

THE TECHNOLOGY,
MEDIA AND
TELECOMMUNICATIONS
REVIEW

ELEVENTH EDITION

Editor
Matthew T Murchison

THE LAWREVIEWS

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TECHNOLOGY,
MEDIA AND
TELECOMMUNICATIONS
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PREFACE

The Technology, Media and Telecommunications Review is now in its 11th edition, and I am excited to be taking the reins of this publication after a decade under the steady hand of long-time editor John Janka. This Review occupies a unique space in the literature on TMT issues. Rather than serving a traditional legal treatise, this publication aims to provide a practical, business-focused survey of law and policy in this arena, along with insights into how this legal and policy landscape continues to evolve from year to year. In the dynamic and ever-changing TMT sector, such perspective is vitally important. And the scope of this Review is global, now covering 20 jurisdictions.

Covid-19 shook the world in 2020, and its reverberations in the TMT sector have been profound. As the threat of infection has led to widespread lockdowns, the importance of connectivity has never been greater nor more obvious. For many businesses, remote working has become the rule rather than the exception. Many schools have switched to distance learning formats. Tele-health is on the rise as doctors check in on patients via videoconference. Even tasks as mundane as grocery shopping have shifted online. And broadband connectivity, where available, has made it all possible.

For policymakers, the experience of covid-19 has begun to reshape their understanding of the TMT arena and to refocus their policy goals. The sudden shift to remote working and distance learning has stress-tested broadband networks across the world – providing a ‘natural experiment’ for determining whether existing policies have yielded robust systems capable of handling substantial increases in internet traffic. In the European Union, officials called on video-streaming platforms to downgrade high-definition content temporarily to avoid overly straining broadband networks at the start of the pandemic. In the United States, meanwhile, policymakers touted that such measures were not necessary, and have attributed the apparent resilience of broadband networks in the country to deregulatory policies.

At the same time, the pandemic has prompted new initiatives to ensure, improve and expand broadband connectivity for consumers going forward. In various jurisdictions, policymakers are moving forward with subsidy programmes and other efforts to spur the deployment of advanced networks more deeply into unserved and underserved areas. Regulators also have taken steps to preserve internet access where it already exists, including by having service providers ‘pledge’ that they will not disconnect customers for non-payment in light of the pandemic, or by pursuing more prescriptive measures. In short, covid-19 has been part cautionary tale, part rallying cry, and its long-term impact on the TMT sector remains to be seen.

New technologies likewise have required new approaches and perspectives by policymakers. A notable example is the ongoing deployment of 5G wireless networks, as regulators continue to look for ways to facilitate such deployments. These initiatives take a

variety of forms, and frequently include efforts to free up more spectrum resources, including by adopting new rules for ‘sharing’ spectrum and by reallocating spectrum from one use to another. 5G spectrum was a significant focus of the World Radio-communication Conference (WRC) of the International Telecommunication Union (ITU), held in late 2019 in Sharm el-Sheikh, Egypt. And multiple jurisdictions have continued to auction off wireless licences in bands newly designated for 5G deployment, capitalising on service providers’ strong demand for expanded access for spectrum.

Another example is the planned deployment of multiple large satellite constellations in low-earth orbit to support new broadband services. The providers proposing these networks say they will greatly expand the availability of high-speed internet access service. At the same time, the sheer scale of the planned systems has raised fresh questions about how best to prevent accidental collisions and ensure equitable sharing of spectrum resources.

Even with so many newer issues swirling in the TMT sector, familiar topics have remained in the spotlight as well. Cue network neutrality, the principle that consumers should benefit from an ‘open internet’ where bits are transmitted in a non-discriminatory manner, without regard for their source, ownership or destination. The basic principle has been around for well over a decade, but policymakers are still sorting out how best to effectuate it without undermining investment and innovation in broadband services. In the United States, network neutrality has become a point of contention between the federal government, which has opted for a light-touch approach, and certain states that wish to impose bright-line prohibitions on internet service providers. In Europe, new guidelines and rulings have addressed internet service providers’ ‘zero rating’ plans, which exempt certain data from counting against a customer’s usage allowance. Regulators in Asia are grappling with similar policy questions. And this debate dovetails with efforts in some jurisdictions to increase oversight of the content moderation policies of social media companies and other online platforms.

The country-specific chapters that follow recap these and other developments in the TMT arena, including updates on privacy and data security, regulation of traditional video and voice services, and media ownership. On the issue of foreign ownership in particular, communications policymakers have increasingly incorporated national security considerations into their decision-making, as evidenced by recent actions in the United States against Chinese equipment manufacturers and service providers.

Our authors from around the globe have lent their considerable insight, analysis and experience to the preparation of their respective chapters. I hope readers will find this 11th edition of *The Technology, Media and Telecommunications Review* as helpful as I have found this publication year in and year out.

Matthew T Murchison

Latham & Watkins LLP

Washington, DC

November 2020

BELARUS

Kirill Laptev and Pavel Lashuk¹

I OVERVIEW

Building an information society is one of the priorities of the government of the Republic of Belarus. This approach is reflected in the Decision on the Strategy for Collaboration of the CIS States Parties in the Construction and Development of the Information Society for the Period up to 2025 and the Action Plan on its Implementation, adopted on 28 October 2016 in Minsk (CIS Decision). One of the tasks of CIS member states' cooperation in the construction and development of the information society is the provision of services to citizens and organisations using modern information and telecommunication technologies. On 25 October 2019, the Council of CIS State Leaders have adopted Decision on the Concept of Cooperation of the States Members of the CIS in the Field of Digital Development of Society and the Plan of Priority Measures for its Implementation (the Concept). The Concept aims to create a digital environment in the CIS space, accelerating the implementation of information and communication technologies, creating conditions for the introduction of technologies that ensure decentralisation, safety, security and openness of transmitted information and other types of technologies.

The growth in ICT development approach is a result of the adoption of the State Development Programme of the Digital Economy and Information Society for 2016–2020 (the State Programme). The goal of the State Programme is to improve the conditions of transformation of human activities under the influence of ICT, including the formation of the digital economy, the development of the information society and the improvement of e-government.

One of the major innovative developments in Belarus took place on 21 December 2017 when the President signed Decree No. 8 on the Development of the Digital Economy fixing progressive and unique regulation in the IT sphere on a global scale, as well as developing a regime for High Tech Park (HTP) residents. HTP has been successfully operating for more than a decade, providing a beneficial taxation system to residents specialising in the IT sector.

The Decree also devotes special attention to the development of blockchain technologies and cryptocurrency payments.

Tokens are recognised as a legitimate object of legal relations. Tax privileges are introduced to operations with tokens, including trade in cryptocurrencies and initial coin offerings. Until 2023, individual revenues from mining and operations with tokens are not subject to declaration and taxation depending on the categories of the subject: a resident of the Belarus HTP, an individual or another entity.

¹ Kirill Laptev is a senior associate and Pavel Lashuk is an associate at Sorainen.

Additionally, the special statuses of cryptographic platform operator and cryptocurrency exchange have been introduced. The Decree sets for them a minimum security value to be stored at Belarusian banks of not less than 1 million and 200,000 rubles respectively (approximately US\$380,000 and US\$75,000).

Among other privileges and benefits, HTP residents use simplified rules of company document control and a simplified system for foreign founders and employees, which additionally boosts the development of the ICT sector. Foreign employees and founders of HTP resident companies are entitled to visa-free entry to Belarus for the duration of their temporary stay of 180 days.

II REGULATION

i The regulators

The central management body that is responsible for state regulation, coordination of work and development of the telecommunications sector is the Ministry of Communications and Informatisation of the Republic of Belarus (MinCom).

The MinCom carries out:

- a* development and implementation of telecommunication development programmes;
- b* coordination of activities in the field of creation and development of telecommunication networks;
- c* the long-term planning of the use of the RF spectrum by civil electronic radio facilities;
- d* establishment of a unified procedure for the interaction of telecommunication networks through the public telecommunication network, as well as monitoring and centralised management of the public telecommunication network;
- e* the definition of requirements for the construction, numbering, organisational and technical support for the operation of telecommunication networks, their management, to ensure the protection of telecommunication networks from unauthorised access to them and messages transmitted thereon, the use of the RF spectrum, the order of traffic transmission, and the provision of telecommunication services;
- f* regulation of the activities of telecommunication operators;
- g* international cooperation in the field of telecommunications, including interaction with international organisations and telecommunications administrations of other states, ensuring the fulfilment of obligations under international treaties of the Republic of Belarus; and
- h* development and adoption of regulatory legal acts.

The Republican Unitary Enterprise for Telecommunications Supervision ‘BelGIE’ (BelGIE RUE) is a state agency that falls under the auspices of the MinCom. Among others, BelGIE RUE has the following main objectives:

- a* ensuring the protection of the RF spectrum and its effective use;
- b* assignment of RFs or RF channels;
- c* RF monitoring; and
- d* state supervision of telecommunications, etc.

In accordance with Edict No. 515 (see details in subsection ii, below), an Operational Analytical Centre under the President of the Republic of Belarus (OAC) was designated as an independent regulator in the field of ICT. The OAC, in the role of an independent regulator,

focuses on ensuring the successful operation of the Unified Republican Data Transmission Network (URDTN²) and the ICT market in the field of data transmission. It also promotes attraction of investments in the ICT sector and development of the telecommunication services market in terms of providing data and telephony services via IP-protocol and monitors the market for data transmission services and analysis of its condition.

The State Commission on Radio Frequencies under the Security Council of the Republic of Belarus implements a unified state policy in the area of distribution and use of the RF spectrum.

The leading operator of the Republic in the telecommunication services segment is Beltelecom RUE.

ii Main sources of law

The main legislative acts regulating the TMT sector in Belarus are the following:

- a* Law of the Republic of Belarus of 19 July 2005 No. 45-Z on Telecommunications (the Telecom Law);
- b* Law of the Republic of Belarus of 15 December 2003 No. 258-Z on Postal Communication (the Post Law); and
- c* Law of the Republic of Belarus of 10 November 2008 No. 455-Z on Information, Informatisation and Protection of Information (the Information Law).

In addition, the President of the Republic of Belarus has adopted a number of decrees regulating the TMT sector. In practice, they all have greater legal force than laws, due to the fact that in accordance with the Law of the Republic of Belarus of 17 July 2018 No. 130-Z on Normative Legal Acts, in the event of divergence of presidential edict or decree with the law, the law has primacy only when the authority to issue an edict or decree has been granted by law.

Thus, the main regulatory presidential acts in the TMT sector are:

- a* Edict of the President of the Republic of Belarus of 18 April 2006 No. 240 on payment for the use of the radio-frequency spectrum;
- b* Edict of the President of the Republic of Belarus of 1 September 2010 No. 450 on licensing of certain types of activities (the Licensing Law);
- c* Edict of the President of the Republic of Belarus of 1 February 2010 No. 60 on measures to improve the use of the national segment of the Internet (Edict No. 60);
- d* Edict of the President of the Republic of Belarus of 30 September 2010 No. 515 on certain measures for the development of the data transmission network in the Republic of Belarus (Edict No. 515);
- e* Edict of the President of the Republic of Belarus of 15 April 2013 No. 192 on the allocation, use of the radio-frequency spectrum and introduction of changes and additions to Presidential Decree of 31 July 2006 No. 473;
- f* Edict of the President of the Republic of Belarus of 23 January 2014 No. 46 on the use of telecommunication technologies by state bodies and other state organisations; and
- g* Edict of the President of the Republic of Belarus of 15 March 2016 No. 98 on the improvement of the procedure for the transmission of telecommunication messages.

2 URDTN construction allows for the centralised management of data transmission networks in Belarus and creates conditions for accelerated economic growth in the field of communications by eliminating administrative barriers. The business sector is also able to use the services of the URDTN.

The media sector is mainly regulated by the Law of the Republic of Belarus of 17 July 2008 No. 427-Z on Mass Media (the Mass Media Law).

The State Security Committee of the Republic of Belarus and the Ministry of Internal Affairs of the Republic of Belarus, having consistently formed the legal framework for ensuring the safety of critical facilities in Belarus, adopted Joint Resolution No. 24/268, which approved the Regulations on Preventive, Regime and Organisational Measures to prevent terrorist activities and minimisation of their consequences at critical objects of the Republic of Belarus.

Edict of the President of the Republic of Belarus No. 449 on the improvement of state regulation in the field of information protection of 9 December 2019 has approved the Regulation on technical and cryptographic information protection and the Regulation on the assignment of information objects to critical objects of informatisation. They define the notion of a 'critically important object of informatisation' and establish the procedure for classifying objects of informatisation as critically important and ensuring the security of critical information objects.

iii Regulated activities

Communications

The TMT sector is strictly regulated by numerous state authorities. In this context, according to the Licensing Law the provision of main telecommunication (TCM) services is subject to obtaining a licence. Such licensed activities include:

- a* public TCM services:
- b* international telephone communication;
- c* long-distance (inter-city) telephone communication; and
- d* local telephone communication;
- e* data transfer service;
- f* VoIP;
- g* IPTV;
- h* mobile TCM service (except cellular communication);
- i* TV transmission;
- j* wireless sound programme broadcasting;
- k* fixed and mobile satellite TCM services; and
- l* cellular communication.

The Licensing Law also outlines the following public postage services:

- a* mail transfer; and
- b* receipt of a subscription to a printed mass media and printed media delivery.

The Licensing Law expressly outlines the activities that may be conducted without a licence:

- a* rendering telematic services (except for VoIP and IPTV services);
- b* receipt of a subscription to a printed mass media carried out directly by a legal entity entrusted with the functions of the editorial office of the given mass media; and
- c* certain provision of data transmission services via the internet at points of shared use of internet services (e.g., computer clubs, internet cafes, etc.).

The general licence requirements and conditions for the licensee are:

- a* compliance with the requirements and conditions established by the Post Law and Telecom Law;
- b* the presence of not less than one specialist in the staff who has duly confirmed professional training and qualifications corresponding to the profile of the services provided;
- c* the permission of the authorised organisation for the right to use the RF spectrum when providing public telecommunication services using the RF spectrum;
- d* observing the terms of the commencement of services provision specified in the licence; and
- e* provision of public telecommunication services using the licensee's telecommunication networks with the permit to connect them to the public telecommunication network and to the URDTN.

The licence for communication services may be granted after an application has been made or as a result of tender proceedings (e.g., for RF spectrum usage). In any case, the licence is issued by the MinCom for a unlimited period.

Media

There are certain additional authorisations needed to carry out activities in the media sector.

According to the Mass Media Law, the mass media (e.g., printed mass media, TV or radio programmes and channels) is subject to a state registration procedure. It may be distributed from the date of its inclusion in the State Register of Mass Media.

TV and radio broadcasting in Belarus is additionally subject to obtaining a licence, which may be obtained by the editor of the mass media or by a foreign organisation.

A broadcasting licence is required for mass media editors and foreign companies broadcasting a TV channel or a radio channel in Belarus. The licence is not required if the TV and radio broadcasting is carried out by a telecommunications operator without changing the form and content thereof:

- a* on the basis of a permit to distribute the products of a foreign mass media;
- b* under a contract with a legal entity entrusted with the functions of the editor of the mass media; or
- c* if the foreign organisation has a licence in the field of broadcasting.

iv Ownership and market access restrictions

Belarusian law establishes certain ownership restrictions within the TMT sector.

In the TMT sector certain restrictions apply in the foreign participation and investments area. Generally, a mass media editor cannot register its mass media if a foreign state, entity, individual, international entity or individual without citizenship owns 20 per cent or more of its shares.

So as spectrum is considered a rare resource, its management and use is reserved to the state. It is particularly reflected in the application of a tender procedure for obtaining a licence.

According to the Decision of the Operational Analytical Centre under the President of the Republic of Belarus, the Ministry of Communications and Informatisation of the Republic of Belarus of 10 February 2014 No. 1/2 on approval of the list of telecommunication operators entitled to pass inter-network traffic only three state-owned entities are authorised for

internetwork traffic transmission. Two of them are additionally entitled to pass international traffic and join foreign states to telecom networks under the Order of the Operational Analytical Centre under the President of the Republic of Belarus of 6 December 2012 No. 91.

v Transfers of control and assignments

As a general rule, communication licences may not be transferred or assigned to third parties. TMT licences may only be granted to legal entities of Belarus.

Mergers and acquisitions of ICT entities are subject to general antitrust legislation requirements.

III TELECOMMUNICATIONS & INTERNET ACCESS

i Internet and internet protocol regulation

The internet and internet protocol is a developing sphere of Belarusian law. As a result, Belarusian law is structured as technology-neutral and does not provide specific legislation for internet and internet protocol services. Such services are mainly regulated by the general TMT legislation.

ii Universal service

In accordance with the Edict of the President of the Republic of Belarus dated 16 January 2020 No. 13 on the Republican Fund for Universal Service of Communications and Informatisation, Belarus has set up a republican fund for universal communication and informatisation services since 1 January 2020. All telecoms operators operating in Belarus transfer 1.5 per cent of their revenues to the State Non-Budgetary Fund. The fund's managers are the MinCom and state bodies that are customers of state programmes (subprogrammes), determined by the President. Funds have a special purpose, in particular, compensation for the capital construction of infrastructure for the provision of universal telecommunication services. Universal telecom services include access services to the fixed telecommunication network using the terminal subscriber unit and the internet at points of shared use.

In accordance with the Order of the MinCom dated 19 October 2006 No. 297, the functions of compulsory provision of universal postal services throughout the territory of Belarus are assigned to the Republican Unitary Enterprise Postal Communication Belpochta (Belpochta RUE).

iii Restrictions on the provision of service

Although telecoms operators are generally free to establish the prices for their services, Belarusian law establishes certain price limits charged to end users. The Ministry of Antimonopoly Regulation and Trade (MART) is the main regulatory authority for the specification of such thresholds. It carries out state price regulation for telecommunication services and postal communication of public service according to the list determined by the Resolution of the Council of Ministers of 17 January 2014 No. 35 on approval of lists of socially significant goods (services), prices (tariffs) which are regulated by state bodies, and the recognition of certain decisions of the Council of Ministers of the Republic of Belarus as invalid (the Price Regulation List). The Price Regulation List has a tendency to

liberalisation through the exclusion of the telecom services from the state pricing regulation. The granting of access to the internet at points of shared use was excluded in 2017 from the Price Regulation List.

As a general rule, telecoms operators are obliged to provide their services to everyone who applies for them, and may not prefer one person to another in relation to the conclusion of a contract for the provision of the services. Refusal to conclude a contract with an opportunity to provide services at hand is prohibited.

Restrictions on access to internet resources and online media shall be made if:

- a* owners of the internet resource during the year were issued two or more demands, or, for owners of the online media, two or more written warnings from the Ministry of Information (MinInfo);
- b* it contains information that is prohibited or restricted from distribution in accordance with the legislative acts of the Republic of Belarus, as well as legally enforceable court decisions (hereinafter, 'information that is prohibited from distribution'); or
- c* the owners of the internet resource did not comply with the lawful demand of the MinInfo to eliminate violations of the legislation of the Republic of Belarus on the mass media or did not notify MinInfo and did not provide documentary evidence on such elimination.

After the MinInfo decides to restrict access it submits its decision to the BelGIE RUE. Subsequently, BelGIE RUE forms the list of restricted access, which is the ground document to be followed by ISPs in further direct restriction of access procedure.

iv Privacy and data security

The basic confidentiality concept is contained in Article 28 of the Constitution of the Republic of Belarus (Constitution). It provides that everyone has the right to protection from unlawful interference in their private life, including interference with correspondence, telephone and other communications, and protection of their honour and dignity.

Lawful interference is mainly regulated for national security purposes by the Telecom Law, the Information Law, the Law of the Republic of Belarus of 15 July 2015 No. 307-Z on Investigative and Search Activity, the Code of Criminal Procedure and other legislative acts. According to the mentioned legislation, lawful interference covers a broad scope of measures, including reception, transformation and recording of data and messages received, transmitted, processed, stored in telecommunication networks as well as identification of service receivers.

The Telecom Law prescribes network operators' obligations when carrying out investigative and search activity, inter alia:

- a* to provide information on users of telecom services and on the telecom services rendered to them, as well as other information necessary to fulfil the tasks assigned to investigative bodies;
- b* to assist in carrying out investigative and search activities and to provide an opportunity to conduct them on TMT networks, to take measures to protect information about organisational and tactical methods for carrying out these activities; and
- c* to provide access to databases, automated systems, etc.

IV SPECTRUM POLICY

i Development

Regulation of the use of the RF spectrum is the exclusive right of the state. Edict of the President of the Republic of Belarus of 31 July 2006 No. 473 on the State Commission for Radio Frequencies under the Security Council of the Republic of Belarus regulates the use of the RF spectrum in Belarus to the State Commission on Radio Frequencies under the Security Council (Commission). The Commission decides on the allocation of RF bands, RF channels and RFs, and organises work on the conversion of the RF spectrum.

Owing to the wide development of modern radio technologies and new RF bands, the government of Belarus amended the procedure for determining the amount of annual, one-time fees and fees for allocating the RF spectrum. The Council of Ministers adopted Resolution No. 853 of 16 November 2017, according to which amendments were made to the amounts of the annual, one-time payments and fees for allocation of the RF spectrum.

The indexes of the commercial value of the K1 RF spectrum, used in calculating the amount of spectrum charges, have been adjusted to create conditions for the successful development of the LTE cellular telecom network in the 2.6GHz band and to encourage the development of the LTE Advanced networks in Belarus.

So the cost index for the spectrum of 2.4835–2.7GHz, where mobile operators operate, has been reduced almost five times – from 5 to 1.1.

ii Flexible spectrum use

Belarusian law does not provide for much flexibility owing to the lack of free space in almost the entire RF range. Hence it is quite heavily regulated.

iii Broadband and next-generation services spectrum use

One of the significant steps in liberalisation of RF spectrum usage was made in 2016. The MinCom, on 29 August 2016, adopted Resolution No. 13, which entered into force on 21 September 2016. With the entry into force of the Resolution, it is possible to use, without registration and permits for the operation of broadband radio access equipment of the IEEE 802.11 group of standards (Wi-Fi technology) both inside buildings and structures and in vehicles, as well as a wide range of low-power devices of GSM, UMTS and LTE technologies, radio stations of seagoing ships that have the right to sail under the Belarus national flag. It is possible to use certain types of satellite subscriber terminals without the need to obtain permits for their operation.

Today in Belarus there is an infrastructure operator called beCloud, which is engaged in the development of LTE networks and allows other companies to operate them to provide services to their subscribers.

iv Spectrum auctions and fees

Belarusian law imposes spectrum usage fees on broadcasters, mobile phone carriers and other businesses that use the RF spectrum. The President of Belarus may stipulate cases when the issuance of licences for the provision of certain components of the licensed services is carried out following the results of a tender for a licence. Pursuant to this, Resolution of the Council of Ministers of the Republic of Belarus No. 1259 of 30 September 2009 establishes the Regulation on the procedure for conducting a tender (competition) for the use of the RF spectrum.

The legislative acts establish both a one-off fee and an annual fee for the use of the RF spectrum.

V MEDIA

i Regulation of media distribution generally

While the Mass Media Law guarantees freedom of opinion, belief and expression to everyone in Belarus, it also establishes certain restrictions on information that may be disseminated through mass media. Among others, the following information is prohibited:

- a* the calling for the consumption of narcotic drugs, psychotropic substances, their analogues, toxic and other intoxicating substances, and dissemination of information on the methods of its development, production and consumption;
- b* the calling for and promotion of war, extremist activities, pornography or violence; and information, disseminated by the entity without due state registration, if any needed; etc.

Since 1 December 2018 the Mass Media Law has contained a definition of ‘internet resource’: a website, web page, forum, blog, application for a mobile device, other information resource (its component), located on the global computer network internet, through which mass media is distributed. Unless indicated otherwise, the Mass Media Law applies to internet resources. Internet resources may be registered as online media and, consequently, be treated as mass media under the Mass Media Law.

Certain regulations apply specifically to internet resources. The Mass Media Law provides for a number of duties for internet resource owners, including social network owners, which involve the introduction of additional measures for analysing and monitoring information on such internet resources. In particular, further to the Mass Media Law requirement, the Regulation on the procedure for preliminary identification of users of an internet resource, an online media approved by the Resolution of the Council of Ministers of the Republic of Belarus of 23 November 2018 No. 850 on approval of the Regulation on the procedure for preliminary identification of users of an internet-resource, an online media elaborates the requirements of user identification. The owner of the internet resource or online media will identify users when leaving a message in the comments or on the forum via the SMS verification mechanism.

ii Internet-delivered video content

Internet services are available in Belarus, including IPTV channels with programming provided by programme providers. Current legislation does not provide for internet delivered video content (OTT) regulation.

The need for OTT services regulation was discussed during a roundtable in Minsk by representatives of the MinInfo, interested departments, television channels, cable operators and the Telecommunications Industry Union. The chairman of the Telecommunications Industry Union outlined that owing to the absence of regulation, telecommunication operators working in the lawful field faced unfair competition from OTT services. They lead away subscribers – the annual outflow of subscribers is at least 10 per cent. In most cases, OTT services do not pay taxes, they are not registered in the register of distributors, that is,

they provide TV programmes without contracts with rights holders, do not pay for related rights, do not make contributions to the National Centre of Intellectual Property, and do not distribute mandatory programmes of the public package.

OTT services are planned to be regulated by government rules and regulations in the future.

VI THE YEAR IN REVIEW

Considering the events of the year, we can say that Belarus is charting a course for the development of its IT infrastructure in many areas.

In June 2019, the Draft Law on Personal Data Protection (the Bill on PD) passed first reading by the lower Chamber of Parliament. The Bill on PD is still under review in Parliament and is expected to come in force not earlier than the end of the 2021. Generally, the Bill on PD follows the basic concept of the GDPR, including the main principles of ensuring data privacy, however it is still not very detailed and mostly uses different terminology compared to the GDPR.

In particular, if the Bill on PD enters into force in the wording available now, it will provide for the establishment of a state body ('the Data Protection Authority') specially authorised for regulating personal data protection issues. According to the Bill on PD the Data Protection Authority will be appointed by the President of the Republic of Belarus. It also plans to regulate transfer of personal data abroad from Belarus. In particular, the cross-border transfer of personal data to countries not ensuring sufficient measures of personal data protection will be prohibited subject to a limited number of exceptions (e.g., individual permit of the Data Protection Authority).

One of the important development became introducing a 5G network in May 2020: the Belarusian mobile telecom operator A1 launched the 5G network in test mode. The network is constructed on the basis of standalone architecture (SA) and deployed without being tied to the infrastructure of 4G/LTE networks. The network is only available in a few test areas.

Development of online casinos also plays a significant role in IT sphere. In April 2020, local gambling provider launched first online casino in Belarus. Casinos have to be certified for compliance with the security standards for processing and storing personal data in order to eliminate the risk of their loss or theft. In addition, information about all bets, deposits, winnings and other casino turnovers is transmitted to a special computer cash register system. In general, despite rather strict regulation, the number of online casinos continues to increase.

The creation of personal electronic accounts can be considered as another significant improvement. The Order of the Operative-Analytical Center of 18 March 2020 No. 82 on the creation and functioning of personal electronic accounts, has approved the Regulation on the procedure for the creation and functioning of personal electronic accounts. The Republican Unitary Enterprise 'National Center for e-Service' creates such accounts on the basis of a single portal of electronic services. Such accounts allow users to order and receive electronic services, file applications for administrative procedures, receive electronic certificates, notices and other documents in electronic form.

In September 2020, a rating portal for service providers and administrative procedures was developed. The portal provides an opportunity for citizens to assess and comment on the effectiveness of government bodies and organisations. It is assumed that the feedback will have a positive impact on work of the bodies and will improve the quality of services.

In October 2020, the Republican Unitary Enterprise 'Cryptotech' has started to test identification cards (IDcards). The number of samples of ID cards is limited; they will be issued only for the purpose of testing the readiness of workplaces connected to the Belarusian integrated service-payment system. Later, samples will be distributed among different organisations and entities.

VII CONCLUSIONS AND OUTLOOK

The development of TMT in Belarus in increasing frequency comes with a lack of relevant legislation while having progressive legislation in particular spheres. During the process of post factum regulation the government is trying to steer a middle course between national interests for TMT infrastructure control and development of the TMT sector by private investors. Depending on the particular approach in different ICT spheres, development of both legislation and the ICT sector itself affects national economy indexes as well as development of the information society. At the same time, Belarus is trying to implement and follow the strategy of front-running rather than pursuing in the field of technology regulation and use.

The 2020 government approach towards formation of law is subject to particular world TMT trends. The data protection, e-services, telecommunication and other TMT-related regulations are the primary focus.

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