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## CONCEPTUAL PROBLEMS OF INFORMATION SOCIETY MEDIA

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**Annotation.** *Active development of new media must be responded with clear and timely changes in legal regulation. The concept of information society media was introduced for the first time in 2006, when a new edition of the Law on provision of information to the public was adopted. The article reviews earlier legislation, systematically analyses Lithuanian legal regulation, and identifies practical problems. The article provides a structural analysis of information society media, which is based on its legal status, identifies weaknesses of the legal regulation and conceptual issues. Conclusions are made that different legal acts are not harmonised, there are conditions for collisions between legal norms, uniform explanation, and implementation of the legal norms is very difficult.*

**Keywords:** *legal regulation, provision of information to the public, media, information society media.*

## Introduction

Information technologies and telecommunications are developing extremely fast; therefore legal regulation must be updated with appropriate changes at the same pace. Back in 2005, the Constitutional Court of the Republic of Lithuania stated<sup>1</sup> that electronic communications and telecommunications are undergoing fast development. The opportunities to seek, obtain and disseminate information by making use of electronic information technologies, *inter alia* the Internet, are constantly expanding. At the same time, the social relations linked with dissemination of information on the Internet are becoming more complex. Therefore, it is necessary to ensure that the legislation does not get behind with the progress of information technologies and with changes in respective social relations, which are determined by such progress<sup>2</sup>, *inter alia* that the legislation reflect peculiarities of the subjects of the said relations, which objectively determine the necessity to differentiate their legal status. The Constitutional Court, discussing the legal regulation on provision of information to the public in „Kavkazcenter“ case<sup>3</sup>, noted that the legal regulation established in is the present legislation is to a high degree of a general character; the specificity of the Internet as a media for spreading of information is not sufficiently taken into consideration.

Opinion stated by the Constitutional Court was also taken into account by a special parliamentary workgroup<sup>4</sup>. Its work was finished with a new edition of the Law on provision of information to the public<sup>5</sup> (further – the Law), which was subsequently adopted and came into force on September 1 2006. The new concept of information society media (hereinafter – ISM) was introduced in this edition for the first time. Therefore, the *object* of this article is the ISM and its concept, which is investigated via legal science doctrine and practical implementation problems.

The article employs systematic analysis, historical and gnoseological *methods*, investigates the formation process of the ISM concept and identifies practical problems in regulation of a new legal institute. The *aim* of this article is to systematically analyse the legal status of ISM, identify practical implementation problems and provide recommendations for further development of the legal regulation.

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- 1 The Constitutional Court of the Republic of Lithuania. Ruling 19 September 2005. On the procedure for dissemination of information not to be divulged to the public. *Official Gazette*. 2005, No.113-4131.
  - 2 Ulevičius, L. To Regulate or To Not Regulate Media on the Internet? Advantages and Disadvantages. *Approximation of freedoms, rights and responsibilities established in the law on provision of information to the public in the age of new technologies: International Conference*. Utena: Utenos Indra, 2005, p. 74-82.
  - 3 The case in the Constitutional Court of the Republic of Lithuania was initiated by Vilnius 2nd district court, which examined the case between the Department of National Security v Internet service provider UAB „Elneta“ and Internet portal „kavkazcenter.com“.
  - 4 The board of the Parliament of the Republic of Lithuania. Decision No. 91 of February 9, 2005. On working group to draft new edition of the Law on the provision of information to the public. [interactive]. Vilnius: Lietuvos Respublikos Seimas, 2005 [viewed 2008-12-01], <[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=256770](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=256770)>.
  - 5 The Law on the Provision of Information to the Public. *Official Gazette*. 1996, No. 71-1706.

The provision of information to the public has been analysed quite extensively in the Lithuanian legal doctrine. The study “Media law”<sup>6</sup> of Liudvika Meškauskaitė is outstanding due to its thorough analysis, whereas a lot of scientific works are dedicated to freedom of self-expression, or the right to information<sup>7</sup>, especially as regards international dimension, comparative studies and interpretation of the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>8</sup> (hereinafter – the Convention), as well as its implementation in Lithuania<sup>9</sup>. In recent years, more and more attention is paid to the problems of the Internet content regulation. Scholars from information society, informatics law, law of informatics engage in active scientific debates<sup>10</sup>. Specific legal problems are actively discussed in a context of the criminal law<sup>11</sup>; this discussion was inspired by criminalization of certain activities in an electronic environment in the new edition of the Criminal Code<sup>12</sup>.

Inter-disciplinary nature of the research object presupposes the necessity to analyse works of information sciences. Hence it is important to pay attention to the thorough overview of basic cases of the European Court of Human Rights, as analyzed by Lai-

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- 6 Meškauskaitė, L. *Žiniasklaidos teisė. Visuomenės informavimo teisė: teoriniai ir praktiniai aspektai*. Vilnius: Teisinės informacijos centras, 2004.
  - 7 Jarašiūnas, E. *Teisė į informaciją. Pilietybės ir valstybės įstaigos. Asmens konstitucinės teisės Lietuvoje. Tarptautinė konferencija, skirta asmens konstitucinių teisių turinio ir jų įgyvendinimo analizei*. Vilnius: Lietuvos žmogaus teisių centras, 1996; Jarašiūnas, E. *Informacijos laisvės apsaugos problemos Konstitucinio teismo praktikoje. Jurisprudencija*. 1998, 9(1); Baltutytė, E., et al. *Lietuvos Respublikos teisės gauti informaciją iš valstybės ir savivaldybių įstaigų įstatymo komentaras*. Vilnius: Lietuvos žmogaus teisių centras, 2000; Birmontienė, T. *Teisė į informaciją*. Vilnius: Lietuvos teisės universitetas, 2001.
  - 8 Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 4 November 1950, entered into force 3 September 1953). ETS 5; 213 UNTS 221 (ECHR).
  - 9 Švedas, G. *Visuomenės informavimo įstatymas bei žmogaus teisių ir laisvių apsaugos problemos. Teisės problemos*. 1997, 3; Vadapalas, V. *Tarptautinė teisė. Pagrindiniai dokumentai ir jurisprudencija*. Vilnius: Eugrimas, 1998; Jočienė, D. *Europos žmogaus teisių konvencijos 10 straipsnio taikymo praktika. Teisė*. 2001, 39.
  - 10 Deksnys, B., et al. *Informacinių technologijų visuomenė: humanitarinės interpretacijos*. Vilnius: Lietuvos teisės universiteto Leidybos centras, 2002; Sauliūnas, D., et al. *Informacinių technologijų teisė*. Vilnius: Ciklonas, 2004; Andrijauskas, K., et al. *Informacinės visuomenės teisė*. Vilnius: Lietuvos vartotojų institutas, 2005; Kiškis, M., et al. *Teisės informatika ir informatikos teisė*. Vilnius: Mykolo Romerio Universitetas, 2006; Ulevičius, L. *Employee’s Right to Blog: Free Speech Challenge for Enterprises in Information Society. Iš Third Year within the European Union: Topical Problems in Management of Economics and Law (proceedings of the International Conference)*. Riga: College of Law, 2007, p. 336–344.
  - 11 Panomariovas, A. *Viešai neskelbiama informacija (paslaptis) baudžiamajame procese*. Daktaro disertacija. Socialiniai mokslai (teisė). Vilnius: Lietuvos teisės universitetas, 2001; Martinonienė, E. *Lietuvos kriminalinės žurnalistikos veiklos ir teisėsaugos informacijos pateikimo žiniasklaidoje teisinis reglamentavimas visuomenės informavimo tobulinimo aspektu*. Daktaro disertacija. Humanitariniai mokslai (komunikacija ir informacija). Vilnius: Vilniaus universitetas, 2002; Jurka, R. *Žurnalistų imuniteto samprata baudžiamajame procese. Teisės problemos*. 2005, 1(47); Valatkevičius, D. *Nusikaltimų informatikai pėdsakų apibūdinimas. Teisė*. 2007, 64.
  - 12 The Law on Confirmation, Coming into Force and Fulfilment of the Criminal Code. *Official Gazette*. 2002, No.37-1341.

monas Tapinas<sup>13</sup>, works on information society by Arūnas Augustinaitis<sup>14</sup>, and studies of the media by other authors<sup>15</sup>.

## 1. Definitions used in Lithuanian legal system

Although Article 44 of the Constitution of the Republic of Lithuania<sup>16</sup> uses the term “mass information means” (official English translation is “mass media”, the direct translation will be used for the clarity of the research), the later legal acts ignored the traditional Soviet term and introduced the concept of „society information means“ (official English translation is “media”, hereinafter – SIM). It should be noted that some communication science scholars defend the formal position of the Constitution and provide their arguments<sup>17</sup>.

Definition of SIM does not directly specify information dissemination in virtual space, therefore it is not clear in this regard, whereas wide explanation of the concept “<...>other means of public dissemination of information” is appropriate. Growing needs of the new media, its practical problems, and uncertainty of the legal regulation forced legislators to respond with sporadic initiatives to develop new media concepts.

For example, on 5 March 2003, the Government of the Republic of Lithuania adopted Order Nr. 290, where it formulated the rules on the approval of the procedure for control of undisclosed information in public use computer networks and dissemination of limited public information<sup>18</sup>. Paragraph 4 defines “electronic society information means” (official English translation is „electronic media“, hereinafter - ESIM). Later in 2004, Liudvika Meškauskaitė used the term “electronic media (hereinafter – EM) in her study. In 2005, the Constitutional Court used both EM and “freedom of electronic

13 Tapinas, L. *Žiniasklaidos bylos Europos Žmogaus Teisių ir Lietuvos teismuose*. Vilnius: Danielius, 2002.

14 Augustinaitis, A. Informacinės visuomenės mokslo bruožai. *Sociologija. Mintis ir veiksmai*. 1998, 2: 95-108; Augustinaitis, A. Šiandieną kaip transinformatiškumą. *Sociologija. Mintis ir veiksmai*. 1999, 6: 28-43; Augustinaitis, A. Postmoderniojo žinojimo ypatumai. *Žinija Lietuvoje: neformali mokslo žinių sklaida XX amžiuje*. Kaunas: Technologija, 2000, p. 60-65; Augustinaitis, A. Informacinio racionalumo prielaidos. *Informacijos mokslai*. 2001, 19: 9-19.

15 Nugaraitė, A. Visuomenės informavimo priemonių vaidmuo politiniame gyvenime. *Informacijos mokslai*. 1996, 5; Gudonienė, V. *Įvadas į masinės komunikacijos teorijas*. Vilnius: Žara, 1999; Matkevičienė, R. Politikų ir masinės komunikacijos priemonių sąveika Lietuvoje. *Informacijos mokslai*. Vilnius, 2001, 16; Stonkienė, M. Teorinės informacijos teisės apibrėžtys žinių visuomenės kontekste: dvi informacijos teisės tapatybės. *Informacijos mokslai*. 2006, 39.

16 The Constitution of the Republic of Lithuania. *Official Gazette*. 1992, No.31-953.

17 Renata Matkevičienė uses term „mass information means” in her article and argues that such position of Vilija Gudonienė emphasizes mass communications and the importance of their means. Whereas a term “media” (Lith. *žiniasklaida*) is criticised as a concept that is too narrow to describe mass communications, and exaggerates only one function.

18 The Government of the Republic of Lithuania. Order No. 290 of March 5, 2003. On the approval of the procedure for control of undisclosed information in public use computer networks and dissemination of limited public information. *Official Gazette*. 2003, No. 24-1002.

media” terms in “Kavkazcenter” case decision. The Law uses term “Internet media” (hereinafter – IM) in the article 28 (5)<sup>19</sup>.

Inspector of journalists ethics Romas Gudaitis states<sup>20</sup> that it is not clear, what should be covered by “electronic media” or “electronic society information (media) means”. Should this media be subject to basic principles of provision of information to the public and other statutory obligations? Is it possible to compare a website or a webpage, where everybody can be abusive, to electronic media, which execute real function and provides information to the public?

It could be concluded that neither legal acts nor legal doctrine has stable terminology and ISM frequently is associated with categories, which seem similar, although cover different content. The concept of ISM has not yet been specifically analysed in the Lithuanian legal doctrine. It was announced in the new edition of the Law and earlier scientific works relate to ISM only inasmuch as it is a form of general media channels.

Lack of a legal debate creates a situation, where uniform explanation of legal norms and their implementation becomes difficult; the conditions for collisions between legal norms are evident. At the same time, the provision of information to the public via new media forms makes legal regulation necessary, especially in the area of legal liability. Meanwhile, implementation of legal norms heavily depends on a particular situation and the legal act in question. Therefore, scientific analysis of specific ISM characteristics would help differentiate ISM from other media, establish the conditions for problem solving, and provide recommendations for legislators.

## 2. ISM and alternatives in *travaux préparatoires*

The aim of the parliamentary workgroup<sup>4</sup> was to clarify the legal regulation and cover those media channels, which employ information technologies (usually – some sort of online access<sup>21</sup>) for their activities. The earlier edition of the Law was not clear on these issues, whereas the same category of media was regulated using a general description “other means of public dissemination of information”.

A workgroup has analysed<sup>22</sup> earlier regulatory initiatives and several alternative versions of ISM concept. Two main alternatives were favoured and received major at-

19 In case of academic discussions, Vytautas Didysis University has “Internet media” course from 1998. The same term is frequently mentioned in scientific works – e.g. Master thesis of Saulė Pauplytė “Lithuanian internet media: problems of sexuality and self-expression” in 2001. Similar practise applies in Journalism Institute of Vilnius University, where a conference “Internet media problems and development tendencies” was organised in 2001.

20 Gudaitis, R. Žalingo turinio informacijos priežiūra elektroninėje žiniasklaidoje. *Tarptautinė konferencija „Digital Content: a Modern Fairy Tale or the Old King in the New Clothes?“* [interaktyvus]. Vilnius, 2006 [žiūrėta 2008-12-01]. <[http://www3.lrs.lt/pls/inter/zetika?r\\_id=992&k\\_id=1](http://www3.lrs.lt/pls/inter/zetika?r_id=992&k_id=1)>.

21 It is important that Internet is not the only technology, which could be used by ISM for provision of information. For example, mobile operators use specific data transfer standard for short messages, independent systems are employed for international banking (e.g. SWIFT), and etc.

22 Lamanauskas, T.; Ulevičius, L. Suderintas 2005 m. birželio 8 d. Liutauro Ulevičiaus ir Tomo Lamanausko pasiūlymas. Iš *Darbo grupės naujai Visuomenės informavimo įstatymo redakcijai parengti medžiaga*. Vilnius, 2005.

tention – EM and ISM. Majority of the workgroup members agreed that a term “electronic media” is ambiguous. “Electronic” media is not only the media based on data transfer, but also the broadcasting media (e.g. radio and television). Therefore the term “electronic media” would be too wide, because a direct explanation would certainly cover those media channels that use electricity. On the contrary, neither television, nor radio is ISM (except when they broadcast coded and digitalised signal at the individual request).

The scope of “information society” is not easy to describe. Information society is comparatively new phenomenon of the second half of XX century<sup>23</sup>, therefore subcategory “media”, which includes a characteristic of “information society” refers to modern forms of dissemination of information. It covers not only various internet forms (websites, webpages, servers, etc.), but also other modern means to disseminate information (e.g. mobile networks as GSM, global positioning systems as GPS, ГЛОХАСС, etc.), which correspond to the criteria defined in the Law.

### 3. ISM structure and characteristics

Systematic analysis of “information society service” and its recipient definitions help to explain the content of ISM definition, adopted in paragraph 16 of article 2 of the Law. ISM is basically defined as media, which provides information society services by disseminating public information.

At the same time, paragraph 18 defines “information society service” as a service normally provided for remuneration, at a distance, by electronic means, and at the individual request of a recipient of an information society service. Recipient of an information society service (as defined in paragraph 19) means a person, including a representative office or branch of a foreign legal person, who uses an information society service.

Therefore, it is possible to conclude that ISM is a media, which disseminates public information normally provided for remuneration, at a distance, by electronic means, and at the individual request of a person, including a representative office or branch of a foreign legal person.

Such definition makes it possible to conclude that ISM is the media, which has such characteristics:

- a service is provided when disseminating public information;
- normally for remuneration;
- normally at a distance;
- normally by electronic means;
- at the individual request of a person, including a representative office or branch of a foreign legal person.

Information society services are not only services, which are provided after contract is made online, but also the unpaid services, for example, provision of information

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23 Sauliūnas, D., *et al. Informacinių technologijų teisė*. Vilnius: Ciklonas, 2004, p. 41-42.

online<sup>24</sup>, tools for information search, access, also such services, when information is transmitted via network, and provision of access to the network or publication of recipients' information online.

These characteristics should be explained in consideration of the primary wording of “information society service”, which is defined in Directive 98/48/EC<sup>25</sup>. Article 2 provides that it is any information society service, i.e. normally provided for remuneration at a distance by electronic means and at the individual request of a service recipient.

Service provision “at a distance” should be explained as a service, which is provided when both parties are not at the same place. “By electronic means” means, that electronic equipment is used for initial data transfer (including digital compression) and storage, later finished via wire, radio, optic or other electromagnetic means. “Individual request” refers to a situation, when service (transfer of data) is provided after specific individual activity.

It is important that Annex V of the Directive provides examples, what services are not information society services, specifying in particular that this definition does not include radio or television broadcasts.

#### 4. The specifics of the legal status of ISM

The Law mentions ISM rather frequently and in most cases, ISM is referred to as one group of general media list. For example, paragraph 4 of article 19 sets a blank norm that the Government lays down the procedure for disseminating press publications, audio, audiovisual works, radio and television programmes, ISM and other public information ascribed to erotic, pornographic, violent or other restricted public information<sup>26</sup>. Same as in this provision, ISM's position in general lists is usually after press, audio, video works, radio and television programs.

Similarly, ISM is listed in article 28, where the Law specifies project groups supported via Media support fund; in paragraph 18 of article 47, which prohibits members of the Radio and Television Commission of Lithuania and its staff to distribute information that is a commercial secret; in paragraph 3 of article 48 when setting the right of the Radio and Television Commission to obtain information; in paragraph 6 of article 50 when specifying the right of the Inspector of Journalists Ethics to ascribe categories of erotic, pornographic and/or violent character.

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24 Savukynas, V. *et al.* *Interneto gidas*. Vilnius: Viešosios politikos strategijų centras, 2008, p. 165–176.

25 Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations. [1998] OJ L217.

26 The Government of the Republic of Lithuania. Order No. 681 of June 5, 2004. On the procedure for dissemination of public information ascribed to making negative impact to minors, for marking public information ascribed as negatively influencing development of minors, definition of audiovisual means system inventory. *Official Gazette*. 2004, No.89-3281.

#### 4.1. Obligations, ignored in practise

It is important that in practise some general media obligations are ignored, although they should be applied also for those persons related to ISM. In the context of media ethics<sup>27</sup> obligation set in paragraph 3 of article 24 is particularly important, i.e. the public information producers or disseminators, and journalists must declare the information on any contribution received, if it exceeds the amount of a single minimum wage, specifying the amount of the contribution and wherefrom it was received. Such practise is frequently used to publish advertising materials without clear identification of an advertisement. This is directly or indirectly beneficial for ISM and the failure to implement the obligation mentioned above helps covering up illegal activities.

One major difference between ISM and other media groups is that ISM public information producers and/or disseminators are not only the legal persons and branches of foreign legal persons or other organisations that are registered in the Republic of Lithuania in accordance with the procedure established by the law. Therefore, public information producers and/or disseminators in ISM can be also natural persons or legal persons which are not registered, representatives of foreign legal persons or other organizations; the exception is established in paragraph 2 of article 22.

Another specific characteristic, which is unique for ISM, is set in paragraph 6 of article 22. It states that state and municipal institutions and agencies (except for scientific and educational establishments), banks, political parties may not be the producers of public information and/or their participants; however, they may "have ISM".

However, owners should obey the disclosure procedure. All forms of media have an obligation to provide data about ISM participants, as defined in article 24. Each year, by March 30<sup>th</sup>, editorial offices of ISM (except for those listed in paragraph 6 of article 22) must submit the data regarding those shareholders or stakeholders of an enterprise, who have the right of ownership or control at least 10% of all the shares or assets (if the assets are not divided into shares).

Authorised by the Government, the Ministry of education and science has set the procedure to provide such data and publish it in annex of the Official Gazette ("*Valstybės žinios*")<sup>28</sup>. According to paragraph 5 of article 24, these requirements should cover those ISM, which are owned by legal persons.

Moreover, ISM information should specify administrative bodies, their members and information about property relations and/or joint activity, linking them with other producers and/or disseminators of public information and/or the participants therein. In practise this obligation is neglected. Legislators should set liability for such behaviour or, alternatively, should clarify that this obligation is not applied to ISM.

27 Ulevičius, L. Virtualios rinkimų propagandos technologijos ir jų teisinio reguliavimo problemos. Iš *Metinė konferencija „Lietuva po Seimo rinkimų 2008“ (konferencijos straipsnių rinkinys)*. Vilnius: Vilniaus universiteto leidykla, 2008.

28 Minister of Culture of the Republic of Lithuania. Order of November 14, 2006. On procedure for provision of data about participants of local, regional and national newspapers, journals and information society media and publication of these data in the annex "Informaciniai pranešimai" of "Official Gazette". *Official Gazette*. 2006, No.122-4636.



The Law also establishes that the President of the Republic, the Members of the Government, Parliament and municipal councils, public servants of political (personal) confidence, as well as heads of state and municipal institutions and establishments must publish the data about their participation in ISM.

#### 4.2. Content management data

The article 35 sets the requirement that the producer of public information must keep a copy of a published issue, audiovisual works and recordings of broadcast programmes for at least one year from the day of the dissemination of information. Due to the specific nature of ISM they are free of this obligation. However, the managers must within the time limits and the scope prescribed by an institution authorised by the Government, ensure that information about content management will be stored up to one year. As of today this regulation is not enforced. Nevertheless, the obligation to store the “content management” data (records about content authors and chronology of their actions) remains and is applied to ISM.

#### 4.3. Liability

Paragraph 2 of article 51 sets different subject of legal liability. In general public information producer or disseminator shall be liable for violation of rules on production of public information, the procedure of dissemination of public information. In case of ISM manager of a medium shall be liable for the contents of the medium<sup>29</sup>. ISM manager is respectively a person who actually manages a medium of the information society in which public information is being prepared and/or disseminated, or who prepares and/or disseminates the contents of such media. It is not clear, whereas ISM which is actively involved in dissemination of information to the public should be subsidiary liable in line with authors of internet comments. Although recent legal practise on liability (even criminal) is very intense, legal explanation is not yet fully clear, whereas editorial bodies of ISM should be fully freed from legal liability. It is especially doubtful when technological solutions are provided by ISM managers, but later user generated content is neglected and none automatic filters or self-regulatory control measures<sup>30</sup> are implemented.

The Law sets conditions of legal liability for the intermediary information society service providers via blank norm to the Law on information society services<sup>31</sup>, which article 12-15 define three forms of participation in dissemination of information to the public. However, detail procedure of notice and take down is set by the Government in its order on procedure to abolish access to illegally acquired, created, changed or used information<sup>32</sup>.

29 Ulevičius, L. Internet portals in the Baltic States: legal issues. *Informacijos mokslai*. 2006, 38:114–121.

30 For example, major Lithuanian Internet portals uphold the self-regulatory project [www.neburnok.lt](http://www.neburnok.lt).

31 The Law on Information Society Services. *Official Gazette*. 2006, No. 65-2380.

32 The Government of the Republic of Lithuania. Order No. 881 of August 22, 2007. On procedure for possibility to deny access to information, which was illegally acquired, created and used. *Official Gazette*. 2007, No. 94-3784.

#### 4.4. Other issues

Several minor issues related to ISM are covered in article 47. It states, that the Radio and Television Commission has its website and publishes there some sort of information. Paragraph 6 sets, that information about the composition of the Commission and any changes should be published there. Paragraph 13 follows, that individual legal acts adopted by the Commission should be published in the same place and shall come into force on the next day of their publication.

At the same time the Commission has competence to apply specific sanction for ISM – to appeal to the court regarding the suspension or termination of activities of the ISM. Other media groups would be responded with reprimand, monetary penalty, suspension of licence, and revocation of licence.

### Conclusions and recommendations

Lithuanian legal system and doctrine has no stable terminology on matters of information society, therefore the concept of information society media is in contradiction with the earlier versions. From the chronological viewpoint, the concept of information society media is technologically neutral, therefore it should be included in other legal acts, in particular the governmental order on limited and forbidden public information in public use of computer networks. This legal act should be completely revised and a new edition adopted due to the fact that concept of “electronic media” must be substituted with “information society media”.

In the context of media ethics, it is essential to ensure that the persons related to information society media confirm with the general obligation to report any financial benefits and their origin. Changes to the regulation in force should be adopted, especially establishing legal liability for failure to comply. At the same time this issue should be considered in a wider context and further evaluation be carried in order to identify potential regulation problems in related Laws on advertising<sup>33</sup>, on political parties and political campaigns finance and finance control<sup>34</sup>.

Although the general obligation to report data about company shareholders and participants (controlling not less than 10 percent of the capital) according to the Law and regulations adopted by the Ministry of education and science should be equally applied to information society media owned by legal persons, absolute majority of them ignore this requirement. Therefore, the regulation in force should be amended, in particular to establish the legal liability for failure to comply with the obligation. Alternatively, an exception as regards ISM could be set in the Law.

As of today there are no legal acts, defining the procedure on content management data storing by the information society media. Although the Law defines the general

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33 The Law on Advertising. *Official Gazette*. 2000, No. 64-1937.

34 The Law on Financing of Political Parties and Political Campaign and Control of Financing. *Official Gazette*. 2004, No. 135-4894.

obligation, its scope, conditions and content are not clear, therefore the law enforcement institutions can not effectively receive such information from managers of the information society media. Therefore, there is the need for a regulatory initiative to adopt such order and the Government of the Republic of Lithuania should start to work on it as soon as possible.

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- The Law on Financing of Political Parties and Political Campaign and Control of Financing. *Official Gazette*. 2004, No. 135-4894.
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## INFORMACINĖS VISUOMENĖS INFORMAVIMO PRIEMONIŲ SĄVOKOS PROBLEMOS

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**Santrauka.** *Taikant istorinį metodą ir remiantis sisteminė Lietuvos teisės aktų analize, straipsnyje nagrinėjamos praktinės teisinio reguliavimo problemos, iškilusios 2006 m. Visuomenės informavimo įstatyme įtvirtinus informacinės visuomenės informavimo priemonių sąvoką.*

*Naujoji samprata buvo suformuota remiantis ankstesnėmis kategorijomis „masinės informacijos priemonės“ (kaip Lietuvos Respublikos Konstitucijoje), „visuomenės informavimo priemonės“ (kaip ankstesnėse Visuomenės informavimo įstatymo redakcijose), „elektroninės visuomenės informavimo priemonės“ (kaip Lietuvos Respublikos Vyriausybės 2003 metų nutarime Nr. 290 „Dėl viešo naudojimo kompiuterių tinkluose neskelbtinos informacijos kontrolės ir ribojamos viešosios informacijos platinimo tarnos patvirtinimo“), „elektroninė žiniasklaida“ (kaip monografijoje „Žiniasklaidos teisė“) arba „interneto žiniasklaida“ (kaip Žurnalistų etikos inspektoriatu pranešimuose).*

*Teisės aktuose vartojant skirtingas sąvokas susidariusios teisės normų kolizijos apsunkina įstatymų nuostatų aiškinimą ir taikymą, skatina teisinių ginčų atsiradimą. Tuo pat metu aktyvi naujų žiniasklaidos formų plėtra reikalauja teisinio reguliavimo aiškumo.*

*Darbe nagrinėjami specifiniai informacinės visuomenės informavimo priemonių požymiai, savitas teisinis statusas, identifikuojamos teisinio reguliavimo spragos ir teikiamos rekomendacijos įstatymų leidėjui.*

*Straipsnio išvadose rekomenduojama pakeisti ankstesnius teisės aktus, kurie nėra suderinti su 2006 m. Visuomenės informavimo įstatymo redakcija ir joje įtvirtinta informacinės*

*visuomenės informavimo priemonės sąvoka. Taip pat konkrečios rekomendacijos teikiamos specifiniams teisinio reguliavimo klausimams – paslėptai reklamai identifikuoti, informacinės visuomenės informavimo priemonių savininkų pranešimams, jų bendrosioms pareigoms vykdyti.*

**Reikšminiai žodžiai:** *visuomenės informavimo priemonės, teisinis reguliavimas, visuomenės informavimas, žiniasklaida, visuomenės informavimo priemonė, informacinės visuomenės informavimo priemonė.*

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