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RUSSIAN IT LAW UPDATE

This Russian law update relates to a new Russian Law on legal status of audiovisual services and a Strategy of the development of an informational society in the Russian Federation.

I. New Russian Law on legal status of audiovisual services

The Federal Law No. 87-FZ "On introducing amendments in the Federal Law "On information, informational technologies and protection of information" and separate legislative acts of the Russian Federation" was adopted on 1 May 2017 and comes into force on 1 July 2017 (hereinafter – the "**Law**"). The Law regulates the status and activity of audiovisual services in Russia as well as liability for the breach of legislative requirements.

1. Definition of an audiovisual service

An audiovisual service is defined as a site and (or) a page of a site in the Internet, and (or) informational system, and (or) a computer program which have the following characteristics:

- (i) which are used for forming and (or) organizing of spreading in the Internet of audiovisual works;
- (ii) access to audiovisual works is provided for payment and (or) conditional on watching advertising aimed at attracting attention of the consumers in the Russian Federation;
- (iii) a daily access to which shall be more than one hundred thousand Internet users in the Russian Federation.

The following informational resources are not considered as audiovisual services:

- (i) those informational resources which are registered in accordance with the Law of the Russian Federation dated 27 December 1991 No. 2124-1 "On mass media" (hereinafter – the "**Law on mass media**") as online media;
- (ii) search systems;
- (iii) those informational resources where audiovisual works are uploaded mostly by the users of the Internet. Procedure and criteria of defining such resources shall be provided by Roskomnadzor (which is a responsible authority – Federal Service for Supervision of Communications, Information Technology and Mass Media).

2. Requirements for an owner of an audiovisual service

2.1. Duties of owners of an audiovisual service

The Law stipulates requirements relating to an owner of an audiovisual service. Thus, an owner of an audiovisual services have the duties, in particular:

- (i) not to allow the usage of an audiovisual service for the purposes of committing crimes, disclosure of secrets protected by law, spreading extremist materials as well as materials propagandizing pornography, cult of violence and cruelty, as well as materials containing obscenities;
- (ii) to classify audiovisual works before their spreading if they have not been classified earlier and to set the respective category or precaution to protect the children from harmful information;
- (iii) to comply with restrictions and limitations provided in the Russian legislation on referendum and on elections;

- (iv) to comply with Russian law requirements on spreading mass information;
- (v) not to allow spreading of TV channels and TV programs which are not registered in accordance with Law on mass media;
- (vi) to post an information on its email for sending legally important messages as well as its legal name;
- (vii) to install a program suggested by Roskomnadzor for calculating the amount of users. The Law stipulates this duty for the owners of news aggregators as well.

2.2. Foreign participation restrictions

Owners of an audiovisual services shall be Russian legal entities (with a foreign participation not exceeding twenty per cent) or a citizen of the Russian Federation who does not have a citizenship of another state. Any other persons (including a legal entity whose foreign participation is more than twenty per cent or foreign citizen and their affiliated persons) can own and manage an audiovisual service subject to consent of a governmental commission and provided that the number of their Russian users is less than 50% of all users. The procedure of giving such a consent has not been adopted yet.

2.3. Powers of Roskomnadzor

Roskomnadzor has powers to identify audiovisual services and to include them in the register of audiovisual services. Hosting providers or other responsible persons are obliged to provide the information in relation to the owners of audiovisual services at the request of Roskomnadzor. Upon the receipt of this information Roskomnadzor sends to the owner of audiovisual services the respective notification of including an audiovisual service in the register. Owners of audiovisual services shall provide the document confirming that they comply with foreign participation restrictions. The list of such documents and procedure of their sending to Roskomnadzor shall be stipulated by the Russian Government.

Roskomnadzor has powers to bring the claim to court on blocking those audiovisual services (i) whose owners were held liable for repeated during a year non-fulfillment of Roskomnadzor requirement to eliminate breaches of the Russian legislation; and (ii) whose owners do not meet the foreign participation requirements.

3. Liability of an owner of an audiovisual service

The Law has introduced amendments to the Code of the Russian Federation on administrative offences and supplemented them with increased liability and new administrative offences in relation to non-fulfillment of the requirements relating to owners of audiovisual services:

- (i) Spread by an owner of an audiovisual service of TV channel, TV program which are not registered as a mass media upon making a decision on cease or stopping of broadcasting shall lead to imposing an administrative fine for officials from fifty thousand to one hundred thousand roubles; for legal entities from five hundred thousand to seven hundred thousand roubles.
- (ii) Breach by an owner of an audiovisual service of the stipulated procedure of spreading among children information which could bring harm to their health and (or) development shall lead to imposing an administrative fine for officials from thirty thousand to fifty thousand roubles; for legal entities from three hundred thousand to five hundred thousand roubles.
- (iii) Spread by an owner of an audiovisual service of information containing public calls to exercise terror activity, materials publicly justifying terrorism or other materials calling on exercising extremists activities or reasoning or justifying the necessity of exercising such an activity except for cases provided in articles 20.3 and 20.29 of the Code shall lead to imposing an administrative fine for officials from two hundred thousand to four hundred thousand roubles; for legal entities from six hundred thousand roubles to one million roubles.

- (iv) Non-fulfillment by an owner of an audiovisual service of Roskomnadzor's requirement to eliminate breaches of the Russian legislation shall lead to imposing an administrative fine for officials from two hundred thousand to four hundred thousand roubles; for legal entities from six hundred thousand to one million roubles. If this administrative offence is committed repeatedly the administrative fine shall be from five hundred thousand to seven hundred thousand roubles; for legal entities from one million five hundred thousand to three million roubles.

II. New Strategy of the development of an informational society in the Russian Federation

The Decree of the Russian President No. 203 dated 9 May 2017 "On the Strategy of the development of an informational society in the Russian Federation in 2017 – 2030" entered into force (hereinafter – the "**Strategy**").

The Strategy does not set any specific rules for individuals or companies, however, it stipulates the direction of legal policy and might influence the legislation in the IT sphere in the future.

The Strategy defines aims, tasks and measures on implementation of an internal and foreign policy of the Russian Federation in the sphere of informational and communicational technologies aimed at developing an informational society, forming a national digital economy, ensuring national interests and implementing strategic national priorities.

General ideas of the Strategy mostly refer to aims of increasing the usage of Russian technologies as well as state control in the Internet.

One of the priorities required for ensuring national interests while developing the informational society is forming an informational space taking into account the needs of individuals and society in the receipt of reliable knowledge of high quality (clause 22 a) of the Strategy).

It is stipulated that in order to form an informational space based on knowledge it is *inter alia* necessary to improve the mechanisms of legislative regulation of the mass media as well as means of ensuring access to the media which could be related to mass media due to many characteristics, however, are not mass media (internet television, news aggregators, social networks, site in the Internet, messengers) (clause 26 r) of the Strategy).



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