## LATVIA

## **INTRODUCTION**

During 2009, strong competition continued in the mobile market with operators introducing comprehensive call packages at attractive prices and with an accelerating take-up of number portability by consumers. The growth rate of broadband penetration, on the other hand, continued to decline increasing Latvia's gap with the EU average broadband penetration. The incumbent operator kept its traditional dominance in the fixed voice market where competition remains limited but also, in contrast to the experience in the last few years, increased its broadband market share. A swift progress was made in the roll-out of the digital terrestrial TV, as a result of which the switch-off date of analogue TV transmissions was advanced to the first part of 2010.

Further to legislative amendments adopted in June 2009, the regulatory functions exercised by the Ministry of Transport concerning allocation of frequencies and numbering were transferred to another ministry. This was done in response to the infringement procedure launched by the Commission in 2008 concerning lack of structural separation of the regulatory function from the activities associated with ownership and control in the case of the Ministry of Transport. In the context of measures aimed at cutting public spending, the Government was considering different reform proposals regarding the Public Utilities Commission (*Sabiedrisko pakalpojumu regulēšanas komisija - SPRK*), Latvia's multi-sectoral regulator dealing also with electronic communications. In 2009, SPRK carried out second round reviews of a number of markets and, in particular, decided to reduce the termination rates of the main regulated operators.

### REGULATORY ENVIRONMENT

### **Main Regulatory developments**

One of the most important regulatory decisions taken in 2009 by the SPRK was the reduction, as from 1 April 2010, of the call termination rates of the two established mobile network operators (MNOs) and of the fixed incumbent, which are at present significantly above the respective EU averages.

In the mobile market, following adoption of the new national frequency allocation plan in October 2009, Latvia's mobile operators are now faced with the challenge of making use of the liberalised 900 MHz band. The increased take-up of number portability by consumers was accompanied by ongoing disputes between operators over the wholesale charges.

In the broadband market, the wholesale regulation remained without practical impact as alternative operators continued to compete on the basis of alternative infrastructures. Moreover, the price charged by the fixed incumbent for local loop unbundling (LLU) remained well above the EU average and among the highest in the EU.

In the broadcasting area, the roll-out of digital terrestrial TV (DTTV) was progressing in 2009 to become available across the country in the first part of 2010. At the same time, in the light of the forthcoming switch-off of the analogue transmissions, the implementation of DTTV came under close scrutiny and concerns were raised about the continued availability of TV services to a significant proportion of mostly rural residents currently using analogue terrestrial TV.

### Organisation of the NRA

Since the end of 2008, the Government has been reducing public spending by cutting salaries of public officials, accompanied by lay-offs, and reducing the number of public authorities.

These measures also impacted on the SPRK. In October 2009, the Ministry of Economics presented to the Cabinet a proposal to merge SPRK with the Competition Council, which was however subsequently rejected by the Cabinet. On the other hand, the Cabinet of Ministers' preliminary document on electronic communications policy for 2009-2015, prepared by the Ministry of Transport, proposed the establishment of a separate regulator for electronic communications building on the ESD.

Following amendments of 11 June 2009 to the Law "On Regulators of Public Utilities", the Government included the salaries of the SPRK Chair and Council members in the general salary scheme of Latvia's public servants and employees. Although they were assigned to the highest available salary grades under this scheme, the salaries of the SPRK leadership were reduced by more than a half, which is reportedly greater than the average 30% salary cut imposed on other Latvia's public servants. The staff of the SPRK will be included in this general salary system as from April 2010, which will also lead to a decrease of their salaries. The Ministry of Economics, which acts as the financial supervisor of the SPRK, was taking steps to gain a greater say over the planning of SPRK's budget, which has been cut by 10% for 2010, as well as tightening control over its disbursement by the SPRK.

In October 2008, the Commission launched an infringement proceeding against Latvia under Article 3 of the Framework Directive, which provides for 'structural separation' of regulatory functions exercised by the national regulatory authorities from their activities associated with ownership or control in State-owned communications and networks providers. The Commission held that this provision was breached in the case of the Ministry of Transport, which was in charge of the preparation of Government decisions regarding frequency allocation and the national numbering plan and at the same time exercised activities associated with ownership or control in State-owned communications undertakings.

In response to the reasoned opinion issued by the Commission in April 2009, amendments to the 'Electronic Communications Law' were enacted on 12 June providing that the Ministry of Regional Development and Local Self-Government prepares draft decisions concerning frequency allocation and national numbering plan. The Commission services are monitoring the practical implementation of this transfer of responsibilities between the two Ministries, in particular as regards amendments to the relevant secondary regulations to ensure the effective transfer of functions and in the light of the fact that the Ministry of Transport is due to keep under its supervision the ESD, which exercises a number of functions regarding radio frequencies and numbering.

### **Decision-making**

During 2009, SPRK carried out a number of second round market analysis. In markets where SPRK proposed to keep the existing SMP designation and remedies unchanged, no formal decisions are issued since the former decisions are considered to remain in effect. This policy of the SPRK raises important question as to how operators can exercise their right of appeal against the SPRK decision to extend the previous decision and about the follow-up given by the SPRK to the comments made by the Commission. With regard to the latter, it should also be noted that the amendments to Electronic Communications Law passed in July 2008 obliged the SPRK to amend its draft measures in accordance with the Commission comments regarding remedies.

In assessing the operation of SPRK, many industry representatives expressed the wish that it should play a more active role in resolving disputes, referring in particular to the ongoing dispute between MNOs over wholesale number portability charges. It would appear that SPRK's strategy regarding disputes is to push for commercial settlement rather than take formal dispute resolution decisions.

In the area of consultation, operators still considered inadequate the feedback provided by SPRK on the comments made by the industry. The criticism most often raised by the operators with regard to SPRK's consultation procedures in 2009 was the change of the starting dates of its October 2009 decisions on call termination rates – on the day of the decision those were postponed to 1 April 2010 while the previously announced and discussed starting dates for these decisions were 1 January 2010.

### MARKET AND REGULATORY DEVELOPMENTS

Since the second half of 2008 the Latvian economy is experiencing a strong economic recession. However, according to the latest available statistics, the total turnover for the Latvian electronic communications sector was about  $\epsilon$ 747 million as at 31 December 2008, which is more than  $\epsilon$ 726 million reported for 2007. The total value of tangible investments in electronic communications networks stood at  $\epsilon$ 163 million in 2008, which is a notable increase compared to 2007.

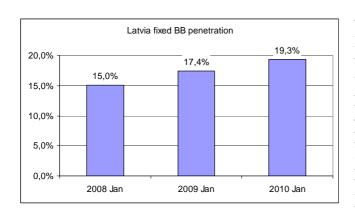
In the area of mobile services, operators reported decrease of revenues in 2009 in particular because business customers were cutting their expenditure on mobile services. Operators continued nevertheless the development of networks to expand 3G coverage, although some of them reported a decrease in investment. Latvia's mobile customers already enjoy the cheapest mobile call rates in the EU and further price decreases can be expected in the future as the result of the reduction of mobile termination rates decided by the SPRK.

A new challenge for the Latvian mobile network operators is the liberalisation of the GSM bands further to the new national frequency plan adopted in October 2009, which allows them to roll out UMTS in the 900 MHz band and to compete notably with the current CDMA2000 mobile broadband offering in the rural areas.

In fixed services, competition is based on alternative infrastructures rather than the use of the regulated wholesale products of the fixed incumbent. Latvia's alternative operators still appear largely uninformed about the vast range of regulatory remedies imposed on the fixed incumbent and the powers of the SPRK to enforce them under the EU regulatory framework. There is practically no 'demand' from the alternative operators to SPRK and, in consequence, also no enforcement action.

There were nevertheless signs that the attitude of alternative operators could change in the future as the fixed incumbent was gaining speed with large scale fibre roll out offering higher access speeds, which the alternative operators may not be able to match. In addition, there were indications about increased control by local municipalities over the deployment of aerial networks, which have so far allowed the smaller players to provide competitive broadband services.

#### **Broadband**



#### Market situation

Latvia's broadband penetration continued to increase in 2009 but at a lower rate than in 2008. It increased by 1.9 percentage points to reach 19.3% in January 2010, which is less than the 2.4 percentage points growth in 2008 and less than a half of the 4.5 percentage points growth recorded in 2007. Although the EU average broadband penetration growth was also slower in

2009 (2 percentage points compared to 2.6 percentage points in 2008) to reach 24.8% in January 2010, the gap between Latvia's and EU average broadband penetration rate has accordingly widened for the second consecutive year. As regards mobile broadband Latvia has one of the lowest penetration rates in the EU of mobile connections using only dedicated data cards/modems/keys typically allowing mobile Internet via laptops (1.7% compared to the EU average of 5.2%).

In terms of fixed broadband speeds, although Latvia's share of lines in the top range of 10Mbps and above has more than doubled in 2009 (20.7% in January 2010 compared to just 8.8% a year ago) it still remains below the EU average of 23.4%, which has also increased significantly compared to 14.1% a year ago. The share of lines in the 2 to10 Mbps range, which is the most common bandwidth in the EU, has also increased from 53% a year ago to 61.2% in January 2010 and is close the EU average share of 61.2%. The share of low-speed lines (up to 2Mbps) has accordingly dropped sharply from 38.1% to 18.1%; yet their share remains slightly above the EU average of 15.4% in January 2010.

During 2009, the fixed incumbent accelerated the deployment of FTTH networks in several residential districts of Riga and in Jelgava with plans for expansion in other regional centres. These networks currently allow for broadband speeds of up to 100 Mbps and there is ambition to bring the speeds up to 500 Mbps in the further stages of development. The fixed incumbent's progress in broadband is also confirmed by its market share, which increased over the past year to reach 51.8% in January 2010 compared to 46.4% a year ago and now exceeds the EU average incumbent's market share of 45%.

As regards rural broadband, a CDMA2000 wireless network across the entire territory was completed in 2008 allowing access speeds of 256/128 Kbps. A new project for the period 2007-2013 is planned to provide for the last mile connectivity ensuring at least 2 Mbps transmission speeds. In 2009, the Latvian authorities decided not to invest in rural broadband the resources allocated through the special EU facility for economic recovery.

## Regulatory issues

In the light of the poor take-up by alternative operators of the fixed incumbent's regulated wholesale offers, in September 2008 SPRK issued a consultation document to gather operators' views. Only two operators responded to this consultation and, in 2009, the take up of wholesale products still remained non-existent. Two operators have conducted negotiations with the fixed incumbent on LLU and a contract has been concluded with one of them but has not yet been applied in practice.

This lack of take-up is explained by the specific market conditions in Latvia where it remains relatively easy and cheaper for alternative operators to duplicate infrastructure rather than

going through the hassle of negotiating on difficult issues such as collocation and points of interconnection. This situation may, however, change in the future to the disadvantage of the small operators as many local municipalities, in particular Riga, are considering restrictions on aerial cables, which have so far ensured the relative ease of rolling out alternative networks and competition in the broadband market. Also, while it may not be commercially attractive to go for unbundling the current copper networks due to their limited technical capacities, the fixed incumbent is currently investing massively in FTTH and the smaller operators may no longer be in a position to match its offer, thus creating incentives for them to seek wholesale access.

Another important reason for the lack of LLU could be the insufficient margin between the wholesale costs and retail prices. In October 2009, the monthly average total price charged by the fixed incumbent remained €13.72 for full LLU and 7.83€ for shared access, both of which are well above the respective EU averages of 9.75€ and 3.53€ and among the highest in the EU.

In 2009, the SPRK carried out a second round review of the wholesale market for (physical) network infrastructure access (including shared or unbundled access) at a fixed location, which was notified to the Commission in October. Unlike the first round analysis, fibre networks have been included in the market definition. The SPRK proposed to maintain unchanged the existing remedies, imposed on the fixed incumbent 2007, which include price control obligation. SPRK was also planning to review shortly the wholesale broadband access market, which is also expected to include fibre in the relevant market.

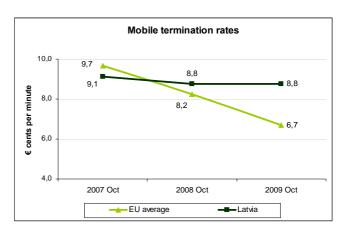
### **Mobile**

#### Market situation

The mobile penetration rate was reported to be up again to reach 102.4% in October 2009, which was below the EU average of 121.9%. The Latvian mobile market is highly competitive. According to operators, retail prices were reduced in 2009 at about the same rate as in previous years, i.e. about 10% a year. A notable development in mobile markets in 2009 was the offer of 'all inclusive' tariff packages by all the mobile operators, allowing customers to call any mobile and fixed number at the same price, thus making less attractive the use of separate SIM cards for each network. As of October 2009, Latvia was reported to be the EU leader in terms of mobile retail prices with just € 0.04 average price per minute, which is less than one third of the EU average of € 0.13. The annual average revenue per mobile user was also the lowest in the EU at €104 in 2008, which was less than a third of the EU average of €323. MNOs reported a continuous rise in the usage of data services.

### Regulatory issues

Further to the voluntary decrease in 2008 of their termination rates by the new mobile entrant using GSM/UMTS technology and Latvia's fourth mobile operator using CDMA2000 technology, the mobile termination rates of all Latvia's mobile operators stood at 0.062 LVL (8.75 €-cents). In 2009, this was considerably higher than the EU average, which decreased to 6.70 €-cents in October 2009.



In October 2009, following a consultation, SPRK set the maximum termination rates of the two established MNOs and of the fixed incumbent by introducing a four-year glide-path until 1 January 2012. The termination rates of the two established MNOs will decrease to 0.047 LVL on 1 April 2010 (about 6.70 €-cents) and will go down to 0.026 LVL (about 3.70 €-cents) on 1 January 2012. These measures, taken on the basis of the price control remedies imposed on these operators in the 1<sup>st</sup> round market analysis back in 2006, were only notified to the Commission and national regulators in other Member States in January 2010.

In parallel with this procedure, in September – October 2009 SPRK also held a national consultation on second round analysis of the mobile termination markets, in which it proposed to extend to the new GSM/UMTS mobile entrant all the same obligations already imposed on the two established MNOs. This market analysis was also notified to the Commission in January 2010.

In addition to the dispute over wholesale charges for number portability, a new dispute arose in 2009 between the two established mobile operators regarding SMS termination charges. This dispute was submitted for formal dispute resolution to SPRK, which is expected to decide on it in early 2010.

### Roaming Regulation

Mobile operators were offering voice and SMS roaming services in the EU at retail prices in compliance with the price caps established by the amended Roaming Regulation, which entered into force on 1 July 2009. According to mobile operators, voice roaming revenues were decreasing during 2009 due to lover volumes, which is attributable to less frequent travelling abroad. In accordance with Article 9 of the Roaming Regulation, a new Article 158-5 was inserted in the Code of Administrative Offences on 14 May 2009, providing for a maximum penalty of 10 thousand LVL (approx. € 14000), which can be applied by the SPRK in case of breach of legal requirements governing mobile roaming.

#### **Fixed**

#### Market situation

According to the latest available statistics as of December 2008, the fixed incumbent's market share in the fixed voice telephony market remained stable by both retail revenues and volume of traffic at 81.8% and 95.8% respectively. By both indicators, this is one of the largest market shares for a fixed incumbent in the EU. Compared to mobile and broadband markets, the competition in fixed voice services accordingly remained very limited. The fixed incumbent has a number of contracts with carrier selection (CS) providers, which mainly specialise in international calls, as well as a few contracts with carrier pre-selection (CPS) providers.

### Regulatory issues

During 2009, SPRK carried out the second round reviews of the fixed retail market for access to the public telephone network at a fixed location and of wholesale markets for call origination and call termination.

In its consultation document on call termination markets SPRK proposed to maintain the existing remedies on both the fixed incumbent, which is subject to a wide range of remedies including price control, and on the 17 identified alternative fixed operators, which are only subject to transparency requirements. Further to the Community consultation, in May 2009, the SPRK adopted decisions concerning five alternative operators (imposing transparency obligation on four new entrants and removing the previously imposed obligations on one

operator no longer providing termination services). No formal decisions followed concerning the fixed incumbent and the other alternative operators.

As of October 2009, the charge for terminating calls on the fixed incumbent's network remained at 0.008 LVL (about 1.14 €-cents) in the case of both single and double transit. In addition, there is a set-up charge of 0.0088 LVL (about 1.26 €-cents). The average per minute charge for a three minute call was accordingly 1.54 €-cents, which is well above the EU average per minute charge of 0.79 €-cents in case of single transit and 1.09 €-cents in case of double transit.

However, in October 2009, SPRK decided to impose price caps and glide path to reduce the fixed incumbent's termination rate to 0.0075 LVL (about 1.07 €-cents) as from 1 April 2010 down to 0.005 LVL (about 0.71 €-cents) on 1 January 2012 (the call set up charge will then go down to 0.0054 LVL / about 0.77 €-cents). These remedies concerning the fixed incumbent were only notified to the Commission and national regulators in other Member States in January 2010. SPRK did not impose similar caps and glide path on the alternative fixed operators.

As regards the markets for access to the public telephone network at a fixed location and for call origination, SPRK proposed to maintain the previously imposed obligations on the incumbent fixed operator, which include carrier selection, carrier pre-selection, price control and cost accounting in the access market and access, transparency, non-discrimination, price control and cost accounting in the call origination market. The Commission in its comments regarding these two market reviews pointed out that these obligations had so far failed to create more competition in the retail calls market. It therefore invited SPRK to verify the effective implementation of these remedies and to consider the imposition of wholesale line rental (WLR). By the end of 2009, SPRK had not adopted decisions further to the national and community consultations on these markets.

With regard to retail markets, it should be also mentioned that, in 2008, the Competition Council examined a complaint concerning the bundling of voice services with broadband services by the fixed incumbent. It did not find the fixed incumbent applying predatory pricing but it noted that it is the competence of the SPRK to verify whether the fixed incumbent complies with its retail price control obligations as regards the voice telephony services included in the bundle and if there is a case of cross subsidy. In 2009, there was not any follow-up to this decision by the SPRK.

### **Broadcasting**

### Market situation

In July 2009, the Latvian TV broadcasting market had the following market shares by platform: 46.3% cable, 26.8% analogue terrestrial, 13.9% satellite, 4.1% IPTV and 0.4% digital terrestrial TV (DTTV). It is particular the market share of IPTV offered by the fixed incumbent, which shows a major increase since 2008. The DTTV service was started in March 2009 in the Riga area (using MPEG-4 encoding) and the nation-wide roll-out is expected to be completed in 2010.

### Regulatory issues

Further to the selection procedure organised by the Ministry of Transport at the end of 2008, in January 2009, the Government endorsed the selection of the fixed incumbent as the provider of DTTV broadcasts. In accordance with the selection decision, the National TV and Radio Council granted to the winner the rights to use the 174-230 MHz and the 470-862 MHz frequency bands for digital broadcasts until 31 December 2013, but there currently are parallel rights of use of the analogue broadcasters. As from 2013, the SPRK, rather than the

National TV and Radio Council, will deal with the assignment of the broadcasting frequencies. A possible use of a part of these frequencies (digital dividend) not required for digital broadcasts is not on the agenda of the Latvian authorities at the moment. According to them, such use is also prevented by the likely interference problems in border areas with Latvia's non-EU neighbours the Russian Federation and Belarus where analogue switch-off is scheduled only around 2015.

The originally planned switch-off date of analogue broadcasts was end 2011 but, in view of the progress in DTTV coverage, it is likely to happen in the first half of 2010 as many national TV channels announced their intention to terminate analogue transmission earlier as a cost saving measure. In the absence of plans to provide aid to end-users for acquiring digital TV decoders, this accelerated move to digital-only broadcasting raised concerns about its impact on a potentially significant share of rural population, which currently use analogue terrestrial TV. Since the main driver for this accelerated switch-over process is the broadcasting transmission charges applied to TV channels by the broadcasting transmission provider, a State-owned company controlled by the Ministry of Transport, also the cost of implementing DTTV came under active public scrutiny at the end of 2009.

## **Horizontal regulation**

### Spectrum management

A new national frequency allocation plan was adopted in October 2009 providing in particular for the liberalisation of the 900 MHz band to enable UMTS as foreseen by Directive 2009/114/EC adopted on 16 September 2009, which amended the GSM Directive of 1987. The 2.6 GHz band was, on the other hand, reserved for the wireless TV (MMDS) until the end of 2013. The 2300 – 2370 MHz band will be frozen for two years, after which it will be enabled for IMT systems and a beauty contest will be organised to assign the rights of use. In 2008, SPRK already granted the rights of use to this band to ten undertakings. However, none of the assignees was able to use it since the ESD did not issue the required authorisations for installing radio equipment to provide services in this band. According to operators, this case demonstrated that the co-ordination between the authorities involved in radio spectrum management did not work well.

In 2009, SPRK organised beauty contests for the rights of use in the 28 – 29 GHz and the 31 – 33 GHz bands where the rights of use were assigned to the single applicant in each procedure. In 2009, the SPRK issued new rules on the use of frequencies, which incorporate the national authorisation procedure for the EU-selected providers of mobile satellite services (MSS). These revised rules also provide for a possibility to impose additional conditions at the moment of extension of the rights of use, such as coverage, which are quite important in the Latvian situation since there are no fees for the use of frequencies. These SPRK rules formally provide for spectrum trading, but it is limited only to the rights of use for those frequency bands, which are not subject to selection procedure and which any operator can anyway receive without restriction by simply applying to the SPRK.

### Implementation of spectrum decisions

Following the adoption of the new national frequency allocation plan in October, Latvian authorities stated that this new plan implements radio spectrum harmonisation Decisions 2008/432/EC (amending Decision 2006/771/EC), 2006/804/EC, 2007/131/EC, 2007/90/EC (amending decision 2005/513EC), 2007/98/EC, 2008/294/EC, 2008/411/EC, 2008/477/EC, 2008/671/EC and 2008/673/EC (amending decision 2005/928/EC). The conformity of the new provisions with these radio spectrum decisions is being assessed by the Commission

services. The implementation of Decision 2007/344/EC on the harmonised availability of information regarding spectrum had not been notified to the Commission by the end of 2009.

## Rights of way and facility sharing

Further to the amendments of June 2009 to the Law on Regulators on Public Utilities, the SPRK acquired the right to regulate access to infrastructure for the provision of regulated services, including electronic communications services.

Since 2008, the ESD is also charged with the review and authorisation of construction projects for rolling out electronic communications networks as well as with control functions in this area. Also in 2009 many operators continued to view ESD's involvement in these matters as an additional formality, which does not provide any added value, since they still have to deal with the local public authorities regarding their network construction projects.

There is also still no regulation concerning the charging for these ESD's activities. For the moment, its work in this area is being financed mostly from the electromagnetic compatibility (EMC) charges. However, a new 'price list' was in preparation for adoption by the Cabinet of Ministers and was expected to be published for consultation along with the methodology. In addition, ESD offered to operators to sign voluntary contracts on 'co-operation' in this area, according to which they pay charges set by the ESD. Some of the large operators agreed to these contracts in 2009 while others awaited a Government decision.

The Commission services are following carefully the developments in Latvia in this respect.

In May 2009, amendments to the Code of Administrative Offences were adopted providing for sanctions in case of breaching the rules governing installation of telecoms facilities, which are to be enforced by the ESD. So far, the control activity in this area has been limited and unauthorised roll-out of aerial cables is quite common in the cities. However, there were indications that some municipalities, including Riga, had intention to step up enforcement in this area.

### Administrative charges

A major development in 2009 was the Government's decision in August to charge annual fees for the rights of use of the 3-5 digit short numbers (codes), including carrier selection codes. The fee ranges from 510 to 7500 LVL per year (about  $\[mathbb{e}\]$ 730 –  $\[mathbb{e}\]$ 10700). As a result of this decision, numerous undertakings applied to SPRK to cancel the rights of use to the short codes assigned to them.

The administrative costs of both the SPRK and ESD are financed from administrative charges. As regards SPRK, the Cabinet of Ministers reduced, in December 2008, the rate of the charge from 0.2% to 0.17% of operators' annual turnover in 2009. The costs of the ESD are financed from the administrative charges for the provision of EMC, the rates of which are established by the Cabinet of Ministers in a detailed manner per type of communication service and radio channel and per type of radio equipment installed.

The last revision of these charges took place in 2007 resulting in a significant increase of the rates for the use of certain radio channels. Following a complaint from a Latvian undertaking, in June 2009, the Commission launched an infringement proceeding against Latvia over concerns that the more than six-fold (compared to the previous rate enacted in December 2006) increase of the EMC rate in relation to narrowband multi-channel mobile radio networks (TETRA) as well as the discounts on EMC charges granted to certain undertakings did not comply with the Authorisation Directive, which requires administrative charges to be imposed in an objective, transparent and proportionate manner.

Furthermore, it should be noted that, apart from ensuring EMC, the ESD also has several other tasks, such as the maintenance of a numbering database, the caller location database and the authorisation of the civil works. These functions have so far been financed by the EMC charges although the State budget for 2010 allocates specific resources to the ESD for maintaining the numbering database.

The Commission services are following carefully the developments in Latvia in this respect.

#### THE CONSUMER INTEREST

## Tariff transparency and quality of service

In view of the significant share of consumer complains related to broadband services the SPRK introduced in 2009 a new IT system for consumers to test their broadband speeds, which had turned out to be quite popular.

### Universal service

In 2009, the fixed incumbent remained the provider of universal service (US) in Latvia, following the last extension of its designation by the SPRK in 2008 until the establishment of a universal service compensation mechanism. Although the setting up of such a mechanism was required by the Electronic Communications Law already several years ago, it still has not been implemented and there was no progress in this respect in 2009.

Until the establishment of the fund, the compensation to the US provider is to be paid from the budget. The SPRK has found an unfair burden in the provision of US in 2006-2007 but no compensation has been paid to the US provider. In August 2009, the SPRK found an unfair burden also in the provision of US during 2008 and confirmed the provider's request for compensation in the amount of approx. 380 000 LVL (€540 000). Thanks to the exclusion of access from the range of services subject to compensation, this is significantly less than approx 2 million LVL (2.9 million €) approved for the previous year 2007. The net cost is mostly due to the provision of public pay telephones. On the other hand, the provision of social tariff options and of the comprehensive directory and directory inquiry service was profitable for the US provider.

In December 2009, SPRK adopted a decision amending the scope of the US by replacing the previous US obligations in relation to disabled users with an obligation to provide such users with free of charge installation of new lines, including broadband lines, 75% discount on monthly subscription, 20% discount on local calls and a 8.65 LVL (about €12.35) discount on broadband subscriptions. As regards public pay telephones, SPRK obliged the US provider to maintain in service those pay telephones that are profitable and to get agreement on removal of loss-making pay telephones from the relevant local authorities or the hospitals, schools and social security establishments concerned. Due to the steep drop in call volumes, the fixed incumbent was reported to have drastically reduced the number of pay telephones in 2009 − from 2871 in January 2009 to 917 on 1 October 2009.

# Users' access to the Internet and network management

Net neutrality was not reported to be an issue at the moment. According to mobile operators, they were not considering restricting mobile VoIP and also indicated that there is no evidence of an increasing use of mobile VoIP due to the low retail voice tariffs.

### **Number portability**

The significant increase in mobile number portability, which started in 2008 continued in 2009. Between 1 January and 30 September 2009, 92 955 mobile numbers were ported

between operators. Also 14 192 fixed numbers were ported between operators during this period. According to SPRK, the time required for mobile and fixed number porting is 2.5 days, which is below the EU averages of 5.9 days in case of fixed and 4.1 days in case of mobile numbers, even though the legal time limit for number portability in Latvia remains 10 working days.

Number portability remains free of charge for both fixed and mobile customers. Initially there were also no charges at the wholesale level, but these have now been introduced by all operators and are the subject of disputes between the fixed incumbent and an alternative fixed operator and among all the mobile operators. The rate charged by the fixed incumbent is 6.02 LVL for a number ported out (about € 8.5), which SPRK found to be cost-oriented in 2008. In 2009, one alternative fixed operator appealed against this SPRK decision in the administrative court. At the same time the fixed incumbent sued the alternative operator in the civil court claiming the payment but the civil court stayed its proceedings pending the outcome of the litigation in the administrative court. Other fixed operators charge the fixed incumbent the same wholesale charge of 6.02 LVL (i.e. rates are reciprocal).

After wholesale charges for numbers ported out were introduced by the two established mobile operators (5.56 LVL/ €7.94 and 5.61 LVL/ €8.01, respectively), also the new GSM/UMTS entrant followed the suit in October 2009 by introducing a wholesale charge of 13.62 LVL/ €19.46. As the amounts of mutually unpaid bills were accumulating, the resolution of this long-standing dispute was clearly becoming a pressing issue for the mobile operators which appeared to wish the SRPK to resolve their dispute by setting the respective rates without further delay.

## **Consumer complaints**

In Latvia, consumer complaints against operators can be reviewed by both the SPRK (except billing disputes) and the Consumer Rights Protection Centre. As of 1 October 2009, 111 consumer complaints had been lodged with the SPRK in 2009. Amendments adopted in May 2009 to the Consumer Rights Protection Law provided, among other things, that the Consumer Rights Protection Centre can refuse the investigation of a complaint that it does not deem to have caused a serious prejudice to the collective rights of consumers.

### **European emergency number 112**

Since 2008, emergency services can acquire caller location information via a central location database run by the ESD. Upon request from the emergency services, this database requests caller location information from the relevant operator and makes it available to the emergency services. During 2009, one of the mobile operators upgraded its systems and now automatically forwards caller location information to the ESD for each 112 call.

112 is Latvia's main number for calling emergency services from mobile phones since many mobile handsets do not allow calls to the individual two-digit numbers of each emergency service. 112 calls are received by the call centres of the Fire and Rescue Service, which forward them to the competent emergency service where necessary. Fixed line users can call 112 but also have the possibility to call, for example, ambulance services or police directly by using their individual two-digit emergency numbers. A public discussion was started during 2009 to make it possible also for mobile users to call the ambulance services directly as there were concerns about the delays in forwarding the 112 calls to them.

The awareness of 112 as the European emergency number remains low – according to the Eurobarometer Flash survey (February 2010), only 28% of the respondents in Latvia knew that they can call emergency services across the EU by using 112.

### Harmonised numbers for harmonised services of social value (116)

The current national numbering plan adopted by the Government in August 2008 simplified the procedure for allocating the EU harmonised numbers in the '116' numbering range. Following a publication of a new harmonised number by the Ministry of Transport, it can be assigned by the SPRK to the operator (the publication function may, however, be transferred to another body taking into account the decision of the Latvian authorities to relieve the Ministry of Transport of its regulatory functions). So far only one number – 116111 – has been assigned and the service was started in 2009 by the State Inspectorate for Protection of Children's Rights.

## **ePrivacy**

In June 2009, amendments were adopted to the Information Society Services Law, which softened the rules on direct marketing messages addressed to legal persons and provided that the national supervisory authority – the State Data Inspectorate – would only investigate complaints from natural persons in case of regular (meaning more than 10 during a year) receipt of unsolicited marketing messages sent by the same provider.

There is no requirement for mobile customers using pre-paid cards to register.