



Special Alert

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Vietnam's New Cross-border Advertising Rules

A large chunk of online advertising in Vietnam is provided by cross-border advertising service providers such as Google and Facebook. The Law on Advertising No. 16/2012/QH13 dated 21 June 2012, as amended in 2018 (the “**Advertising Law**”), and its guiding Decree No. 181/2013/ND-CP dated 14 November 2013 (“**Decree 181**”) have until recently been the only regulations governing cross-border advertising activities in Vietnam. On 20 July 2021, the Government has promulgated Decree No. 70/2021/ND-CP on amendment and supplementation a number of articles of Decree 181 (“**Decree 70**”) to provide more up to date guidance for offshore service providers advertising in the cross-border mode, which is scheduled to take effect from 15 September 2021.

Per Decree 70, activities of providing cross-border advertising services in Vietnam occur when foreign entities use websites hosted on equipment systems located outside the territory of Vietnam to advertise to users in Vietnam, and generate revenue in Vietnam. Websites providing cross-border advertising services are information system using one or more websites in the form of symbols, numbers, letters, images, sounds and other forms of information with the intent to provide internet users with services of storing, providing, using, searching and exchanging information, sharing audio and images/video, creating online forums and chatting to provide advertising services.

Any local and foreign advertising service providers, advertising publishers, and advertisers participating in the cross-border provision of advertising services in Vietnam must comply with Decree 70 and the laws and regulations of Vietnam on advertising, management, provision and use of internet services and information on cyberspace, and pay taxes in accordance with the tax laws of Vietnam. It should be noted that foreign advertising service providers conducting cross-border advertising services in Vietnam must additionally comply with the following:

- ✓ provide its contact details comprising the registered and transaction names, registered address; place of main server providing services and a local server in Vietnam (if applicable)

- to the Ministry of Information and Communications (the “**MIC**”) 15 days prior to its initial provision of cross-border advertising services in Vietnam;
- ✓ avoid placement of advertising products with contents in violation of Article 8.1 of the Cybersecurity Law No. 24/2018/QH14 dated 12 June 2018 (the “**LCS**”), and Article 28 of the Law on Intellectual Property No. 50/2005/QH11 dated 29 November 2005, as amended in 2009 and 2019 (the “**IP Law**”);
 - ✓ prevent the posting of and remove information in violation of laws upon the request of the MIC and the other competent authorities, and provide information about any entity involved in such violations upon the request of the competent authorities; and
 - ✓ refuse to cooperate with websites which have been publicly announced by the MIC as having breached the laws.

Under Decree 70, the MIC is the regulator responsible for managing the provision of cross-border advertising services in Vietnam rather than the Ministry of Culture, Sports and Tourism (the “**MOCST**”) as prescribed in Decree 181. Any violation of the law on cross-border advertising activities in Vietnam will be reported to the MIC which will receive, check and handle such reports within five days according to the process specified in Decree 70. If, upon their review, the MIC finds the reported cross-border advertising in violation of the law, they will submit a request to the foreign advertising service provider asking them to prevent and/or remove such advertising. If the advertising is not removed within 24 hours of receipt of that request, the MIC will block the offending advertisement. Advertising products adversely impacting the national security of Vietnam will be blocked immediately. The MIC will also publicly announce via posting on its own website the Information of the website in violation of the laws of Vietnam and the information regarding offending advertising which was sent to the foreign advertising service provider.

Finally, local service providers who cooperate with foreign providers of cross-border advertising services must file an annual report (before 31 December of each year) or extraordinary report on the provision of cross-border advertising services in Vietnam to the MIC.

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