

LT in Focus

Online streaming services: restriction of foreign shareholding

Amendments to Federal Law "On Information, Information Technology, and Information Protection" and related regulations (the "Law") governing the audiovisual service operators will enter into force on 1 July 2017.

Underlying changes

Service owner requirements

Liability for noncompliance

How to respond?

Underlying changes

The Law regulates the operations of audiovisual services, such as online movie sites, streaming and other audio- and video resources (the "Services"). The Law applies solely to the resources with a daily audience across Russia exceeding 100,000 users and the Services are obliged to track the number of users themselves. The Services shall meet the following criteria:

- To grant access for a fee
- To grant access subject to viewing in-stream ads designed to capture the attention of target audiences in Russia

The Law will not apply to:

- Websites registered as mass media (regulated by mass media laws, imposing similar foreign shareholding restrictions)
- Search engines (Yandex, Google, etc.)
- Information resources with contents uploaded mostly by users (YouTube, etc.). However, the term "mostly" is not defined by the Law.

Service owner requirements

The Law imposes significant restrictions on foreign participation in the Services.

According to the general rule, the Services shall be owned by Russian companies only. The companies with a foreign interest exceeding 20 percent may own and operate the Services subject to approval by a governmental committee. Such approvals will be granted to the Services whose activities will be regarded as promoting the Russian online video market. The Law, however, provides for certain exceptions: the approval will not be needed for the Services where Russian users account for more than 50 percent of audience.

Apart from the foreign ownership restrictions, the Law introduces general Service owner responsibilities. The Service owners must:

- Ensure that the Service is not used for distributing prohibited information
- Classify audiovisual content and assign age rating (0+, 6+, etc.) prior to streaming
- Install a visitor counter on the resource

A special service registry administered by Roskomnadzor will be established to control compliance with the above-mentioned requirements.

Liability for noncompliance

The Law provides for two types of sanctions:

i. Service blocking

The Service can be blocked by court for:

- 1) Repeated failure to comply with illegal content removal requests;
- 2) Failure to comply with the foreign ownership

requirements;

- 3) Failure to comply with the Service owner's responsibilities.

ii. Administrative penalties

Apart from blocking, the Law envisages the imposition of penalties that may reach up to RUB 1 million for legal entities.

How to respond?

We recommend assessing whether the Law applies to your company's operations. If your company qualifies as a Service owner, we suggest the following:

- 1) Review your ownership structure to ensure compliance with the statutory restrictions;
- 2) If necessary, restructure your Russian ownership and operations to comply with the new requirements, but preserve the necessary controls.

Similar amendments have been previously introduced to the media legislation. According to our experience of media ownership restructuring, building a new operating model would be an adequate response to the changes in the legislation. It is necessary to ensure the preservation of controlling powers, while not increasing the tax burden and tax risks.

We hope that you will find this newsletter interesting and informative. Please feel welcome to contact us for more information on the topics covered.

Best regards,

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