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Practical cross-border insights into telecoms, media and internet law

Telecoms, Media & Internet 2022

15th Edition

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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.

The Russian telecom market, the largest in Europe, is led by Rostelcom, MegaFon, Mobile Telesystems ("MTS"), and Vimplecom (Beeline). In 2020, Rostelcom had consolidated annual revenues of 546.9 billion RUB, MegaFon – 332,159 billion RUB, MTS – 494.9 billion RUB, and Vimplecom (Beeline) – 704 billion RUB.

The year 2021 has been remarkable in revealing new trends in the telecoms market.

Almost in parallel, three major players (Vimpelcom, MegaFon and MTS) announced a separation of pole ownership and operation from their principal activities.

Vimpelcom's parent company, Veon, announced the sale of nearly 1/3 of its poles for 970 million USD to Service Telecom (the deal is expected to be closed by the end of the year).

A few months later, MegaFon and Kismet Capital Group announced the formation of a united poles operator (subject to antitrust clearance), following which MegaFon will be leasing the poles from the new company.

MTS in September passed through shareholders' approval the carve-out of the poles operations business.

These developments are viewed by the industry as a way to optimise the exploitation of the poles that, once separated from a particular telecoms operator, can be shared by several operators which will increase the tenancy ratio. In this regard, the tendency should be monitored against the background of all four operators' plans to join their efforts for the deployment of 5G networks in Russia (the agreement obtained a preliminary antitrust clearance in May 2021).

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 and any significant legislation on the horizon such as the regulation of online harms, regulation of social media, or artificial intelligence (please list the draft legislation and policy papers).

In accordance with Article 71 of the Russian Constitution, federal communications are governed (and regulated solely by federal regulations adopted) by the Russian Federation. The primary legislation governing communications and telecoms is the Communications Law governing entry, network interconnection, licensing, telecom operators' contract approval, and penalties for its violation.

The regulation of these sectors is primarily governed by the following Russian laws:

- Federal Law of 7.7.2003 No. 126-FZ "On Communications", as amended (the "Communications Law").
- Federal Law of 27.7.2006 No. 149-FZ "On Information, Information Technologies and Information Protection", as amended (the "Information Law").
- Federal Law of 1.7.2021 No. 236-FZ "On Operations of Foreign Parties in the Information and Communication Network Internet in the Territory of the Russian Federation" (the "Foreign IT Parties Law").

Other relevant legislation includes:

- Law of 27.12.1991 No. 2124-1 "On Mass Media", as amended (the "Mass Media Law").
- Federal Law of 6.7.2017 No. 187-FZ "On Security of Critical Information Infrastructure of the Russian Federation" (the "Critical Infrastructure Law").
- Federal Law of 29.4.2008 No. 57-FZ "On Foreign Investments in Commercial Entities of Strategic Importance for Country Security and State Defense", as amended (the "Strategic Investments Law").
- Federal Law of 9.7.1999 No. 160-FZ "On Foreign Investments in the Russian Federation" as amended (the "Foreign Investments Law").
- Federal Law of 27.7.2006 No. 152-FZ "On Personal Data", as amended (the "Personal Data Law").
- "The Code of the Russian Federation on Administrative Offences" of 30.12.2001 No. 195-FZ and its 13 Administrative Offences in the field of communication and information.
- Federal Law of 26.7.2006 No. 135-FZ "On Protection of Competition".
- Federal Law of 29.12.2010 No. 436-FZ "On the protection of children from information that harms their health and development".
- Federal Law of 4.5.2011 No. 99-FZ "On the licensing of individual activities".
- Federal Law of 24.4.2020 No. 123-FZ "On conducting an experiment to establish special regulation in order to create the necessary conditions for the development and implementation of artificial intelligence technologies in the subject of the Russian Federation – the city of federal importance to Moscow and amending Articles 6 and 10 of the Federal Personal Data Act".
- Government Decree 161 of 28.3.2005 prescribing network interconnection requirements ("Interconnection Decree").
- Decree of the President of the Russian Federation of

10.10.2019 No. 490 "On the development of artificial intelligence in the Russian Federation" (along with the "National Strategy for the Development of Artificial Intelligence for the period up to 2030").

- The roadmap of the Ministry of Digital Development, Communications and Mass Communications of the Russian Federation for the development of "end-to-end" digital technology "Wireless Technologies" dated 10.10.2019.

Of the above, the Foreign IT Parties Law is drawing the most attention at the moment, for reasons of both its novelty and the unprecedented scope of regulation.

The cornerstone and the gist of the Foreign IT Parties Law is the requirement that foreign owners of informational resources targeting the Russian audience establish Russian branches or subsidiaries by 1.1.2022 if they (i) provide information in the Russian language (or in any other language used in parlance in the Russian Federation), (ii) process personal data of Russian users, or (iii) receive payments from Russian users, and said foreign owners have a daily Russian audience exceeding 500,000 users. By its wording, the Foreign IT Parties Law covers all major international players active in Russia, including Google, Facebook, Instagram, Twitter, YouTube, TikTok, etc. (including Wikipedia), whereas most such IT giants have not thus far been planning on setting up a local presence in Russia.

For those failing to comply with the local presence requirement, the Foreign IT Parties Law envisions a number of complications, ranging from restrictions on advertising or search engine results presentation to bans on cross-border personal data transfers, restrictions on processing of payments or a total blocking of access to their resources in Russia.

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; (b) audio-visual media distribution sectors; and (c) social media platforms in your jurisdiction.

The Ministry of Digital Development, Communications and Mass Communications of the Russian Federation ("Ministry of Digital"), and the Federal Service of the Russian Federation and the Federal Service for Supervision in the Sphere of Connection, information Technologies and Mass Communications ("Roskomnadzor" or "RKN").

The State Commission for Radio Frequencies and the Federal Radio Frequency Service are part of the Ministry of Digital.

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 including in relation to the supply of telecoms equipment? Are there any upper limits?

Yes, the Russian telecoms market was liberalised at some point – but not according to the Western model of "ordered competition" (*e.g.*, the Telecommunications Act of 1996 in the U.S.). Rather, the Russian model is based on state-controlled privatisation, leading to regional state enterprises that were eventually privatised (but remaining under indirect state control). Ownership of many privatised companies remained murky. Foreign investment played a role in the creation of the largest Russian telecoms sector, with foreign strategic players such as Telia and Sonera (in MegaFon), Deutsche Telecom (in MTS), Telenor (in Beeline) and Global TeleSystems (GTS) (in Golden Telecom) as examples.

There are a number of restrictions on foreign ownership and investment in Russian telecom companies.

- First, foreign entities may not hold telecoms licences in Russia.
- Second, foreign ownership or control of telecoms companies, among others, is restricted by the Foreign Investment Law requiring prior governmental approval for the direct or indirect acquisition or the control of more than 25% of a Russian company by a foreign state, international organisation or entity under their control.
- Third, foreign control (understood broadly and including any form of direct or indirect stock ownership of operational control) over Russian entities deemed to have strategic importance requires approval under the Strategic Investments Law (Federal Law No. 57-FZ). Certain telecoms or audio-visual activities (*e.g.*, operations of dominating communications market players within the geographical market of Russia or in a certain number of constituencies subject of the federation; TV or radio-broadcasting covering the territories where 50% or more of the population of any constituent subject of the Russian Federation resides; space-related activities) and, consequently, companies engaged in such activities qualify as having strategic importance for the state interests.
- Fourth, pursuant to the July 2021 amendment to the Communications Law entering into effect on 1.12.2021, communications lines crossing the border of the Russian Federation can be owned only by Russian legal entities.
- Fifth, the Mass Media Law imposes restrictions on foreign direct or indirect control of mass-media limiting such control to 20%; similar restrictions are set by Information Law for stock ownership by certain foreign parties in online audio-visual services operating in Russia.
  Similar restrictions on foreign ownership and control have at various points been proposed in respect of online news aggregator platforms and "significant" internet companies.
- Finally, as a practical matter, Governmental authority and discretion, as well as Russian counter-sanctions (Federal Law Nos 127-FZ, 281-FZ), may subject any foreign investment to governmental approval.

Until this year, the only specific target under both laws was Ukraine (President Decree No. 592 of 22.10.2018), and a number of further regulations have been adopted by the Russian Government restricting operations in Russia for certain individuals and companies. In May 2021, the Government expanded the list of "unfriendly countries" to include the U.S. and Czech Republic (Governmental Decree No. 1230-r of 13.5.2021); however, thus far, the only restrictions on the number of diplomatic personnel have been added, without any specific economic measures.

2 Telecoms

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 Russian Federation has been a member of the World Trade Organization ("WTO") since 22.8.2012 (becoming the 156th WTO member). As part of its accession, Russia committed to undertake trade reforms, including specific commitments on telecommunications. In relevant part, these included zero tariffs on information technology products, eventual elimination of

the foreign equity limitations on telecommunications, and eventual limitation of mandatory requirements for telecommunication equipment used in public networks to those consistent with the Eurasian Economic Community and Custom Union agreements.

In its 2018 Report on the Implementation and Enforcement of Russia's WTO Commitments, the U.S. Trade Representative ("USTR") noted that Russia had agreed to open its market for telecommunication services to all WTO suppliers, to allow telecoms companies to operate as wholly owned subsidiaries of foreign-owned enterprises and eliminated the requirement that a fixed satellite operator must establish a commercial presence in Russia in order to provide capacity to a Russian telecoms company. Russia also accepted the WTO Basic Telecommunications Reference Paper that requires the establishment of an independent regulator, the prevention of anti-competitive behaviour by dominant suppliers, and the introduction of transparency obligations and interconnection requirements.

However, in the 2020 Report on the Implementation and Enforcement of Russia's WTO Commitments, the USTR identified a number of specific concerns with respect to Russia's implementation of its WTO GATS commitments, including those in the telecoms, audiovisual and media services. In particular, among other things, the USTR pointed to "a cumbersome, opaque and outdated import licensing regime on products with cryptographic capabilities" (see answer to question 4.5 below), and Russia's data localisation laws (see answer to question 4.6 below), limits on foreign ownership in the audio-visual and mass media (see answer to question 1.4 above), and protectionist tax reductions for Russian technology firms.

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

Telecom services are regulated by the Ministry of Digital and RKN. See also answers to questions 2.5–2.8 below. For spectrum and radio licensing regulations, see the answer to question 3.1.

2.3 Who are the regulatory and competition law authorities in your jurisdiction? How are their roles differentiated? Are they independent from the government? Which regulator is responsible for social media platforms?

The competition law authority is the Federal Antitrust Service (in the competition and advertising field). See also the answer to question 1.3 above.

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

In the event that an individual end-user, such as a customer of a telecoms company, or a legal entity, though not in the course of business, considers that a determination, action, or inaction by an agency with authority in the sphere of telecoms has violated his/her/its rights or legitimate interests, he/she/it has standing to turn to the courts of general jurisdiction to complain of such action, inaction, or determination, and ask that it be deemed illegal and the violation cured.

Appeal against the action, inaction, or determination of an agency with authority in the sphere of telecoms by complainants who have standing is accomplished by submitting an administrative complaint pursuant to the Code of Administrative Practice of the Russian Federation ("CAP RF"), Chapter 22. Appeal from legal determinations of an agency with authority in the sphere of telecommunications, and from interpretations of law with normative authority contained therein, proceeds by way of Chapter 21 CAP RF.

The general rule provides that such administrative complaints are heard by the District Courts. The middle-level courts of subjects of the Russian Federation have jurisdiction over cases challenging laws and decrees with normative authority to interpret laws, by governmental agencies of subjects of the Russian Federation, by representative agencies of municipal authorities (par. 2, prt. 1, Article 21 CAP RF); on discontinuing the activity of mass media that operate within the territory of a single subject of the Russian Federation (par. 6, prt. 1, Article 20 CAP RF). "The Moscow City Court reviews as a first-instance court administrative cases about limiting access to audiovisual services" (prt. 2, Article 20 CAP RF).

The Supreme Court has original jurisdiction over cases challenging laws or regulations of federal agencies of the executive branch, other federal governmental agencies, interpreting laws and having normative authority (pts 1, 2, prt. 1, Article 21 CAP RF); over discontinuing the activity of mass media that operate within the territory of two or more subjects of the Russian Federation (pt. 6, prt. 1, Article 21 CAP RF).

Cases arising out of administrative and other public disputes (challenging non-normative rules, illegal actions (inaction), and decisions of governmental agencies with authority in the sphere of telecoms based on complaints of legal entities in connection with their commercial activity are handled by the Arbitration Courts of the Russian Federation pursuant to Chapter 22 of the Code of Administrative Procedure of the Russian Federation.

The appeal from the illegal prosecution of a legal entity providing telecoms services or its manager for an administrative violation is governed by Chapter 30 of CAP RF.

2.5 What types of general and individual authorisations are used in your jurisdiction? Please highlight those telecom-based authorisations needed for the installation and/or maintenance of infrastructure?

Telecom operators must be licensed, according to the type of services, under the Communications Law and in accordance with the requirements of Government Decree 2385 (20.12.2020).

Licensed services include, among others, voice and data transmission services, telephony, telematics, terrestrial and cable broadcasting. Licences are issued per territory and operators must hold licences for each service type and each region where they operate.

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

Applicants for telecom service licences must file an application, together with supporting documentation, a description of the proposed services and a network layout. Licences are issued per territory and operators must hold licences for each service type and each region where they operate. In cases set forth by law (*e.g.*, if the service requires a spectrum allocation, while the number of operators in a particular bandwidth is limited), the licences are issued via a bid process. The average duration of obtaining a licence is around 75 days after application and the length of a licence can span up to 25 years before needing renewal. A minimum of three years is required to obtain a licence. Fees

usually include a one-time licence fee of 7,500 RUB (approximately 100 USD) for any type of licence. Separate fees are charged for frequency-use and number pool assignments.

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?

Radio Frequencies ("RF"): The allocation process may take up to 120 days and licences are usually allocated for 10 years, but this term cannot exceed the term of the relevant communications licence. The term may be extended for an unlimited number of times. RF permits are subject to a one-time fee and annual payments, both depending on various factors (the availability of RFs in the region, type of RF usage, number of services provided, type and quantity of installed equipment, etc.). Providing access to Wi-Fi in public spots is considered a communication (telematic) service and is subject to relevant licensing and authorisation regimes.

For TV or radio broadcasting, there must be a mass media registration and a broadcasting licence at the broadcaster's level; the holder of a communication licence is not permitted to contract with a non-licensed broadcaster. Broadcasting licences are issued by RKN under separate regulations, but also on the basis of applications.

Spectrum permits are issued by Roskomnadzor on the basis of the decisions of the State Radio Frequencies Commission. The spectrum permit is not tradable or assignable, but can be transferred to another user based on the decision of the State Radio Frequencies Commission. Where the services to be provided require the use of spectrum, the applicant must submit a frequency-use permit issued by the State Commission for Radio Frequency Allocation and, in limited circumstances, due to capacity limitations, licences can be issued at auction.

See the answer to question 1.4 regarding foreign ownership restrictions.

2.8 Are there any particular licences or other requirements (for example, in relation to emergency services) in relation to VoIP services?

Operators typically provide Voice over Internet Protocol ("VoIP") services under the terms of telecom licences for data transfer for voice transmission purposes. Government Decree No. 161 of 28.3.2005 allows for VoIP connection between networks. The Communications Law requires that communication operators keep in Russia for up to three years: information about the facts of receipt, transmission, delivery and processing of voice information, including sounds. Additionally, it requires up to six months of storage regarding text messages, voice information, images, sounds, video and other messages of telecommunication services users. Significant operators must keep separate records of their revenues and expenses regarding different lines of business, different services and parts of networks used to render such services.

2.9 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?

Prior to 2015, telecom operators (and other developers of infrastructure of different types) did not have any specific legal mechanisms entitling them to install their infrastructural objects on land plots owned by a third party. An entitlement was therefore obtained via negotiating and entering into a purchase, lease, private servitude, etc. agreement with regard to the chosen land plot. The process was often lengthy, expensive, not straightforward, and not guaranteed.

Such lack of a specific legal regulation was at its worst when it was about constructing "linear" objects like telecommunication or supply lines, roads, electricity lines, or "chains" of property objects like electricity or telecommunication poles/masts or retranslation/amplification equipment (the "Linear Objects").

As an attempt to tackle the problem and, more generally, to set up a more efficient legal framework for developing public infrastructure on state- and privately owned land plots, some substantial amendments were made to Russian legislation (primarily to the Land Code and the Civil Code) in 2014/2015 (and perfected or altered on several occasions in the following years).

In particular, the Land Code was supplemented with two whole new Chapters regulating, respectively, a specific case of a (private) servitude (Chapter V.3) and a "public servitude" (Chapter V.7). Both Chapters specifically mention the "installation of telecommunication structures" as one of the reasons for obtaining the respective servitude right.

Additionally, these servitudes may also be granted for the purposes of carrying out surveying and planning works preceding either the construction or maintenance of the existing structures.

Chapter V.3 provides for a more detailed (compared to the general Civil Code rules that existed before) regulation of a specific situation when:

(a) a telecom operator wishes to establish a private servitude over a neighbouring (or any other) land plot in order to install its infrastructure; and

(b) such land plot is state- or municipally owned.

In such circumstances, the telecom operator would need to enter into a servitude agreement with either the owner of such land plot (*i.e.,* the state or a municipality) or, if there is a private legal entity or individual having a long-term contractual right to such land plot (a lease, etc.) then with such legal possessor.

The procedure of entering into a servitude agreement is mostly governed by civil law, but some important administrative restrictions and regulations also apply to it. In particular, the calculation of the payment for the servitude right would be made in accordance with the guidelines established by the owner of the respective land plot (*i.e.*, the state or municipality).

The servitude agreement must be concluded for a specified period that, in the case of its conclusion with a legal possessor, cannot exceed the term of the contractual right of such possessor; the termination of the contractual right of the land plot's possessor would also end the servitude. With some minor exceptions, the servitude must be perfected by its state registration in the Unified State Register of Immovable Property of the Russian Federation. If a telecom operator wishing to establish the servitude and the private owner/possessor of the respective land plot fail to agree upon the terms of the servitude agreement, the telecom provider may apply to the court, which will prescribe its terms for the parties.

Alternatively, Chapter V.7 of the Land Code provides for a new "public servitude" specifically developed to ensure a mostly administrative and, even more importantly, mostly mandatory for the respective land-owners and possessors procedure in accordance with which companies installing Linear Objects (including telecom operators) could go around a substantial part of the "civil law obstacles".

Perhaps, the key feature of the new servitude established by Chapter V.7 of the Land Code (the "V.7 Servitude") differentiating it from other public servitudes is that it is established not in favour of an undefined group of entities but in favour of a particular legal entity. That (and some of its other features)

sparked debates as to the legal nature of the V.7 Servitude and whether it is a public servitude at all. However, despite its vague legal nature, it is already being applied in practice – along with all other options that existed before – and in many instances is favoured by the developers.

To obtain a V.7 Servitude, a telecom operator must identify the required land plot and then to apply to the town or rural municipal authority. The application must be supplemented by the relevant planning documentation, etc., it must specify the terms of the requested encumbrance, the period for which the V.7 Servitude is requested (which, by law, must be between 10 and 49 years for the cases of installment of telecom infrastructure) and the boundaries of the encumbrance.

The V.7 Servitude will, generally, not be granted if the land plot is owned by an individual *and* used for his/her/its personal purposes, for instance, for individual residential construction or gardening; still, there are a few exceptions (mostly related to the operation of the already existing telecom infrastructure) when the V.7 Servitude could be imposed even over such land plots. There are also some other limitations for granting the V.7 Servitude such as:

(1) if the V.7 Servitude is requested in relation to the land areas where the activity intended to be carried out by the applicant, is prohibited; and
(2) if its imposition will lead to impossibility of or substantial difficulties in using the respective land plot for a certain period (in most cases, exceeding one year).

Following the receipt of the application, the municipal authority will identify the owners and possessors of the land plot(s) that would be encumbered by the requested V.7 Servitude and notify them on the application and its details.

According to Article 39.43 of the Land Code, the decision on the granting of the V.7 Servitude must be issued within 45 days following the receipt by the municipal authority of the application with all supporting documents. If it is issued in respect of a land plot which is state- or municipally owned (and not encumbered by a long-term lease or similar long-term right), it will also include a procedure for calculating payments for such encumbrance.

The V.7 Servitude will be deemed granted when, upon the request of the respective authority, it is registered in the Unified State Register of Immovable Property of the Russian Federation. Contrary to the private servitude commented above, the V.7 Servitude will survive any change of the owner or possessor of the land plot.

If the V.7 Servitude is granted regarding a land plot which is owned by the state or municipality and has no long-term encumbrances (*e.g.*, a lease), its state registration completes the procedure.

If, however, a land plot is privately owned or possessed under a long-term contractual right, the covenantee will be required to send to the owner/possessor a draft servitude agreement, together with an expert assessment of the amount of the compensatory payment made in accordance with the guidelines established by legislation.

The owner/possessor of the land plot will have a right to challenge the imposition of the V.7 Servitude but only on the grounds of it not being in compliance with the applicable legislation. Moreover, if such court action is initiated but the covenantee has deposited the amount of the compensatory payment at the notary public, the covenantee will be entitled to commence its activity in the encumbered area immediately.

As a general rule, the structures installed by the covenantee on the encumbered land plot (including those qualifying as immovable property) will become owned by the covenantee. If they are sold by the latter to a third party, the V.7 Servitude will be assigned to the purchaser.

As a result of the above regulation, the terms of the draft servitude agreement submitted to a private owner/possessor of the respective land plot will, effectively, be imposed upon them, thus undermining their title.

At the same time, such private owner/possessor will be able to seek in the court, in addition to the servitude payment, compensation of (a) losses caused by impossibility to perform their obligations towards third parties, and (b) other losses caused by the actions of the respective covenantee on the encumbered land plot.

Finally, if a telecom operator fails to obtain development rights to a specific land plot under the V.7 Servitude (and exhausts all alternative options under Chapter V.3 of the Land Code) but such land plot appears to be vital for the development of a telecommunication project, the rights to it may, in some cases, still be secured albeit under a different and rather lengthy procedure: the land plot would have to be initially "ceased for public purposes", and then a right to it would be vested in the respective telecom operator in accordance with applicable regulations.

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

Russian law does not mandate the unbundling of local loops. However, such unbundling, as well as interconnection and internet access, has largely occurred due to market forces. Telecom operators view the provision of local loops to Internet Service Providers ("ISPs") as a revenue generation opportunity, thereby creating broadband markets (an example being the co-operation of MGTS and MTU-Intel that established the broadband market in Moscow).

Telecom network interconnection is prescribed by Articles 18 to 20 of the Communications Law. Technical requirements for general network interconnection and broadcast network interconnection are prescribed by government decrees, one of which being the Interconnection Decree. Otherwise, interconnection is subject to operator contracts. Operators of publicly available networks must interconnect with other operators. Those having a "substantial position" (defined in terms of 25% or more of capacity in a geographic numbering area) have equal access and non-discrimination obligations and, generally speaking, may not refuse interconnection requests.

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

Those operators holding a substantial position in publicly available networks are subject to network cost regulation, exercised by the Federal Agency for Communications.

2.12 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 Communications Law, Article 28, permits telecom operators to set forth their service rates in tariffs. Publicly available services deemed to be natural monopolies, however, are controlled by the state. These include local and intercity calls, terrestrial television transmissions, cable and broadcasting communications. These are regulated by the Federal Anti-monopoly Service under Government Decree 637, dated 24.10.2005. As an example of anti-monopoly regulation by this Service, mobile operators are not permitted to charge domestic roaming charges.

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

Under Mass Communications Order 54, dated 2.5.2006, operators having a substantial position in public networks, providing universal service, or deemed to be natural telecoms monopolies, are subject to accounting separations requirements.

2.14 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'?

On 31.1.2013, under the chairmanship of the President of Russia, an extended meeting of the Government of the Russian Federation was held, at which one of the main activities of the Government for the period up to 2018 discussed the issue of overcoming the information/digital inequality of the regions and the development of broadband access. Taking into account the size of the country, the need to address the problem at all levels – federal, regional and municipal – was stressed, and the best regional practices were replicated nationally. Targets for overcoming regional information inequality were initially set out in the main documents of strategic planning of the development of the information society in the Russian Federation – the Information Society Development Strategy and the state programme "Information Society (2011–2020)". The state programme "Information Society" was updated and now covers the period through to 2024, while the Information Society Development Strategy was by the President's Decree No. 203 of May 2017 extended to cover the period of 2017–2030.

There is no single regulation governing relations in the sphere of broadband networks in Russia. The legal regulation of broadband access to networks is carried out by various bodies of the Russian Federation.

The Russian Government's Order of 29.12.2014 No. 2769-r "On the approval of the Concept of Regional Informatics", as amended, provides for the development of the regional segment of telecoms infrastructure. The basis of the regional segment of telecoms infrastructure can be modern fibre-optic multi-service communication networks, operating according to the same standards with the established level of quality of service, providing consumers with data transmission services of any type. Proposals are being prepared by the Ministry of Digital to change the legal framework required for the sharing of communication channels by different state authorities, local governments and organisations.

In order to reduce digital inequality, the subjects of the Russian Federation are encouraged to implement measures aimed at increasing the availability of high-speed internet access services and other types of information and telecoms services, reducing administrative barriers, stimulating the growth of the number of telecom operators in the region, and increasing competition. Specifically, the Communications Law was amended in April 2020 to set forth the requirements for each settlement with a population of 100 to 500 people: (i) to have at least one access point for data transmission and internet access; and (ii) to the extent such settlement has no mobile telephony service coverage, at least one access point for mobile telephony.

Such access points are to be provided by the universal service operator selected by the Government. In pursuance of the 2020 changes to the Communications Law, in April 2021, the Ministry of Digital signed an agreement with one of the telecoms operators, Rostelcom, pursuant to which the operator committed to provide access to 4G networks in 1,200 settlements by the end of 2021, and by 2030, in 24,000 settlements.

The general regulation of communication facilities and communications facilities is governed by Articles 2, 5 of the Communications Law.

Communication structures that are firmly connected to the land and whose movement without disproportionate damage to their purpose is impossible, including linear cable communication facilities, relate to real estate, state registration of property rights and other material rights to which is carried out in accordance with civil law. Features of the state registration of property rights and other material rights to linear cable communication facilities are established by the Communications Law. Operators of the public telecommunication network are required to provide access services to other telecom operators on the basis of accession agreements to other telecom operators in accordance with the rules of telecoms network access and interaction approved by the Government (Article 18 of the Communications Law).

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

Yes. See the answer to question 2.12 above.

2.16 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?

Yes. Telephone and internet services available from payphones, kiosks, and other access points (universal communications services) are provided by a Government-nominated entity (currently Rostelcom) that has public service obligations. There is currently a universal service fee of 1.2% of the revenues of all public telecoms companies that is used to support the Universal Services Reserve. Rostelcom's costs of providing universal service are subsidised, in part, by this Universal Service Reserve.

Telecom service providers must also comply with certain consumer disclosure requirements when entering into service contracts with subscribers (set forth in the Rules for the Provision of Data Transfer Services adopted by Government Decree 32, 23.1.2006, as amended). They must also give no less than 10 days' notice of rate changes in advance (as well as certain technical service issues) through posting on the website.

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

The Government controls telephone numbers under Article 26 of the Communications Law. Number allocation, number pools, and related rules are prescribed by Government Decree 350, dated 13.7.2004, and Order 205 of the Ministry of Digital.

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

Number portability (allowing subscribers to keep their phone numbers when changing providers) is prescribed by Article 44(4) of the Communications Law (effective since December 2014). The transfer fee may not exceed the limit of 100 RUB (approximately, 1.20 USD at the time of writing). The number portability database is funded by the universal service fund.

2.19 Are there any special rules relating to dynamic calling line identification presentation?

Calling Line Identification Presentation ("CLIP") is viewed as a supplementary service provided by telecoms operators and is not specifically regulated. The CLIP service provided by the telephone equipment (telephone sets with in-built CLIP function) impacts the connection charges, since, pursuant to the Regulation of the Government of Russia No. 1342 "On the Provision of Telephone Connection Services" of 9.12.2014, as amended, such equipment, along with facsimile or voicemail is treated as equal to the physical response of the called party and starts the running of the call time for the charge calculation purposes.

2.20 Are there any obligations requiring number portability?

Yes. See answers to questions 2.17 and 2.18.

3 Radio Spectrum

3.1 What authority regulates spectrum use?

The regulation of the use of radio spectrum is carried out by an inter-agency collegiate radio frequency body under the federal executive authority in the field of communications (v. 2 p. 22 of the Communications Law) and the Russian Government's Resolution of 2.7.2004 No. 336 "On the Approval of the Regulation on the State Commission on Radio Frequency".

The relevant agencies are the State Commission for Radio Frequencies and the Specially Mandated Service for the Regulation of Radio Frequency and Electronic Means at the Federal Executive Authority in the Field of Communications ("Federal Radio Frequency Service"), which are both part of the Ministry of Digital. Collectively, they are responsible for spectrum allocation, technical supervision of the use of radio frequencies and radio devices, and also exercise other powers provided for by the Communications Law and the Decree of the Government of the Russian Federation dated 14.5.2014 No. 434 "On Radio Frequency Service". The State Commission for Radio Frequencies regulates compliance with allocated spectrum rules and the Federal Radio Frequency Service collects frequency-use fees.

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.?

The distribution of the radio frequency spectrum is carried out in accordance with the Frequency Distribution Table between the Russian Federation's radio services and the plan for the prospective use of radio frequency spectrum by electronic means developed by the State Radio Frequency Commission and approved by the Government of the Russian Federation. The State Radio Frequency Commission considers proposals by self-regulating organisations and individual telecom operators to revise the Frequency Distribution Table between the Russian Federation's radio services and the plan for the prospective use of radio spectrum by radio.

The right to use the radio frequency spectrum is granted by the allocation of radio frequency bands and/or the appropriation (destination) of radio frequencies or radio frequency channels. The use of radio frequency spectrum without a permit is not permitted.

Telecom service licences are issued by the Ministry of Digital. Where the services require spectrum, the applicant must obtain a frequency use permit (licence) from the State Radio Frequency Commission Allocation. Where spectrum frequency is limited, licences can be issued on the basis of bidding or tender (auction, competition), conducted in accordance with the Russian Government Regulations of 24.5.2014 No. 480 "On bidding (auctions, competitions) for a license to provide communications services", as amended.

The State Radio Frequency Commission establishes the availability of radio frequency spectrum available for tender and limits the possible number of telecom operators in the territory. The decision to conduct the bidding (and authorisation thereof) is made by the Ministry of Digital.

All radio-frequency tenders open in two forms: competition; or auction. These provisions do not apply to the relationship related to the use of radio frequencies in the provision of communications services for television broadcasting and broadcasting purposes (Article 31 of the Communications Law).

Licence terms vary and must be between three and 25 years.

3.3 Can the use of spectrum be made licence-exempt? If so, under what conditions? Are there penalties for the unauthorised use of spectrum? If so, what are they?

Certain frequency bandwidth may be reserved for the exclusive use in the national defense state authorities' interests (see Regulation of the Russian Government No. 88 of 1.2.2000).

With respect to bandwidth available for allocation for civil and commercial purposes, the general rule, as set in Article 24 of the Communications Law, is that the use of spectrum requires a licence. However, certain exemptions are permitted by law. For example, certain frequencies are allocated for use by amateur radio communications parties on short-range devices. Such use is permitted without individual licences or other permits, provided that certain technical conditions are met (including the registration of the rig).

Other examples are allocations of frequencies bandwidth for use within the framework of events viewed as having national importance and supported by the federal authorities. Thus, Federal Law No. 108-FZ of 7.6.2013 on matters related to the preparation for the FIFA World Cup in 2018, Confederations Cup in 2017 and UEFA European Football Championship in 2020 (as amended) vested the Government of Russia with the right to set specific rules of spectrum use. By Regulation No. 240 of 6.3.2020, the Russian Government set a simplified procedure of frequencies allocation (within the ranges approved by the State Radio Frequency Commission) to organisers and participants of the event on a free-of-charge and priority basis (subject to expert opinion on compatibility of their radio electronic devices).

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

One-time fixed fees and annual fees are set individually by RKN for each user holding a permit to use the spectrum on the basis of the methodology developed by the Ministry of Digital and taking into account: frequency range; number of frequency channels used; and the technologies applied. For GSM, UMTS, IMT-MC-450, LTE standards and their modifications, the State

Radio Frequency Commission determines the amounts in each decision on the allocation of frequencies and/or each licence for telecoms services with the use of radio frequency spectrum.

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

There is no special procedure set for the change of control of a telecom licence holder. Any change of control may be subject to clearance under Competition Law, Foreign Investments Law or the Strategic Investments Law (each setting forth different thresholds, requirements and clearance procedures).

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

Licences may be transferred without prior approval to a successor (Article 35 of the Communications Law). Transfer of a licence requires first, that the spectrum use permit be transferred, and second, that the licence be reissued to the transferee. Application and notice to RKN is required. Licences are issued in the name of only one holder and sub-licensing is not permitted.

4 Cyber-security, Interception, Encryption and Data Retention

4.1 Describe the legal framework for cybersecurity. Are there any specific requirements in relation to telecoms operators?

Article 16 (Protection of Information) of the Information Law requires the protection of information through various measures, including preventing unauthorised access, hacking, cyber attacks, and other protections of information. Article 17 of the Information Law provides for civil remedies and criminal penalties for violation of this law.

The Personal Data Law creates the legal framework with respect to security of processing of personal data.

The one law to be mentioned specifically in this regard is the Critical Information Infrastructure Law that is designed to provide the security of critical information infrastructure for the purpose of their functioning when faced with computer attacks. It describes the Russian State system of detection, prevention, and elimination of consequences of computer attacks on information resources (Article 5).

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.

Enforcement authorities must be provided with direct access to telecoms networks under rules set out in Government Decree 538, dated 27.8.2005, which is one of the licence terms for holding a telecom licence. The Federal Security Service ("FSB") is responsible for co-operation with telecoms operators to accomplish this. Details are set forth in Order 73 for data transfer network (dated 27.5.2010) issued by the Ministry of Digital. Russian authorities can seek records, correspondence and other subscriber information from the operators, subject to approval in accordance with Federal Law 144-FZ, dated 12.8.1995 (as amended). Generally, to the extent they limit constitutional privacy rights, such actions require a court order; however, requests for information are frequently reported to be sent to operators without observation of the procedure.

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?

See answer to question 4.2 above.

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

See answer to question 4.2 above.

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

The use of encryption is subject to licensing under Government Decree 313 dated 16.4.2012, as amended. Licensees must apply for certification of information security systems, including technical analysis of encryption devices by authorised laboratories. Requirements are published by the Federal Service for Technical and Export Control.

Russian regulation is not sufficiently elaborate on the distinction between the concepts of encryption and encoding, which often results in unclarity and inconsistent approaches with respect to certain services and technologies applied, including, among others, message services.

The Information Law sets forth a requirement for parties qualifying as organising the distribution of information online for the reception, transmission, processing or delivery of electronic communications (such as e-mail and messaging services) to provide the FSB with the means of decryption of such communications. The requirement was openly opposed by certain market players, *e.g.,* the popular instant messaging service, Telegram, that in 2018 publicly denied the requests of the regulator to provide the FSB with encryption keys (referring to the non-existence of uniform encryption keys in case of end-to-end encryption applied by the platform). As a result, Telegram was officially blocked in Russia (although remained at all times *de facto* available to users) until 2020, when it was suddenly officially announced to be cleared and permitted to operate.

4.6 Are there any specific cybersecurity requirements on telecoms or cloud providers? (If so, please list the relevant legislation.)

Telecom operators and cloud service providers are subject to general cybersecurity requirements set out in the Personal Data Law and the Information Law. Pursuant to these laws, a number of by-laws have been adopted, elaborating on the specific requirements depending on the types of data processed and threat levels.

For example, Regulation of the Russian Government No. 1119 of 1.11.2012 "On Approval of Requirements to Personal Data Protection in the Course of its Processing in Personal Data Information Systems" determines three types of cyber threats (relevant for system or application software) and four prescribed levels of personal data security, depending on the types of threats, categories of data processed and the number of

data subjects. Based on the subscriber base, significant telecom operators fall within the two categories requiring the strictest cybersecurity regime.

Another categorisation is set in the Government Regulation No. 1046 of 29.6.2021 setting forth the rules for the governmental control and monitoring over the personal data processing. Regulation 1046 sets forth five categories of risk, depending on the types of data processed and the "probability of violations". Depending on the risk category assigned, various forms of governmental control are set, including audits at different frequency. Another important requirement necessarily applicable to telecom operators or cloud service providers is the data localisation rule, pursuant to which data operators of personal data of Russian citizens are required by Personal Data Law to store, and performs certain processing actions with such data only with the use of databases physically located in the territory of Russia.

4.7 What data are telecoms or Internet infrastructure operators obliged to retain and for how long?

Telecom operators are subject to a number of data retention requirements, including account, tax reporting, information storage obligations in compliance with investigative requirements (including maintenance of subscriber and service databases for three years). Operators of universal services, data transfer and telematics, when providing public internet access, must obtain valid customer identification (including the customer name and mobile network subscriber number) and keep such data for at least six months.

Under the Yarovaya Law, all telecom operators must store records of voice messages and any other data (*e.g.*, video) that is delivered or exchanged by their subscribers.

See the data localisation requirement (question 4.6 above).

5 Distribution of Audio-Visual Media

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

The framework of the regulation of audio-visual media (audio-visual services in the terminology of Russian laws) is set forth in the Information Law. An audio-visual service is defined as a website, informational system and/or software (i) used to form and/or distribute online an aggregate of audio-visual works accessible for a fee and/or subject to viewing advertising aimed at a Russian-based audience, and (ii) accessed by more than 100,000 internet users based in the Russian territory per day.

Pursuant to the specific methodology adopted by RKN's Order No. 99 of 9.6.2017, for the purposes of the above definition, one-time accesses of unique users to the service per day are counted.

Exempt from this definition are mass media registered in Russia as online media, search engines and resources with user generated content (the latter is determined on the basis of the methodology approved by RKN's Order No. 113 of 26.6.2017).

Based on the above criteria, RKN identifies the audio-visual services falling under the Information Law regulation and adds those to the registry of audio-visual services. As of December 2020, RKN included 21 audio-visual services into the registry.

Two main ownership restrictions are set by Russian law on audio-visual services:

(i) **Russian ownership requirement**: The audio-visual service (included in RKN's registry) must be a Russian company or a Russian individual with no dual citizenship.

(ii) **Foreign ownership restriction**: Foreign ownership of an audio-visual service is limited to 20%, held individually or in aggregate and directly or indirectly, if the foreign investor operates an audio-visual service having a Russian audience of 50% or less of its worldwide audience.

The law provides for approval of foreign ownership above 20% by way of application to a special governmental commission for the development of production and distribution of domestic (Russian) audio-visual content.

There are other specific requirements and obligations imposed on audio-visual services in respect of content distribution and use of certain specific tools (*e.g.*, for users counting).

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.

Content requirements applicable to audio-visual services on RKN's list comprise those covering general restrictions on information distribution and those set specifically for such services. The first category primarily includes information used to carry out criminal activities, disclosure of state or any other protected secrets, distribution of materials calling for or justifying terrorism, other extremist materials, materials promoting pornography, violence or cruelty or materials containing profanity; and requirements to comply with laws on children protection (age rating requirements and restriction of certain information for distribution to minors, including the notorious "gay propaganda" ban).

Specific requirements applicable to audio-visual services include, among others: (i) a restriction on distribution of television channels or programmes not registered as mass media in Russia via the service; and (ii) a new requirement (enacted in July 2021) for all audio-visual services to provide for the distribution on such service of all Russian mandatory free TV channels holding FTA licences within the first and the second digital multiplexes.

In terms of advertising, there are goods and services totally restricted for advertising in all media (including goods prohibited for manufacture or sale in Russia; drugs and psychotropic substances; explosives and explosive materials (except for pyrotechnics); human organs and tissues; tobacco; and medical abortion services; etc.).

Other restrictions apply to internet advertising: thus, for example, advertising alcohol is prohibited over the internet at any time; and gambling advertising is permitted **online only** on websites registered as network (online) mass media dedicated to sports, on official websites of Russian sports federations or professional leagues, or on websites owned by founders of registered TV sports channels that are not distributed on a paid basis and/or with the use of decoding devices.

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

There are no licensing requirements applicable to audio-visual services.

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

See answers to questions 5.1 and 5.3 above.

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?

Article 1253.1 of Part IV of the Civil Code of Russia sets forth the specific terms of liability of an information intermediary, understood as the party transmitting the content in information and communications networks, including the internet, and/or the party providing the opportunity for the placement of the content or providing the access to the content placed in the information and communications networks, for infringement of intellectual property rights.

The information intermediary is not liable for the intellectual property rights infringement by the content carried in its networks provided that such intermediary: (i) has not initiated the transmission or placement of such content; (ii) has not altered the content (except for necessary technological changes); and (iii) had no knowledge of the infringing nature of the content. This rule has been generally consistently applied and is viewed as rather non-controversial.

At the same time, a certain lack of clarity remains as regards the information intermediary providing opportunity for the placement of content in the information and communications networks (*e.g.,* web resources). This category of information intermediaries is released from liability if it (i) has not altered the content so placed, and (ii) upon a written request from the rights holder referring to the infringing nature of such takes timely and sufficient measures to stop the infringement. It is further set forth in Article 1253.1 of the Civil Code that the list of necessary and sufficient measures to stop the infringement may be set by law. At this point, however, there is no uniform and consistent understanding of the scope of measures that may be needed to exempt the information intermediary from liability. In a number of cases, courts have recognised the use of content-filtering tools or a mere removal of the content upon the rights holder's request as sufficient.

The Supreme Court of Russia in the Ruling of its Plenary Session No. 10 of 23.4.2019 indicated that the status of the information intermediary should not be taken for granted and must be established on a case-by-case basis, particularly, if such person simultaneously carries out various types of operations.

However, the mere conduit defence is not recognised, in the public field with respect to the information distribution. With the increasing pressure exerted by Russian authorities on parties involved in information distribution in all media, broad additional obligations have been imposed over the last few years on parties that qualify as information-distribution intermediaries.

For example, the Information Law obliges news aggregator websites or apps targeting Russian audiences and accessed by at least one million users per day to check the accuracy of information of social importance and delete incorrect information immediately upon requests from authorities. The news aggregators may be liable for the news information they provide unless such information is a word-for-word reproduction of the content placed at an official website of a state authority or earlier circulated by mass media that can be identified and held liable.

A new regulation entered into effect in February 2021 with respect to social networks (defined in the Information Law as a web page or website, or informational system, or software designed and/or used for the presentation or distribution by users of information or their personal web pages, provided that such information is distributed in Russian, or any other language in common parlance in the Russian Federation, and provided further that such resources may carry advertising targeting the Russia-based audience and are accessed by more than 500,000 Russia-based users per day). The social networks are required to monitor the content to prevent the distribution of certain restricted categories of information. While some of the categories are hardly controversial (*e.g.*, restrictions on distribution of pornography, information on preparation or use of drugs and psychotropic substances; information on means of committing suicide or calls for committing suicide; etc.), there are other types of information that are not defined with sufficient clarity, and, therefore, concerns have been expressed that the assessment of the compliance remains at the discretion of the governmental authorities. This is the case, for example, with the statutory prohibition for social media to distribute information disgracing individuals or groups of individuals on gender, race, age, religious, professional or political grounds (where the criteria are not clear and applied inconsistently); information offensive for society, state, state symbols or state authorities; and "fake news" (inaccurate information of public importance that may put in jeopardy the lives or health of people or lead to damage to property; create a risk of breach of public order or of functioning of life-saving, social or transportation infrastructure, and similar).

Largely in response to the new regulation on "fake news", many major Russian internet resources and mass media companies announced early in October 2021 their signing of a memorandum on fact-checking. Among other things, the signatories of the memorandum have been considering a special "fake" marking on user content determined to be intentionally confusing and thus qualifying as fake news.

The obligations to monitor and remove the restricted information imposed on owners of websites and informational resources is now backed with substantial fines. With effect from December 2020, Article 13.41 of the Code of Administrative Offences provides that a fine for the failure to remove the information restricted for distribution under Russian laws (other than content infringing on the IP rights of others) may, depending on the type of restricted information, reach 4 million or 8 million RUB, and in case of a repeated violation, be calculated as 1/10 of the company's turnover in the preceding calendar year.

There are two reported targets for the first imposition of the turnover-based fines. RKN has announced that Google and Facebook have been summoned to administrative hearings on the respective repeated violations of the requirement to remove the restricted information.

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?

Operators and ISPs are under an obligation to block access to certain information qualified as illegal in Russia (see answer to question 6.4 below).

There are also certain requirements applicable to parties providing instant private messaging services (*i.e.*, services enabling communications only within such information systems whereby making the information publicly available or transmitting such information to general public is not enabled). The

private instant messaging services are obliged to identify all users by phone numbers and restrict distribution of illegal information upon the regulator's request. The user identification requirement also applies to ISPs at public WiFi access points.

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?

Currently, there are no statutory "net neutrality" requirements (the principle that all network traffic must be treated equally). While the concept has some support from both government agencies and some carriers, it is not unanimous. The Federal Antimonopoly Service has expressed its support for the principle and in 2016 published the Fundamentals on net neutrality. The Fundamentals were supported by major telecom operators Beeline, MTS and MegaFon and have been observed by the market players on a voluntary basis. RKN, on the other hand, has stated that the development of 5G applications such as telemedicine and self-driving cars would require traffic prioritisation. Some of the larger carriers have echoed such concerns. The Ministry of Digital appears receptive to the industry's position. Thus, in its Order No. 923 of 27.12.2019 approving the roadmap for the formation and development of 5G/IMT-2020 networks in Russia, the Ministry indicated that in providing 5G/IMT-2020 services, telecom operators will have to put aside the net neutrality principle as contradicting the logic of communication networks development that dictates setting varying priorities for critically important communications and services.

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?

Russian regulation imposes on communication operators and ISPs an obligation to block access to certain web resources containing information that is restricted or prohibited for distribution. RKN is the state authority maintaining the register of domain names, URL and webpage addresses allowing identification of websites that contain information prohibited for distribution in Russia. A web resource can be blocked, among other things, for: child pornography; information on methods of development, production and locations for the purchase of drugs, methods of committing suicide; calls for extremism, riots and massive public events not approved by the authorities; content infringing upon copyright and related rights; information viewed as potentially harmful to children (within the meaning and based on criteria set forth in the Children Protection Law); for certain violations of personal data regulation; and many more.

The blocking tool has been used with increasing frequency over the last years. Telecom operators and ISPs are mandated to block access to webpages included in RKN's stop lists, and are subject to fines for a failure to implement the blocking orders.

The use of any tools and technologies allowing access to blocked websites (such as VPN services, browser plug-ins, anonymous search engines) is prohibited in Russia. The websites and apps providing the users with access to web resources included in the stop lists may in their turn be blocked by RKN.

6.5 Is there any regulation applicable to companies that act as intermediaries in their role of connecting consumers with goods, services, content, or are there any proposals for such regulation?

See answer to question 6.1.

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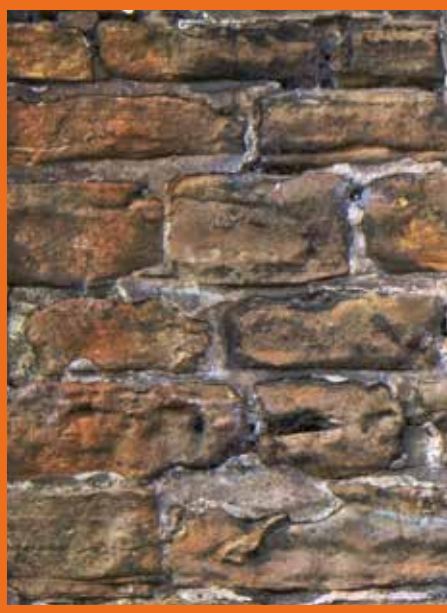

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