

Legislative Initiative On Regulation Of Messengers In Russia

May 31, 2017

We would like to inform you of the suggested amendments to the Federal Law “On Information, Information Technologies and Information Security” and the Code of Administrative Offences of the Russian Federation. The respective draft law (“**Draft Law**”) aims to regulate information-telecommunication message services.

The Draft Law was filed to the State Duma (lower bench of the Russian Parliament) on May 24, 2017. If adopted, the proposed novelties will come into force on **January 1, 2018**.

1 Meaning of information-telecommunication message services

The Draft Law introduces concept of the information-telecommunication instant message service (“**Messenger**”), defined as an information system and (or) a software meeting the following criteria:

- It is developed and (or) used for message exchange exclusively between users of this system or software through telecommunication networks;
- It allows senders to identify the particular recipient;
- Its functionality is not aimed at making the information publicly available in the Internet.

Following these criteria, the Draft Law primarily targets such services as WhatsApp, Viber, Skype, Facebook messenger, Telegram Messenger. Seemingly, the proposed amendments should not cover social networks, public chats and blogs, which are already covered by the effective Russian laws (in particular the recent “Yarovaya” laws) regulating organizers of dissemination of information in the Internet (“**Organizer**”) and which are already in force.

2 Duties of Messenger Operators

Under the Draft Law companies operating services of Messengers (“**Messenger Operators**”) will bear the following specific duties:

- Providing services only to users, who are duly identified. Identification will be carried out with the use of telephone numbers based on the special agreement concluded between the Messenger Operator and a telecommunication service provider. The form of agreement is to be adopted by the Russian Government. Telecom operator will be required to ensure “primary user’s identification” .
- Allowing users to reject receipt of messages from other users, i.e. “blacklisting” other users;
- Ensuring confidentiality of transmitted messages;
- Providing competent state authorities with a possibility to carry out mass messaging in accordance with the Russian legislation;
- Restricting mass messaging and delivery of messages containing unlawful information upon request of the competent state authority ;
- Providing a competent state authority with information enabling it to restrict access to the Messenger.

Please note that these duties apply together with the general duties already established for Organizers. Among them:

- Notifying a competent state authority of their activity as Organizers so that they could be further included into the special state registry;
- Retention of certain metadata regarding transmitted audio, video and text messages of the Internet users and information on such users for a period of one (1) year in the territory of the Russia;
- Giving access to the information to the competent state authorities upon their request when it is prescribed by law;
- As of July 1, 2018, Organizers of dissemination of information in the Internet shall retain content of text, audio, video and other e-messages for maximum period up to six (6) months.

3 Liability of Messenger Operators

Failure to abide with the mentioned duties will result in:

- Restricting the access to the Messenger upon the court decision (blocking the Messenger);
- Imposing an administrative fine up to RUR 5 000 (approx. EUR 79, USD 89) on individuals, up to RUR 50 000 (approx. EUR 794, USD 891) on officials, and up to RUR 1 000 000 (approx. EUR 15 870, USD 17 835) on legal entities.

4 Conclusions

The proposed Draft Law confirms that Russian lawmakers already treat such services as WhatsApp, Viber, Skype, Facebook Messenger and Telegram Messenger as the Organizers and expect them to comply with the statutory requirements applicable to the Organizer, which are already in force. If the Draft Law is adopted, the messengers will be subject to additional and even more burdensome requirements.

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 Partners of ALRUD Law Firm **Maria Ostashenko** at MOstashenko@alrud.com or **Irina Anyukhina** at IAnyukhina@alrud.com.

Kind regards,

ALRUD Law Firm

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