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10 November 2005 [shall come into force on 14 December 2005];

12 June 2009 [shall come into force on 1 July 2009];

19 May 2011 [shall come into force on 8 June 2011].

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*¹ has adopted
and the President has proclaimed the following Law:

Law On Information Society Services

Chapter I

General Provisions

Section 1. Terms Used in this Law

(1) The following terms are used in this Law:

1) **electronic mail** – type of services which ensures the possibility for computer users connected to an electronic communication network to send and receive a notification;

2) **information society service** – a distance service (parties do not meet simultaneously) which is usually a paid service provided using electronic means (electronic information processing and storage equipment, including digit compression equipment) and upon the individual request of a recipient of the service. Information society services include the electronic trade of goods and services, the sending of commercial communications, the possibilities offered for searching for information, access to this and the obtaining of information, services that ensure the transmission of information in an electronic communication network or access to an electronic communication network, and storage of information;

3) **commercial communication** – any form of communication in electronic form designed to promote, indirectly or directly, the goods, services or image of a company, organisation or person pursuing a commercial, industrial or craft activity or exercising a regulated profession. Information allowing direct access to general information about the service provider and the activities thereof (domain name or electronic-mail address) shall not be regarded as a commercial communication;

4) **co-ordinated field** – area in which the procedures for the provision of information society services (requirements regarding the commencement and performing of commercial activities), as well as the requirements regarding the information society services specified in regulatory enactments are in effect . The co-ordinated field does not include requirements regarding

goods and the delivery thereof; and

5) **intermediary service provider** – a provider of the information society service, which ensures the transmission of information in an electronic communication network, access to an electronic communication network or the storage of information.

(2) The terms used in this Law “subscriber”, “user” and “terminal equipment” shall comply with the terms used in the Electronic Communications Law.

[10 November 2005; 19 May 2011]

Section 2. Purpose and Scope of the Application of this Law

(1) The purpose of this Law is to ensure the free circulation of information society services in European Economic Area Member States (hereinafter also – states).

(2) This Law shall refer to the provision of information society services, except for areas, which are regulated by regulatory enactments regarding:

- 1) lotteries and gambling in which a monetary prize is provided; and
- 2) the protection of personal data.

Section 3. Freedom to Provide Information Society Services

A service provider registered in any of the European Economic Area Member States and in conformity with the requirements of the regulatory enactments of the co-ordinated field of the relevant country is entitled to provide information society services in the co-ordinated field in Latvia without restraint.

Chapter II

Provision and Storage of Information

[19 May 2011]

Section 4. Information to be Provided Generally

[19 May 2011]

(1) A service provider shall provide the following information in a clear, direct and permanently accessible manner:

- 1) the firm name (name) or given name and surname, legal address or declared place of residence and registration number (if there is such) of the service provider;
- 2) the contact information of the service provider, including electronic-mail address, which ensures the possibility of quickly communicating in a direct manner;
- 3) if a special permit (licence) is necessary for commencing the relevant activity – information regarding the institution, which has issued the special permit (licence);

4) in relation to a regulated profession – information regarding the professional organisation, which has issued the documents confirming the professional qualification, the name corresponding to the profession or qualification and the state in which it has been granted, as well as a reference to the professional regulations applicable in the registration state and the way in which they may be accessed; and

5) if the relevant activity is taxable with value-added tax – the registration number in the State Revenue Service Register of Persons Taxable with the Value Added Tax.

(2) If a price is indicated, then a service provider shall indicate it so that the price is unambiguous and clearly legible and shall provide information regarding whether or not payable taxes and product delivery costs are included in the price.

[19 May 2011]

Section 5. Information to be Provided Prior to the Placing of an Order

(1) A service provider shall be liable for ensuring that at least the following information is available to a service recipient before the placing of an order:

1) the procedures, which must be observed in order to place an order;

2) the conditions regarding the storage of a signed agreement (if the signed agreement is stored) and the availability thereof to the service recipient;

3) the technical measures for the detection and correction of input errors prior to the placing of an order; and

4) languages offered for entering into the agreement.

(2) If a service recipient is not a consumer, parties may agree upon other procedures for the provision and receipt of information, which differs from the procedures provided for in Paragraph one of this Section.

(3) The provisions of Paragraph one of this Section shall not refer to those orders, which are placed via electronic mail or any other electronic communications means.

Section 6. Placing an Order

(1) If a service recipient places an order, the service provider shall acknowledge the acceptance thereof by electronic communications means.

(1¹) An order and the acknowledgment of the acceptance thereof shall be deemed to be received when the parties to whom they are addressed are able to access them.

(2) The duty of a service provider is to ensure the service recipient with the possibility to detect and correct information input errors prior to the placing of an order.

(3) The requirements specified in Paragraph two of this Section do not need to be applied if the service recipient is not a consumer.

(4) The provisions of Paragraph one and two of this Section shall not apply to the orders placed exclusively by exchange of electronic mail or equivalent individual means of communication.

[19 May 2011]

Section 7. Information regarding the Provisions of an Agreement and the Codes of Conduct

- (1) A service provider has a duty to ensure that service recipients may become acquainted with the provisions of an agreement, as well as store them.
- (2) A service provider has a duty to provide information regarding codes of good service providing practice or any other voluntary codes of behaviour or ethics which they observe and information regarding how to become acquainted with these codes in electronic form.
- (3) The requirements specified in Paragraph two of this Section do not need be applied if the service recipient is not a consumer.

Section 7.¹ Storage of Information in Terminal Equipment

- (1) Storage of information in a terminal equipment of a subscriber or user or acquisition of access to the information stored in a terminal equipment shall be permitted, if the relevant subscriber or user has provided his or her consent after he or she has received clear and comprehensive information regarding the purpose of the aforementioned processing in accordance with Personal Data Protection Law.
- (2) The consent referred to in Paragraph one of this Section shall not be necessary, if storage of the information in a terminal equipment or acquisition of access to the information stored in a terminal equipment is necessary for ensuring of circulation of the information in the electronic communications network or for intermediary service provider in order to provide a service requested by a subscriber or user.

[19 May 2011]

Chapter III Commercial Communications

Section 8. Information regarding Commercial Communications

- (1) A commercial communication shall be in conformity with the requirements of the Advertising Law, as well as the following requirements:
 - 1) it is clearly recognisable as a commercial communication;
 - 2) the person on behalf of whom this commercial communication is distributed is clearly definable;
 - 3) the content of the offer and the conditions regarding the receiving of the service are precisely formulated;
 - 4) discounts, bonuses and prizes are clearly recognisable, and the requirements for the receipt thereof are clearly set forth;
 - 5) advertising competitions, lotteries or games are clearly definable and the relevant terms of participation are easily of accessible, as well as clearly outlined; and
 - 6) the service recipient is given the possibility to refuse to receive further commercial communications.

(2) If a person exercising a regulated profession provides a commercial communication in regard to an information society service, this person has a duty to observe professional regulations, especially in regards to independence, respect and professional honour, professional secrets and fairness towards clients and representatives of other professions.

Section 9. Prohibition regarding the Sending of a Commercial Communication

(1) It is prohibited to use automated calling systems (terminal equipment) without human intervention (automatic calling machines), electronic mail or facsimile machines (fax) for sending of a commercial communication using which an individual contact is possible with a recipient of a service, if the recipient of a service has not given prior free and distinct consent.

(2) A service provider who within a framework of his or her commercial transactions has acquired electronic mail addresses from recipients of a service may use them for other commercial communications provided that:

1) commercial communications are sent for similar products or services of a service provider;

2) a recipient of a service has not objected initially regarding further use of electronic mail address; and

3) a recipient of a service distinctly is given free of charge opportunity to refuse from further use of electronic mail address on the occasion of each further receipt of a commercial communication (submitting a submission or sending a notification electronically).

(3) Communication of other type using publicly available electronic communication services for sending of a commercial communication may occur, if the recipient of a service has given prior free and distinct consent except for the cases referred to in Paragraph one and two of this Section.

(4) It is prohibited to use electronic mail or communication of other type, using publicly available electronic communication services, for sending of a commercial communication, if invalid electronic mail address, invalid phone or fax number is used to which the recipient of a service may send a request to cease such communication or if refusal of the recipient of a service from further receipt of commercial communications is not taken into account.

(5) Sending of each prohibited commercial communication is a separate breach.

(6) Prohibitions and restrictions specified in Paragraph one, two and three of this Section shall apply to sending of commercial communications to natural persons.

[10 November 2005; 12 June 2009]

Chapter IV.

Liability and Duties of an Intermediary Service Provider

Section 10. Liability of an Intermediary Service Provider

(1) An intermediary service provider shall be liable for the transmission and storage of information

in an electronic communication network.

(2) An intermediary service provider who performs transmission of information in an electronic communication network or ensures access to such network shall not be liable for the transmissible information if he or she observes the following conditions:

- 1) does not propose the transmission of information;
- 2) does not select the recipient of transmissible information; and
- 3) does not select or modify the transmissible information.

(3) The transmission of the information referred to in Paragraph two of this Section shall also include the storage of transmissible information if storage is necessary only for the transmission of information and information is not stored for a time period, which exceeds the time period necessary for the transmission thereof.

(4) An intermediary service provider who performs transmission of information in an electronic communication network shall not be liable for the automatic, intermediary or temporary storage of information if such storage is necessary in order to transmit the relevant information more effectively onward to other recipients of a service at the request thereof and if the intermediary service provider:

- 1) does not modify information;
- 2) complies with conditions on access to the information;
- 3) complies with rules of fair practice of the industry in relation to the updating of the information;
- 4) in compliance with rules of fair practice of the industry does not interfere with the lawful use of technology to obtain data on the use of the information; and
- 5) acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the electronic communication network, or access to it has been disabled, or that a supervisory body has ordered such removal or disablement.

(5) An intermediary service provider who performs storage of the information of a service recipient shall not be liable for the stored information if it has been stored at the request of a service recipient and if one of the following conditions exist:

- 1) an intermediary service provider does not have actual knowledge of illegal activity or information of a service recipient
- 2) an intermediary service provider has immediately performed activities in order to liquidate or deny access to the stored information as soon as the knowledge of illegal activity or information of a service recipient was obtained.

[10 November 2005]

Section 11. Duties of an Intermediary Service Provider

(1) An intermediary service provider has a duty:

- 1) to inform supervisory bodies immediately regarding possible violations of the law in the activities of a service recipient or information stored by him or her;
- 2) upon request of a supervisory body to provide data regarding service recipients for which the storage of the information is provided by the intermediary service provider.

(2) An intermediary service provider does not have a duty to supervise the information, which the provider transmits or stores, as well as to actively search for the facts and conditions, which indicate possible violations of the law.

[10 November 2005]

Chapter V.

Supervision of the Circulation of Information Society Services

Section 12. Supervisory Bodies

(1) The Consumer Rights Protection Centre shall supervise, within the competence thereof, the circulation of information society services, Data State Inspectorate, as well as other supervisory and control bodies.

(2) Supervisory bodies shall provide service providers and service recipients with information regarding the procedures for the examination of complaints and other information.

[10 November 2005]

Section 13. Rights and Duties of Supervisory Bodies

(1) If a supervisory body detects violations of this Law, it is entitled to:

1) request all the information necessary for the clarification of the substance of a case; and

2) order the service provider to stop the violation of the Law or to perform particular activities for the elimination thereof, as well as to specify the time period for the execution of these activities.

(2) A supervisory body is entitled to perform the activities specified in Paragraph one of this Section, which restrict the provision of such an information society service, which creates or may create serious risk if these activities are proportional to the protection of the relevant interests and are necessary for:

1) the interests of the public, especially for the prevention and investigation of criminal offences and the initiation of criminal offence proceedings, including the protection of minors in order to prevent the discrimination of a person due to his or her race, gender, religious convictions or ethnic origin, as well as violations injuring the dignity and honour of a person;

2) public safety, including national security and defence;

3) public health protection; and

4) consumer protection.

(3) Prior to performing the activities referred to in Paragraph two of this Section, a supervisory body shall inform the State supervisory body in which the relevant service provider is registered and request that it take actions in order to stop the violation referred to in Paragraph two of this Section. The supervisory bodies of Latvia shall inform the European Commission and the relevant state regarding activities they are planning to perform if these states do not perform activities for the elimination of the violation or the activities performed thereby are not sufficient.

(4) In urgent cases when there is a justified reason to deem that public safety, health or consumer

interests are endangered, a supervisory body may perform the activities referred to in Paragraph two of this Section prior to informing the European Commission and the relevant state. In such case, the supervisory body shall immediately inform the European Commission and the relevant state regarding the activities performed and justify the urgency of these activities.

(5) The Cabinet shall determine the responsible body, which co-ordinates the circulation of the information referred to in Paragraphs three and four of this Section between the supervisory bodies of Latvia, the supervisory bodies of the European Economic Area States and the European Commission.

(6) A supervisory body has a duty to perform inspection regarding observance of Section 9 of this Law, if one recipient of a service has received at least 10 commercial communications from one provider of service during one year and if the recipient of a service has submitted a complaint to a supervisory body thereon.

[10 November 2005; 12 June 2009]

Informative Reference to European Union Directives

This Law includes legal norms arising from:

1) Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce');

2) Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations;

3) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).

[10 November 2005]

4) Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

[19 May 2011]

This Law has been adopted by the *Saeima* on 4 November 2004.

President

V. Vīķe-Freiberga

Rīga, 17 November 2004

