

State Duma has adopted the law on video on demand services

May 04, 2017

Dear Ladies and Gentlemen,

We would like to inform you about adopted amendments to the Federal Law “On Information, information technologies and information security” and the Code of Administrative Offences of the Russian Federation. These amendments are aimed at regulating online video on demand services (also known to the public as “online cinemas law”, hereinafter referred to as the “**Law**”).

On May 1, 2017 the Law adopted by the Parliament and signed by the President was officially published. It comes into force on July 1, 2017.

1. Scope of application

The Law introduces the definition of audiovisual service (video on demand service, hereinafter – “VOD”), which is a website, a page of a website, information system, or software meeting all of the following criteria:

- It is used for forming catalogues and/or organizing distribution of audiovisual works in the Internet;
- Access to the videos is granted at charge and/or upon viewing of advertisements which target the Russian audience;
- The service is accessed by more than 100 000 users from Russia per day.

The Law does not apply to search engines, registered online mass media, and services where the content is generated by users.

According to the Law, a special registry is established to control activities of owners of video on demand services. It will be maintained by the Federal Service for Supervision of Communications, Information Technology, and Mass Media (Roskomnadzor).

2. Restrictions of ownership for the video services targeting Russian users

The Law introduces restrictions of foreign capital in the above video services, namely they can be owned, managed or controlled directly or indirectly by:

- (i) Russian citizens having no foreign citizenship;
- (ii) Russian companies having no more than 20% of foreign equity share;
- (iii) Foreign companies, foreign citizens, Russian citizens having a foreign citizenship if their equity share in the service does not exceed 20%;
- (iv) Subject to approval granted by a special governmental commission foreign companies, foreign citizens, Russian citizens having a foreign citizenship if their equity share in the service exceeds 20% provided that the number of Russian users of the service does not exceed 50% of the worldwide audience. Composition of the government commission and the procedure of the decision making are to be adopted by the Government of the Russian Federation.

Thus, foreign entities, their affiliates are not allowed to own, manage or control more than 20% of equity share in the service if it targets the Russian audience to the extent that the number of its Russian users exceeds half of its audience worldwide.

3. Compliance obligations of the video services

The owners of the VOD services shall comply with a number of obligations, e.g., to publish their contact details for receipt of legal correspondence, to apply special software approved by Roskomnadzor for measuring the number of service users, to attribute the content with age rating, to comply with counterterrorism acts, legislation on state secrets, elections, referendums and mass media, as well as to avoid distribution of materials popularizing pornography, violence cult, or containing foul language. The VOD services shall not be used for broadcasting of TV channels and TV programs that are not registered as mass media.

4. Sanctions

Failure to comply with the above requirements shall be a ground to imposing administrative liability. In this regard, the Code of Administrative Offences of the Russian Federation has been amended accordingly, and depending on the type of violation the administrative fine may be up to RUR 3 000 000 (approx. EUR 48 350 or USD 52 650).

Moreover, repeated failure to comply with the above requirements upon request of Roskomnadzor conducted within 1 year, as well as failure to confirm compliance with the restrictions of foreign ownership will be a ground for filing a legal action by Roskomnadzor aimed at blocking access to the service.

Hope that the information provided herein would be useful for you.

If any of your colleagues would also like to receive our newsletters, please let us know by sending us his/her email address in response to this message. If you would like to learn more about our **Data Protection Practice**, please let us know about it in reply to this email. We will be glad to provide you with our materials.

If you have any questions, please, do not hesitate to contact the Partner of ALRUD Law Firm – **Maria Ostashenko** at MOstashenko@alrud.com or **Irina Anyukhina** at IAnyukhina@alrud.com.

Kind regards,

ALRUD Law Firm

Note: Please be aware that all information provided in this letter was taken from open sources. The author of this letter bears no liability for consequences of any decisions made in reliance upon this information.