retailers of such channels.

For more information, please go to: <http://media.ofcom.org.uk/news/2014/premier-league/>



Ofcom is considering whether regulation of the supply of key sports content remains appropriate given market developments

Brazil

Communications

Anatel approves acquisition of GVT by Telefonica

On 23 December Brazil's telecoms regulator, Anatel, announced that it has approved Telefonica's planned acquisition of broadband provider Global Village Telecom ('GVT') although the approval is subject to several conditions. These include the obligation on Telefonica and GVT to cede some of their fixed telephony licences in service areas where their operations overlap and to maintain existing service plans for customers for a period of 18 months. Telefonica formally agreed to buy GVT from Vivendi in October for €4.66 billion in cash plus a 12% stake in Telefonica Brasil.

For more information, please go to: <http://www.anatel.gov.br/Portal/exibirPortalNoticias.do?acao=carregaNoticia&codigo=36046>

Anatel and Aneel set prices for access to posts

Anatel and Brazil's Electricity Regulator ('ANEEL') signed an agreement on 2 March to establish a reference price for the sharing of posts (essential for providing internet and pay TV services) between electricity distributors and telecommunications service providers. The agreement will be used to resolve conflicts and provides rules for use and occupation of the fixed points. A reference value of 3.19 reais (80p) has been established per fixed point. There will also be limits on the number of fixed points a telecommunications service provider can share in order to allow access to new market players. The proposal has already been approved by Anatel and the new terms are due to come into force from 30 March 2015.

For more information, please go to: <http://www.anatel.gov.br/Portal/exibirPortalNoticias.do?acao=carregaNoticia&codigo=36056>
<http://convergenciadigital.uol.com.br/cgi/cgilua.exe/sys/start.htm?infoid=38698&sid=14>

Ministry of Communications reduces local content requirements for National Broadband Plan projects

The Ministry of Communications published a decree on 15 March which has got rid of the 10% local technology requirement for mobile access and fibre optic networks within the Special Taxation regime of

the National Broadband Plan. The percentage of telecommunications equipment which needs to be acquired locally has also been reduced from 50% to 35%. The objective of the change is to attract further investments.

For more information, please go to:
<http://www.mc.gov.br/telecomunicacoes-noticias/33972-portaria-reduz-exigencias-em-projetos-submetidos-ao-repnbl>

Brazilian regulator fines telecommunications giant Oi \$1.59 million for violating users' privacy rights

Brazil's Department of Consumer Defence and Protection has fined Oi \$1.59 million for privacy violations under Brazil's new Internet Law relating to its partnership with UK based online advertising company Phorm. Oi and Phorm developed software that tracked and generated profiles of users' browsing practices. The profiles were then sold to online advertising firms for behaviour advertising purposes. The DPDC found that Oi violated the law by overriding network defaults and failing to disclose to consumers how browsing histories would be used for advertising. Oi has paid the fine but has denied any violation of the Internet Law.

For more information, please go to:
<http://www.teletime.com.br/23/07/2014/ministerio-da-justica-multa-oi-em-r-3-5-mi-por-coletar-dados-de-navegacao-de-usuarios/tt/384679/news.aspx>

Media

Brazilian prosecutor asks Google and Apple to remove 'Secret' app.

A civil court in Brazil's Espirito Santo State has ordered Google and Apple to remove the 'Secret' app from their app stores and handsets. The app, which lets users chat anonymously, was a cause for concern due to complaints of online harassment and cyber bullying. It was also criticised for not providing its terms of use and privacy policy in Portuguese.

For more information, please go to:
<http://blogs.estadao.com.br/link/justica-determina-a-suspensao-do-secret-no-brasil/>

Brazil puts media law on 2015 agenda

Following on from her presidential election victory on 26 October 2014, Dilma Rousseff has indicated that she will seek to make changes to Brazil's media industry by introducing new legislation to 'democratise' the media. Proposals include increasing the number of public and education TV channels, limiting participation of foreign capital in local media companies, preventing cross-ownership and preventing politicians from owning broadcasting licences. Brazil's media landscape is dominated by one TV channel, TV Globo and three newspapers (O Globo, O Estado de Sao Paulo and Folha de Sao Paulo).

For more information, please go to:

<http://buenosairesherald.com/article/178378/dilma-puts-media-law-on-2015-agenda>

Sports

Brazil's football governing body introduces new player transfer regulations which ban third party ownership

On 13 March 2015, the Brazilian Football Confederation (the 'CBF') introduced new rules on the registration and transfer of footballers which, among other things, bans third party investors from owning a stake in the transfer

rights of footballers. The new regulation will come into force on 1 May 2015 although contracts signed between 1 March and 30 April 2015, which include third party investors, will be valid for a year. The regulation brings Brazil in line with forthcoming FIFA regulations which will ban third party ownership in players. The impact that this will have on Brazilian clubs is thought to be huge as the majority of footballers in Brazil's first division are thought to have their transfer rights part-owned by investors.

For more information, please go to: <http://www.cbf.com.br/noticias/a-cbf/cbf-divulga-novo-regulamento-de-transferencias-nacional-e-internacional>

Federal government creates a working group to discuss the renegotiation of club debts

The Federal Government has created an inter-ministerial working group to prepare a draft measure to set out renegotiations of football clubs' debts with the Brazilian public sector. The group also aims to formulate proposals to improve governance in football, promote transparency and encourage fiscal responsibility.

For more information, please go to: <http://agenciabrasil.ebc.com.br/geral/noticia/2015-01/governo-formaliza-grupo-interministerial-que-vai-discutir-refis-de-clubes>



The Ministry of Communications published a decree on 15 March which has got rid of the 10% local technology requirement for mobile access and fibre optic networks within the Special Taxation regime of the National Broadband Plan





China

Communications

China trials opening up e-commerce to foreign investors in Shanghai Free Trade Zone and to establish 3 new Free Trade Zones

On 13 March, the Ministry of Industry and Information Technology ('MIIT') released the Circular on Removing the Restrictions on the Foreign Equity Ratios in Online Data Processing and Transaction Processing (Operating E-commerce) Businesses in the China (Shanghai) Pilot Free Trade Zone (the '**SFTZ**') (the '**Circular**').

The Circular announces the decision to remove the restrictions on the foreign equity ratios in online data processing and transaction processing business, allowing such foreign investors to hold 100% of the equity ratio. This means that wholly-foreign-owned companies are now allowed to operate e-commerce businesses in the SFTZ. However, the Circular states that this is a pilot scheme. It requires Shanghai's government to cautiously oversee foreign-owned companies taking advantage of the new rules. If this pilot scheme is not deemed to have gone well, the government will be entitled to shut down the trial.

In addition, China has recently decided to establish new Free Trade Zones in Tianjin, Fujian and Guangdong. The new Free Trade Zones are expected to follow Shanghai's lead in adopting a negative list approach for establishing foreign enterprises.

China opens Broadband market to private capital

On 25 December, the Ministry of Industry and Information Technology ('MIIT') released its Announcement on Opening the Broadband Internet Access Market to Private Capital (the '**Announcement**') to encourage private equity investment in the market.

The Announcement proposes three investment models. The first is to encourage private enterprises to build the necessary infrastructure for broadband access for businesses and to provide users with the enterprises' own brand broadband access. The second is to encourage private enterprises to enter into capital cooperation agreements with existing enterprises to establish businesses, maintain networks and perform other related activities, in which they cooperate and share gains. The third is to encourage private enterprises which have the Business Permit for Internet Service Provider ('ISP') to rent network access resources from basic telecommunications service providers and supply their own brand internet access to consumers. MIIT has formulated specific pilot programs for the first

of the three models. The first pilot will run for 3 years across 16 cities, including Guangzhou, Shanghai and Wuhan.

Media

China to restrict online literature

The State General Administration of Press, Publication, Radio, Film and Television has recently issued the Guiding Opinions on Promoting the Healthy Development of Online Literature (the 'Opinions'). The Opinions aim to foster online literature sites and lead creative works to attain a healthier and higher quality direction over the next three to five years.

The Opinions put forward some measures to guide the critics of online literature, establish an assessment system, advance new technology which promotes online literature, strengthen copyright protections, and crack down on pornography and other 'harmful' content. They also provide financial support to the industry of online literature. The Opinions call for an administrative mechanism for writers, the strengthening of training in professional ethics, and a registry and inquiry system for online literature.



The State General Administration of Press, Publication, Radio, Film and Television has recently issued the Guiding Opinions on Promoting the Healthy Development of Online Literature

Russia

Communications

Requirement to process Russian citizens' personal data inside Russia to come into effect on 1 September 2015

Federal Law No. 242-FZ on Amendments to Certain Laws of the Russian Federation in Order to Clarify the Procedure for Personal Data Processing in Information and Telecommunications Networks (the 'Law'), which requires the personal data of Russian citizens to be stored and processed in databases located within Russia (subject to a few exceptions), shall come into effect on 1 September 2015, one year earlier than had originally been anticipated.

The Law implements change in respect of the regulation of personal data processing in information and telecommunications networks, as well as personal data processing in databases.

With the Law coming into force on 1 September 2015, the companies affected have little time left to bring their existing processes for personal data storage in line with the new requirements imposed by the Law.

Even though companies would be well advised to start planning now for the changes, it is still unclear how certain provisions of the Law should be interpreted and applied in practice. This uncertainty is expected to be clarified in subordinate legislation that will be adopted at inter-agency meetings in early 2015.

The financial penalties for improper processing of personal data are not currently very high, however a bill was recently submitted to the State Duma providing for an increase of the maximum penalty to RUB 300 000.

Media

Mass Media Law - further limitations on foreign investment will trigger ownership restructuring and reporting obligations

Substantial amendments to the Russian Mass Media Law (Law No. 2124-1 On Mass Media dated 27 December 1991), which come into force on 1 January 2016, were approved by the Russian President on 14

October 2014. These amendments lower the foreign ownership in all mass media companies (including print and web media) and broadcasters to 20%, regardless of the type of media or coverage.

The amendments specifically apply to shareholdings in Russian companies that hold (i) the respective mass media registration certificate or are a mass media editorial office; or (ii) the respective broadcasting licences ('Russian Media Companies'). Under the amendments, foreign investors will not be able to directly hold any shares or participatory interests in Russian Media Companies. Indirect participation (as well as any other form of control by foreign investors) will be subject to a 20% maximum threshold.

The shareholding structures of Russian Media Companies must be brought in line with the new requirements by 1 February 2016. The respective report confirming compliance must be submitted to the Federal Service for Supervision of Communications, Information Technology and Mass Media ('Roskomnadzor') before 15 February 2016. A longer transition period (shareholding structure to be revised by 1 February 2017, with the report filed by 15 February 2017) is being introduced for foreign-owned Russian Media Companies that are 80% controlled by ultimate Russian beneficiaries.

Failure to comply with the new requirements (including failure to submit the compliance report within the established deadlines) may lead to a court-ordered suspension of activities of the company concerned, foreign investors or their subsidiaries not being able to exercise their rights as company shareholders (including voting rights) and/or any transactions concluded in breach of the new requirements being null and void.



5.6631

5.6631

9.334

4.25647

7.2235

9.334

4.25647

United States

Communications

Federal Communication Commission's Net Neutrality Proposal

On 19 February 2014, Federal Communications Commission ('FCC') Chairman Tom Wheeler issued a statement regarding the FCC's preparation of proposed Open Internet rules. The proposal would include a 'transparency rule' that would require internet network operators to disclose how they manage internet traffic, as well as provisions to meet 'no blocking' and non-discrimination goals. Throughout the past year, the FCC received and reviewed various comments and counter proposals from interested parties.

On 2 March 2015, FCC Chairman Wheeler announced that the FCC's proposed internet regulatory rules would be introduced and voted on by the full five-member Commission at the Commission's monthly meeting on 26 February 2015. While it is not entirely clear the precise form that the proposed regulations will take, the Commission is likely considering regulating Internet Service Providers ('ISPs') under Title II of the Communications Act, which is used to regulate telephone companies as 'common carriers' in the United States. This would be a significant change for ISPs, which are for the most part exempt from FCC regulatory oversight under current laws and prior FCC determinations. The change in legal status could subject ISPs to a variety of federal legal requirements that currently apply only to telecommunications common carriers, such as interconnection obligations, non-discrimination, and formal complaints before the FCC and federal courts.

The upcoming release of the FCC's proposal has also spurred proposed federal legislation. A draft Republican bill would prohibit the FCC from reclassifying broadband internet services under Title II. The proposal would prohibit ISPs from blocking and selectively slowing online content, applications and services, 'subject to reasonable network management.' Under the definitions in the bill, 'network management' refers to an ISP's 'particular network architecture and any technology and operational limitations'. The bill would also prohibit ISPs from entering into paid traffic prioritisation arrangements. For more information, please go to: <http://www.fcc.gov/openinternet>

For a copy of the draft bill, please go to: http://www.commerce.senate.gov/public/?a=Files.Serve&File_id=7a90bcad-41c9-4f11-b341-9e4c14dac91c (Senate version).

Enhanced 911 Location Accuracy – Indoor Locations

On 8 March 2015, Chairman Tom Wheeler announced that the FCC would vote on an order issuing Enhanced 911 location accuracy (E911) rules on 29 March 2015. The FCC's current E911 rules, which were adopted in 1996 and updated in 2010, require wireless telephone service providers to automatically transmit information to 911 call centres on the location of wireless 911 callers within certain parameters for accuracy. Under current rules, wireless service providers are not required to locate indoor emergency 911 calls with the same degree of measured accuracy as outdoor emergency 911 calls.

In a Third Further Notice of Proposed Rulemaking, issued on 21 February 2014, the FCC proposed specific measures to ensure accurate indoor location information. The FCC's proposal would require wireless providers to meet interim location accuracy metrics that would be sufficient to identify the building from which an emergency call is placed. The FCC also proposes that wireless providers deliver vertical location information that would enable first responders to identify the floor level for most calls from multi-story buildings. In the long term, the FCC seeks to develop more precise indoor location accuracy standards that would require identification of the specific room, office, or apartment where a wireless 911 call is made. The proposed standards would rely on the advancing capabilities of indoor location technology and increasing deployment of in-building communications infrastructure.

For more information, please go to: <http://www.fcc.gov/document/fcc-acts-help-emergency-responders-locate-wireless-911-callers>

To access Chairman Wheeler's announcement, please go to: <http://www.fcc.gov/blog/back-basics-promoting-public-safety-and-protecting-consumers>

Media

Sony Pictures Entertainment Cyber-attack

On 8 December 2014, Sony Pictures Entertainment issued a notice letter to its employees stating that personally identifiable information about employees and their dependents may have been obtained by unauthorised individuals. On 7 December 2014, it was reported that the 'hackers' stole 47,000 unique Social Security numbers from the Sony computer network. In addition to employee information, e-mails containing details about several upcoming films, internal documents, and files containing whole movies were leaked as a result of the hack.

On 19 December 2014, the Federal Bureau of Investigation ('**FBI**') announced that evidence obtained by the federal government indicated that the government of North Korea had conducted or orchestrated the cyber-attack.

In the wake of the Sony cyber-attack, President Obama issued a legislative proposal asking Congress to update current laws and introduce new ones to allow federal and national law enforcement officials to better respond to cybercrimes like the Sony hack, and to be able to prosecute such crimes comparably to similar off-line crimes. President Obama's proposal urges the private sector and the government to share cybersecurity information. The proposal also seeks to update law enforcement authorities to combat cyber-crime, specifically including the Racketeering Influenced and Corrupt Organizations Act ('**RICO**') and the Computer Fraud and Abuse Act ('**CFAA**'). Further, the proposal calls for a national data breach reporting law to simplify and standardised existing state law requirements.

To access the FBI's December 19 Press Release, please go to: <http://www.fbi.gov/news/pressrel/press-releases/update-on-sony-investigation>

To access the Whitehouse's Cybersecurity Legislative Proposal, please go to: <http://www.whitehouse.gov/the-press-office/2015/01/13/securing-cyberspace-president-obama-announces-new-cybersecurity-legislat>



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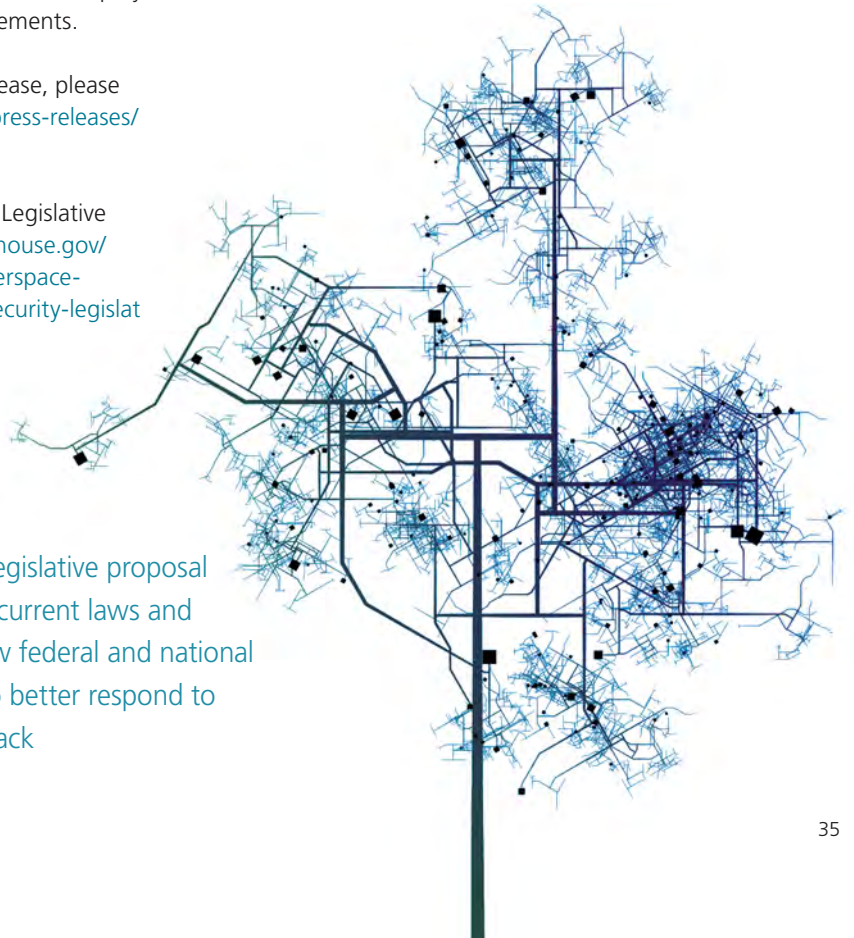
Sports

WiFi Standards in NFL Stadiums

The National Football League ('**NFL**') has required all league stadiums to meet new minimum WiFi and cellular standards by the end of the 2014-2015 season. The requirements set minimum network performance levels to handle the demand of fans both accessing and uploading content. The NFL's standards are similar to less formal pushes for internet-accessible venues found in Major League Baseball ('**MLB**') and the National Basketball Association ('**NBA**').

The NFL's standards seek to meet consumer demand to be able to upload content while at the stadium, as well as download or stream content and make use of stadium-specific applications. The new standards do not have penalties for non-compliance, and adoption has varied—some municipally owned teams or teams with long-term deals with WiFi providers may face additional challenges in meeting the standards. Teams adhering to the standards also face regulatory hurdles, such as compliance with the FCC's radio frequency ('**RF**') interference-avoidance and safety requirements.

The standards would also allow the NFL to access better analytics regarding the types of content that consumers access while using a team's WiFi network at the stadium. Further, deploying a high-density WiFi network in a stadium can enable the delivery of WiFi sponsorships and targeted brand messages through major types of mobile use, such as social networking and video streaming. Thus, stadium WiFi networks must navigate consumer privacy, advertising and marketing laws.



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