



# ICLG

The International Comparative Legal Guide to:

## **Telecoms, Media & Internet Laws & Regulations 2018**

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A practical cross-border insight into telecoms, media and internet laws and regulations

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## EDITORIAL

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Welcome to the eleventh edition of *The International Comparative Legal Guide to: Telecoms, Media & Internet Laws & Regulations*.

This guide provides the international practitioner and in-house counsel with a comprehensive worldwide legal analysis of telecoms, media and internet laws and regulations.

It is divided into two main sections:

Three general chapters. These chapters provide readers with an overview of key issues affecting telecoms, media and internet laws and regulations, particularly from the perspective of a multi-jurisdictional transaction.

Country question and answer chapters. These provide a broad overview of common issues in telecoms, media and internet laws and regulations in 29 jurisdictions.

All chapters are written by leading telecoms, media and internet lawyers and industry specialists and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editor Rob Bratby of Arnold & Porter Kaye Scholer LLP for his invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at [www.iclg.com](http://www.iclg.com).

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# Armenia

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### 1 Overview

#### 1.1 Please describe the: (a) telecoms, including internet; and (b) audio-visual media distribution sectors in your jurisdiction, in particular by reference to each sector's: (i) annual revenue; and (ii) 3–5 most significant market participants.

- (i) The key telecoms and audio-visual media market players are three mobile operators: Viva Cell MTS Armenia (84.1bn AMD in 2016); UCom Telecommunication Company (34.9bn AMD in 2016); “Armenia Telephone Company” (acting under Beeline trademark), and some major broadband operators, like GNC-ALFA (acting under Rostelecom Armenia trademark) with 5.6bn AMD in 2016, “Arminco” LLC, CrossNet LLC and some others.
- (ii) The key audio-visual media distribution market players are the abovementioned UCOM and “GNC-ALFA” CJSC – the most prominent participants – and some major participants such as “Arpinet” LLC, “Interactive TV” LLC. The main local media content developer in line with Public Television are the Panarmenian media group (Armenia TV) and Shant TV.

#### 1.2 List the most important legislation which applies to the: (a) telecoms, including internet; and (b) audio-visual media distribution sectors in your jurisdiction.

Armenia’s telecommunications and internet industries are mainly regulated by the following acts:

- a. Law number HO-176-N, dated 08 July 2005, on “Electronic Communication”;
- b. Law number HO-18-N, dated 25 December 2003, on “Public Services Regulatory Body”;
- c. Law number HO-49-n, dated 18 May 2015, on “Personal Data Protection”;
- d. Law number HO-193, dated 30 May 2001, on “Licensing”;
- e. Law number HO-97, dated 09 October 2000, on “Television and Radio”;
- f. Decrees and other decisions of the PSRC and State Commission on TV and Radio.

Armenia’s audio-visual media distribution sector is governed by the following acts:

- a. Law number HO-97, dated 09 October 2000, on “Television and Radio”;
- b. Law number HO-55, dated 30 April 1996, on “Advertisement”;
- c. Law number HO-193, dated 30 May 2001, on “Licensing”;

- d. Law number HO-14, dated 13 December 2003, on “Mass Media”;
- e. Law number HO-97, dated 09 October 2000, on “Television and Radio”;
- f. Decrees and other decisions of the PSRC and the State Commission on Radio and Television.

#### 1.3 List the government ministries, regulators, other agencies and major industry self-regulatory bodies which have a role in the regulation of the: (a) telecoms, including internet; and (b) audio-visual media distribution sectors in your jurisdiction.

From the more general point of view of the legislature, the General Assembly of the Republic of Armenia (the “RA”) is a regulatory body which enacts the laws governing the sector, as well as the government of the RA. The Ministry of Transport, Communication and Information Technologies is the line ministry with responsibility over communications and media.

Further special independent agencies regulate specific issues:

- The Public Services Regulatory Commission (“PSRC”) of the RA is responsible for licensing the operators and overseeing the rendering of services.
- The TV and Radio Commission is responsible for licensing and controlling the TV channels, including control over the air broadcasting, CATV, rebroadcasting and other TV and Radio related issues.
- The State Commission for the Protection of Economic Competition of the RA should also be mentioned as the body responsible for competition issues.
- There is also a self-regulatory body, namely the “Association of Armenia TV cable operators”.

#### 1.4 In relation to the: (a) telecoms, including internet; and (b) audio-visual media distribution sectors: (i) have they been liberalised?; and (ii) are they open to foreign investment?

- (i) Telecoms, including internet and audio-visual media distribution sectors, have been liberalised, but they are still under the supervision of regulatory commissions. Article 4 of the Law on Television and Radio Broadcasting states that the Republic of Armenia guarantees the right to freedom of selection, production and broadcast of television and radio programmes, and forbids censorship. During the last 10 years, the process of licensing has been liberalised and some licences have been abolished.

- (ii) The telecom sector is open for foreign investment. According to Article 10 of the Law on Electronic Communication, the Regulator cannot refuse to give a licence or permission to an applicant who satisfies all requirements only on the ground that the latter is a citizen of any foreign country or a foreign organisation. Most of the players on the market have foreign participation; for some of them the foreign participation is 100 per cent, including two mobile and one major broadband operator. However, this is not the case for TV. This is technically the only sector in Armenia where there is a limitation on foreign investment: at least 50 per cent of operators' capital must have their origin from Armenia. According to Article 16(2) of the Law on Television and Radio Broadcasting, at the time of establishing TV and radio companies, the amount of foreign capital shall not be more than or equal to 50 per cent of the share capital required for the adoption of decisions of the broadcasting organisation. Larger shares can be defined by interstate agreements.

## 2 Telecoms

### General

#### 2.1 Is your jurisdiction a member of the World Trade Organisation? Has your jurisdiction made commitments under the GATS regarding telecommunications and has your jurisdiction adopted and implemented the telecoms reference paper?

The Republic of Armenia has been a member of the WTO since 05 February 2003. Armenia made horizontal and sector-specific commitments under the GATS in the area of telecommunications under GATS/SC/137, dated 29 April 2004. The State is yet to implement the WTO Basic Telecommunications Reference Paper.

#### 2.2 How is the provision of telecoms (or electronic communications) networks and services regulated?

The provision of telecoms networks and services is regulated by the laws on electronic communications, as well as by the licence conditions provided by the regulatory body in the following ways:

- licensing of activity;
- regulation of healthy competition and antimonopoly activity in the field of communication;
- organisation of radiofrequencies uses; and
- other regulation directions set out by the legislation of Armenia.

#### 2.3 Who are the regulatory and competition law authorities in your jurisdiction? How are their roles differentiated? Are they independent from the government?

The regulatory body in the sphere of telecommunications is the Public Services Regulatory Commission, established by the order of the President in 1997, and renamed afterwards based on the law adopted by the General Assembly of the RA in 2004. The Commission on TV and Radio is also a regulatory authority in the sphere of audio-visual media. The competition law authority in Armenia is the State Commission for the Protection of Economic Competition. The latter aimed only at the protection of economic competition, meanwhile the PSRC and the State Commission on TV and Radio has a wide jurisdiction. The members of these

commissions are appointed by the President or by the General Assembly of RA, but they are independent from the government.

#### 2.4 Are decisions of the national regulatory authority able to be appealed? If so, to which court or body, and on what basis?

The decisions of the regulatory body can be appealed in the Administrative court of RA.

### Licences and Authorisations

#### 2.5 What types of general and individual authorisations are used in your jurisdiction?

For all telecoms companies, a licence is required in order to possess, exploit telecom networks, or to provide telecoms services to customers. In addition to the network licence, if the telecoms company is to use a radiofrequency (e.g. for wireless transmission of the data within the network), then permission to use the dedicated radiofrequency must be received from the PSRC.

If the provided services also include provision of telephone connectivity, numbering permission shall be obtained from the PSRC. And finally, if the company uses existing networks of third parties to provide services, there is no licensing requirement. However, there is a requirement to notify (the PSRC) before starting to provide services to clients. There is also a licence requirement for TV and Radio companies, and approval for rebroadcasting is necessary under the law for TV and Radio.

#### 2.6 Please summarise the main requirements of your jurisdiction's general authorisation.

In order to obtain a licence, the following information must be included in the application addressed to the regulatory authority:

- the full name and requisites of the company, including its State registration number;
- the business plan with the below information:
  - the purpose of exploiting the public electronic communication network and the anticipated economic, social and industrial results;
  - the general description of the network and its technical aspects and indicators;
  - the information on research of the market;
  - the main technical and technological solutions;
  - the area of exploitation of the network;
  - the description of premises used for exploitation of the network;
  - the timetable of the exploitation of the network by stages; and
  - the effectiveness of the investments (the risk management of investments, the possible financial sources, the periods of establishment and exploitation of the network, etc.); and
- the act of payment of the State fee.

For obtaining a licence for TV and Radio activity, the following information must be included in the application addresses to the regulatory authority:

- the full name and the address of the company;
- thematic orientation of TV and Radio programmes;

- c. the area of exploitation;
- d. information on the founder;
- e. volume of programmes produced by the applying company and by other Armenian producers; and
- f. the applications' submission date.

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**2.7 In relation to individual authorisations, please identify their subject matter, duration and ability to be transferred or traded. Are there restrictions on the change of control of the licensee?**

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The licence is granted for a period of 10 years, which can be prolonged upon the application of the company with sufficient justification.

The licence itself cannot be transferred or sold to a third party; it is inalienable.

However, the control over the company which possesses the licence can be transferred to a third party upon the approval of the regulatory authority. A transfer such as this includes the transfer or sale of the shares, or their pledge, or the change in any other manner of the authority of the company. If the transfer of the control over the company is made in any other manner than cited above, then there is no need to obtain the approval of the regulatory authority; it will suffice to inform the regulatory body in writing about the change.

## Public and Private Works

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**2.8 Are there specific legal or administrative provisions dealing with access and/or securing or enforcing rights to public and private land in order to install telecommunications infrastructure?**

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According to Article 14 of the Land Code, the special terms of use of lands allocated for energy, communication, transport and infrastructural objects are determined according to procedures defined by the law.

In accordance with the Land Code (Article 50), the land can be loaded by servitude for placement, exploitation and rehabilitation of electric cables and communication wires through the area.

## Access and Interconnection

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**2.9 How is wholesale interconnection and access mandated? How are wholesale interconnection or access disputes resolved?**

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In accordance with the Law on Electronic Communication (Article 33), one of the duties of operators is to interconnect with other operators. Interconnection among operators is regulated by contracts (hereinafter: "interconnection contracts"). The Law establishes minimum requirements with respect to interconnection contracts. Interconnection contracts must include technical, economical issues, terms set by the Law and other issues set by the parties to the contract.

Disputes related to interconnection and access matters are settled by the Regulator. The Law defines the special procedure for resolving disputes between operators. In cases where there is disagreement with the decision, the parties are entitled to apply to the respective courts of Armenia.

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**2.10 Which operators are required to publish their standard interconnection contracts and/or prices?**

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Article 37 of the Law on Electronic Communication states that payments for interconnection and interconnection services provided by dominant operators should be transparent and public. The components of the payments should be clearly separated, and the cost calculation methods should be published.

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**2.11 Looking at fixed, mobile and other services, are charges for interconnection (e.g. switched services) and/or network access (e.g. wholesale leased lines) subject to price or cost regulation and, if so, how?**

---

The issue of charges for interconnection and/or network access is regulated by Article 37 of the Law on Electronic Communication. The fees for interconnection or its components shall be on the basis of a reasonable allocation of the service or component of the service for a long-term cumulative cost of the total duration of the service and future expenditures, which includes:

- a. costs incurred to ensure equal interconnection;
- b. expenses arising from the performance of the net interconnection requirements;
- c. reasonable capital expenditure; and
- d. a reasonable allocation of expenses in the future.

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**2.12 Are any operators subject to: (a) accounting separation; (b) functional separation; and/or (c) legal separation?**

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The public network operators are subject to accounting separation. According to the Law on Electronic Communication, the Regulator shall establish accounting standards and report requirements for public electronic communication networks operators and service providers.

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**2.13 Describe the regulation applicable to high-speed broadband networks. On what terms are passive infrastructure (ducts and poles), copper networks, cable TV and/or fibre networks required to be made available? Are there any incentives or 'regulatory holidays'?**

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This is not applicable in Armenia.

## Price and Consumer Regulation

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**2.14 Are retail price controls imposed on any operator in relation to fixed, mobile, or other services?**

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The Regulator sets tariffs for public electronic communications services subject to regulation by the dominant provider in the provision of services and regulates them. They are also authorised to regulate the public electronic communication services provided by non-dominant providers in the provision of services, if such regulation is necessary to protect the competition and public interest. However, the Regulator is not authorised to settle the charges for internet access made by the internet service provider. The Regulator sets tariffs for universal services rendered to the public by the non-dominant provider in the provision of services.

The retail price for communication services is set by operators independently. However, if a telecoms operator imposes prices that are too high, it may then be subject to antitrust proceedings.

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### 2.15 Is the provision of electronic communications services to consumers subject to any special rules (such as universal service) and if so, in what principal respects?

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Consumers are free to choose the operator and provider as well as to demand high-quality telecommunications services. The universal service consists of policy approved by the Regulator and approved by the competent authority and consulted with all stakeholders to access the minimum number of services available, which should be affordable for all users regardless of geographical position. The scope of the universal services should be expanded by technological advancements and economic development.

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## Numbering

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### 2.16 How are telephone numbers and network identifying codes allocated and by whom?

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The Regulator shall adopt a decision on establishing a State's Numbering Plan, formulating the use of numerical sequences used for electronic communications in the Republic of Armenia, identification and use of short codes in accordance with international requirements. The State's Numbering Plan should identify the numbering rows, identification and short codes needed to provide electronic communications services in the country.

The numbers and the codes are allocated the request of the operator by the regulatory body, for a time period of no longer than 10 years. In order to obtain a number and/or a code, the operator shall have the required specialisation, the required number and/or code shall not be possessed by the other operator, it shall not be used for purposes other than telecommunication purposes under the international agreements, etc.

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### 2.17 Are there any special rules which govern the use of telephone numbers?

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Any operator or service provider is authorised to request the Regulator for a code. The Regulator defines the requirements for submitting a request for a code that must include information that enables the Regulator to determine whether the applicant has the qualifications required for possession or use of such numbers or codes.

The code is issued for up to 10 years, unless the applicant requires a shorter period. However, they cannot be issued for a period exceeding the licence of the operator.

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### 2.18 Are there any obligations requiring number portability?

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Since 2014, Armenian operators have given consumers the opportunity to change their operator without changing the number or code, but there is no obligation to require number portability.

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## 3 Radio Spectrum

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### 3.1 What authority regulates spectrum use?

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Usage of the radio spectrum in Armenia is generally controlled by the Ministry of Transport, Communication and Information

Technologies. The main regulatory body which allocates radio spectrum is the Public Services Regulatory Commission of RA (the "PSRC"). Also, the Radio Frequency Management Coordinating Committee is an interagency body coordinating the management of radio frequency spectrum in the Republic of Armenia.

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### 3.2 How is the use of radio spectrum authorised in your jurisdiction? What procedures are used to allocate spectrum between candidates – i.e. spectrum auctions, comparative 'beauty parades', etc.?

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The use of the radio spectrum is authorised if the person/company has obtained permission to use the radio spectrum from the PSRC. The permission is given after the submission of the application and relevant necessary documents (which are prescribed by the law and the PSRC's decisions).

The permission of radio spectrum use is given for a maximum of 10 years.

If a specific radio frequency is included in the list of frequencies which must be allocated via contest or auction (this list is established by the PSRC's decision), the allocation of such frequencies has to be done via contest (auction).

The specific rules of each contest/auction are set by the PSRC, though general rules are prescribed by the law on "Electronic" Communications.

The permission of radio spectrum use can also be obtained via acquiring a licence of radio broadcasting, or a licence for providing private multiplex services. In this case, the licence is given by the National Committee of TV and Radio. Radio broadcasting licences are issued by the committee based on contest results between different applicants. A contest is not held if the radio broadcasting will be transmitted only by a cable. In that case, a simple application is needed for getting a licence. Licences for radio broadcasting are given for 10 years. A licence for providing private multiplexer services is always issued via contest through the National Committee of TV and Radio.

Also, permission for radio spectrum use can be obtained by getting a licence from the public electronic communications network (if the operation of the network requires usage of radio spectrum). In these cases, the relevant licence and the permission for radio spectrum use can be issued at the same time.

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### 3.3 Can the use of spectrum be made licence-exempt? If so, under what conditions?

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It must be noted that the use of the radio spectrum is generally authorised only if the person/company has obtained permission to use the radio spectrum from the PSRC, even if no licence is needed for the particular economic activity of the person/company.

Using the radio spectrum can be permission-exempt in cases of operation of low power devices which emit radio frequency rays, provided that such devices are of the types approved by the PSRC or relevant foreign standard setting bodies, as set forth in the appropriate regulations.

Also no permission is needed:

1. for the use of land mobile subscriber stations (terminals);
2. for the use of mobile terrestrial subscriber stations (terminals) of global mobile satellite communication systems;
3. for the use of consumer and medical ultra-high-frequency equipment without open radiation which has a power of up to 5 watts; and
4. in other cases set by the PSRC in its decisions.

### 3.4 If licence or other authorisation fees are payable for the use of radio frequency spectrum, how are these applied and calculated?

The rates of mandatory fees for issuing a radio frequency authorisation and for using a radio frequency are annually established by a separate annex to the State Budget law upon the recommendation of the PSRC.

The State fees required for getting a licence for radio broadcasting, a licence for the operation of the public electronic communications network and a licence for providing private multiplex services are defined by the law on State fees.

The State fee required for getting a licence to operate within the public electronic communications network is 100,000–500,000 AMD per year depending on the coverage of the network.

The State fee required for getting a licence of radio broadcasting is 150,000–250,000 AMD depending on the amount of coverage broadcast. The State fee required for keeping the licence is 25,000–150,000 AMD per year depending on the coverage of broadcast.

The State fee required for getting a licence for providing private multiplex services is 100,000,000 AMD per year.

### 3.5 What happens to spectrum licences if there is a change of control of the licensee?

Prior to the transfer of ownership of an entity which has a licence to use the public electronic communications network or the permission of radio spectrum use needed to provide public electronic communications services, such entity must obtain the consent of the PSRC, and such consent cannot be unreasonably withheld.

In order to obtain such consent, the said entity shall file a written request, submitting the information and documents requested by the latter. The law on Electronic Communications also provides special rules concerning change of control for entities having a dominant position in the market.

The other entities not mentioned above are not required to obtain consent from the PSRC. However, they are obliged to notify the PSRC in written form at least 15 working days prior to the change of control.

It must be noted that the extent of foreign capital in radio broadcasting entities/private multiplexers must be less than 50 per cent (except for the cases when other regulations are set in international treaties signed by RA).

### 3.6 Are spectrum licences able to be assigned, traded or sub-licensed and, if so, on what conditions?

The licences/permissions cannot be sold, sub-licensed, traded or otherwise transferred to a third party.

## 4 Cyber-security, Interception, Encryption and Data Retention

### 4.1 Describe the legal framework for cybersecurity.

Each operator and service provider must consider and maintain confidential information about the type, location, purpose, destination, quantity, and specifications of the services used by its customers.

The operator or service provider is authorised to disclose the information:

- in cases and in the manner prescribed by law, in respect of prosecution of any threat of a criminal offence or its national security;
- upon the written consent of the customer; and
- if the disclosure is necessary for the protection of the operator or service provider (proceedings against that operator or service provider), the customer may request that disclosure be made confidential through closed-door proceedings.

The operator or service provider also has the right to disclose information about their client's payments, debts, obligations and their performance, to credit bureau provided by the Law of the Republic of Armenia "On Credit Information Circulation and Credit Bureau" in the manner and within the limits prescribed by this Law.

### 4.2 Describe the legal framework (including listing relevant legislation) which governs the ability of the state (police, security services, etc.) to obtain access to private communications.

Article 33 of the Constitution of Armenia states that everyone shall have the right to freedom and secrecy of correspondence, telephone conversations and other means of communication. Freedom and secrecy of communication may be restricted only by law, for the purpose of state security, economic welfare of the country, preventing or disclosing crimes, protecting public order, health and morals or the fundamental rights and freedoms of others.

The acts governing the ability of authorities to obtain access to private communications are the Constitution, the Criminal Procedure Code and the Law on Operation-Investigation Activity. These legal acts establish the grounds to obtain access to private communication.

The secrecy of communication may be restricted only by court decision, except where it is necessary for the protection of State security and is conditioned by the particular status of communicators prescribed by law.

### 4.3 Summarise the rules which require market participants to maintain call interception (wire-tap) capabilities. Does this cover: (i) traditional telephone calls; (ii) VoIP calls; (iii) emails; and (iv) any other forms of communications?

According to Article 50 of the Law on Electronic Communications, a person other than a party to a message transmitted by any electronic communications means may only intercept, record, or disclose the content of such message with the written consent of the parties to the message or upon a court order in cases and in the manner provided for by law. Operators of public or private electronic communications networks and providers of public or private electronic services, as well as their employees or representatives, may intercept or redirect messages or signals, without disclosing them, where such interception or redirection of signals is conditioned by the exercise of their official duties. In cases and in the manner provided for by law, all operators and service providers shall be obliged to provide access to law enforcement and national security personnel to any communications equipment, facilities, switches, routers, or other similar equipment, including wiretapping devices. The law does not directly clarify to which means of telecommunications these apply. It can be considered that it covers also traditional calls, VoIP calls, emails and any other forms of telecommunications.

#### 4.4 How does the state intercept communications for a particular individual?

According to the Criminal Procedural Code, a court decision shall be issued in order to commence interception and checking of mail delivered by post, telegraph and other communications, and interception of conversations via telephone or other means of communication, information sent via other communication and technical channels.

In cases where delay in the implementation of the measures of interception can lead to a terrorist act or threats to national security, military or environmental threats, based on the decision of the head of the operative-search body, it is allowed to carry out such measures without prior decision of the court (Article 284 of the Criminal Procedural Code).

In such cases, the investigator shall, within 48 hours, submit the material relating to this investigative procedure to the court exercising judicial supervision and the prosecutor in charge of the procedural aspects of the investigation in order for them to verify the legality of the investigative procedure conducted. In cases where the court finds that the grounds for the implementation of the operative-search measures are insufficient, the interception is immediately terminated, and the materials and data obtained as a result must be eliminated promptly.

Pursuant to Article 241 of the Criminal Procedural Code, interception of conversations held by telephone and other devices, or of information sent by communications media or other technical means, shall not last longer than six months.

#### 4.5 Describe the rules governing the use of encryption and the circumstances when encryption keys need to be provided to the state.

There are no specific legal rules for the government to require disclosure of encryption keys. An encryption key may be requested to be disclosed to the State authorities only in the cases prescribed above.

#### 4.6 What data are telecoms or internet infrastructure operators obliged to retain and for how long?

Data retention can be required by court order (generally as an interim measure). Article 5.2(k) of law on Electronic Communications states that the PRSC can set standards of data archiving for providers of electronic communications services.

## 5 Distribution of Audio-Visual Media

#### 5.1 How is the distribution of audio-visual media regulated in your jurisdiction?

The distribution of audio-visual media is regulated by the Law on Television and Radio, the Law on Advertisement, as well as by the licence conditions stipulated by the Commission.

#### 5.2 Is content regulation (including advertising, as well as editorial) different for content broadcast via traditional distribution platforms as opposed to content delivered over the internet or other platforms? Please describe the main differences.

There are no general legal rules regulating the distribution of

content (including advertising) in the internet sector. The Law on Advertising does not provide specific provisions on the legal regulation of online advertising. Advertising content delivered over the internet is subject to the provision of the Law on Advertising.

#### 5.3 Describe the different types of licences for the distribution of audio-visual media and their key obligations.

There are two types of licences for audio-visual media distribution:

- The licence to distribute audio-visual media via digital broadcasting network. This type of licence is accorded to the winner of the contest organised by the National Commission of TV and Radio. The selection process is governed by the law of RA on TV and Radio and the decrees of the Commission.
- The licence to distribute audio-visual media via cable broadcasting network. This type of licence is accorded upon the application of the company addressed to the Commission. All the necessary documents and procedure of issuing the licence are defined by the law of RA on TV and Radio and the decrees of the Commission.

The main obligations of the licensed entities are to carry out their activities according to the law on TV and Radio as well as to comply with the requirements stipulated in their licences.

#### 5.4 Are licences assignable? If not, what rules apply? Are there restrictions on change of control of the licensee?

The licence is inalienable, and cannot be sold or otherwise transferred to a third party. The extent of foreign capital in TV/radio broadcasting entities must be less than 50 per cent (except the cases when other regulations are set in international treaties).

## 6 Internet Infrastructure

#### 6.1 How have the courts interpreted and applied any defences (e.g. 'mere conduit' or 'common carrier') available to protect telecommunications operators and/or internet service providers from liability for content carried over their networks?

In court cases related to defamation via internet, the Cassation Court of the RA stated that, according to the Civil Code of RA, a person is relieved of responsibility in the event of the simultaneous existence of two conditions:

- the presented facts are a literal or conscientious reproduction of a person's public speeches, official documents, copyrighted works, and media outlets; and
- when distributing information, reference has been made to the source of information.

It is a general principle in the legislation of Armenia that no-one should be held liable for content on the internet of which they are not the author, as long as they do not specifically intervene in that content or refuse to obey court orders to remove that content, where they have the capacity to do so.

In addition, according to Article 416.1, electronic communications service operators and internet service providers shall not be liable for the content of electronic documents transmitted through their information systems by third parties, unless otherwise provided for by law or an agreement with the service provider.

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**6.2 Are telecommunications operators and/or internet service providers under any obligations (i.e. to provide information, inform customers, disconnect customers) to assist content owners whose rights may be infringed by means of file-sharing or other activities?**

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An obligation to assist content owners via blocking/removing illegal content may arise by the force of a court decision. Generally, court orders are necessary to enforce content blocking/removing.

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**6.3 Are there any 'net neutrality' requirements? Are telecommunications operators and/or internet service providers able to differentially charge and/or block different types of traffic over their networks?**

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The concept of "net neutrality" does not exist in the legislation of Armenia. Different types of traffic can be blocked by the providers or operators according to the court's decision. According to the law on Electronic Communications of RA, the operators are obliged to provide services without discrimination. Telecommunication operators and internet service providers are not able to differentially charge different types of traffic over their networks.

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**6.4 Are telecommunications operators and/or internet service providers under any obligations to block access to certain sites or content? Are consumer VPN services regulated or blocked?**

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According to Article 7 of the Law of RA on Mass Media, it is prohibited to disseminate secret information as stipulated by law, or information advocating criminally punishable acts, as well as information violating the right to privacy of one's personal or family life.

It must be separately noted according to the regulations of ISOC (admin of ".am" and ".huj" ccTLDs) there are regulations on blocking illegal content under the said domains (blocking of the domain). The new policy on the use of domains and mechanisms of blocking is now being reviewed and is expected to be adopted by the GM of ISOC or the board by the end of the year.

Telecoms operators are bound by the obligation to block websites/content when such a decision is made by a competent court.

There is currently no obligation to block VPN services. Consumer VPN services are currently not regulated by legislation.

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Aram Orbelyan has led the litigation and arbitration practice at Concern Dialog law firm since 2014. In 2009–2010, when he joined the firm, Aram Orbelyan was responsible for telecommunications and competition law issues. Aram Orbelyan holds a Law degree and Ph.D. in Law from MGIMO University, and served as Deputy Minister of Justice of Armenia from 2011–2014, where he was responsible for reform of civil and civil procedure legislation, as well as the implementation of e-gov systems in Armenia.

In addition to his attorney practice he lectures at the French University of Armenia (UFAR), School of Advocates and Justice Academy, and is a consulting member of international organisations and State agencies on reform issues (mostly justice sector, human rights and good governance issues).

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Vahagn Grigoryan joined Concern Dialog law firm as senior associate in June 2017. He specialises in general Business law, including day-to-day supports clients on legal issues. Vahagn Grigoryan holds a Law degree and Ph.D. in Law from Yerevan State University.

Prior to joining Concern Dialog law firm he worked at "Brave" law firm as a lawyer (2010–2017) and at the "Center of legislation development and legal researches" fund of the Ministry of Justice of RA. In addition to his attorney practice, he lectures at the Yerevan State University (YSU) and Justice Academy. He took part in drafting of new editions of several legal acts such as the Civil Procedure Code of RA and the Judicial Code of RA, as well as part of being the working group working over the amendments to the law on radio and television.



Concern Dialog was established in 1998 as a company specialised in civil and administrative litigation services. The company's qualified and professional team provides high-quality legal services in a wide variety of fields to its individual and corporate clients in Yerevan and in all the regions of Armenia, as well as on the international level. Concern Dialog is one of the largest and most highly appreciated law firms in Armenia. The firm has five partners and more than 30 associates and paralegals.

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