

Vietnam IT/C regulations

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- A. Current framework
- B. Decree 72 and its implementing regulations
- C. Other upcoming regulations

Agenda

A. Current framework

- General: Law on E-transactions
- E-contracts: Law on E-transactions, Law on Protection of Consumers' Right, Decree 52/2013/ND-CP
- **E-commerce websites: Decree 52/2013/ND-CP; Circular 12/2013/TT-BCT - registration procedures for e-commerce**
- **Content, social networks and online games: Decree 72/2013/ND-CP, Circular 09/2014/TT-BTTTT**
- **Online advertising: Decree 181/2013/ND-CP**
- E-signatures: Decree 170/2013/ND-CP
- Payment solutions: Decree 101/2012/ND-CP
- **Administrative sanctions in the IT fields: Decree 174/2013/ND-CP**

A. Current framework

- **Decree 52/2013/ND-CP:**
 - E-commerce sales websites: Established by business entities/organizations/individuals to serve their own business.
 - E-commerce service websites: Established by business entities/organizations/individuals to serve other entities' business
 - E-commerce exchange websites
 - Online promotion websites
 - Online auctioning websites

A. Current framework

- Notification/registration requirements:
 - Subjects: E-commerce Vietnamese traders, organizations and individuals; foreign individuals residing in Vietnam; foreign traders and organizations having presence in Vietnam (including having a Vietnamese domain)
 - E-commerce sales websites: Online notification to Ministry of Industry and Trade (“**MOIT**”) is required after the establishment
 - E-commerce service websites: Registration with MOIT after the website is completely designed, is working at the registered domain name before officially providing services to users
 - **Unclear provision may suggest that offshore entities with a Vietnamese domain will have to register/notify**

A. Current framework

- **Decree 181/2013/ND-CP:**
 - Cross-border advertisement: Cross-border advertising activities on the websites of foreign organizations or individuals that generate revenue from advertisements accessed by users in Vietnam
 - Requirements:
 - Engagement of a local advertising service provider in Vietnam
 - Tax payment on all profits generated from advertisements in Vietnam
 - Notification to Ministry of Culture, Sports and Tourism about the identity information of the local agent

B. Decree 72/2013/ND-CP and its implementing regulations

- **Decree 72/2013/ND-CP:**
 - Local server requirement: Online social networks, general information websites, online gaming services, mobile telecommunications services are required to have at least 1 server in Vietnam
 - Licensing requirement: Online social networks, general information websites, G1 online games services must obtain license from Ministry of Information and Communications (“**MIC**”).
 - Registration requirement: Information content services on mobile telecommunications and G2, G3, G4 online games services must register with MIC.
 - However, conditions for licensing/registration require the applicants to be established in Vietnam => **unclear about the offshore service providers**

B. Decree 72/2013/ND-CP and its implementing regulations

- **Circular 09/2014/TT-BTTTT – Social networks**
- Licensing: Online social networks have to obtain new licenses **within 180 days from the effective date of this Circular (3 October 2014)**. General information websites have to obtain the new licenses when the previous licenses expire.
- Internal forum websites of enterprises are not subject to the licensing requirement applied to websites.
- Content manager of a social network or a general information website must have an university-level degree and must be a Vietnamese national, or a foreigner with a residence card for at least 6 months in Vietnam.

B. Decree 72/2013/ND-CP and its implementing regulations

- **Circular 09/2014/TT-BTTTT – Social networks**
 - Information related to accounts, sign-in and sign-out times and IP addresses of users of social networks must be stored for **at least 2 years**. This information will be subject to inspection by the authorities upon request.
 - Take-down policy: Social networks must have a system to prevent, detect and receive report of infringements, set up content filters and remove law-infringing information upon the authorities' request. The social network is obligated to remove all infringing information **within 3 hours** after it detects the infringement or has received the request from the authorities. Sanctions for violations can be up to VND 100 million (approx. USD4,700) and 3-month suspension of license.

B. Decree 72/2013/ND-CP and its implementing regulations

▪ **Draft Circular on Online Games**

- *G1: Electronic games that have interaction among multiple players via the game server system of the enterprise*
- *G2: Electronic games that only have interaction between the players and the game server system of the enterprise*
- *G3: Electronic games that have interaction among multiple players without interaction between players and the game server system of the enterprise*
- *G4: Electronic games that are downloaded from the Internet without the interaction among players and between players and the game server system*

B. Decree 72/2013/ND-CP and its implementing regulations

- **Draft Circular on Online Games**
- Online games: G1 – License; G2, G3, G4 – Registration Certification and notification for each game
- Online game service license: Required charter capital VND 10 billion (approx. USD470,000), storage system for players' information
- Applicant: Game service providers – broad description, may include distributors/publishers
- Playtime management: Total playtime of all G1 games provided by a game service provider of each player must not exceed 180 minutes/24 hours/day

B. Decree 72/2013/ND-CP and its implementing regulations

- **Case study: Haivl**
- On 24 October 2014, the Authority of Broadcasting and Electronic Information (“**ABEI**”) under the MIC issued Decision No. 163/QĐ-PTTH&TTĐT withdrawing the license granted to APPVL Company, the owner of the popular Vietnamese social media website haivl.com (“**Haivl**”), to operate as an “online service provider.”
- Additionally, APPVL was fined VND205 million (approx. US\$9,500) for “serious violations” of Vietnamese laws.
- Local newspapers reported earlier October that 24h Online Advertising Joint Stock Company agreed to invest a rumored VND33 billion (about US\$1.5 million) in Haivl.

B. Decree 72/2013/ND-CP and its implementing regulations

▪ **Case study: Haivl**

– Violations:

- ✓ Providing, exchanging and transmitting information that distorts history and is offensive to a historical figure;
 - ✓ Failing to amend the social network license following a change of the person in charge of the social network;
 - ✓ Advertising a G1 game for which the plot has not been approved; and
 - ✓ Providing a G1 game for which the content and plot have not been approved.
- In an interview, the MIC's Vice Minister stated that Haivl was sanctioned mostly because of the pornographic and offensive content that it posted. The Vice Minister said that if Haivl had been operating from an offshore server, the MIC would still have applied technical preventive measures against it. Vietnamese media also reported that the case has been transferred to the police for further investigation.

C. Other upcoming regulations

- **Draft Circular on OTT Services**
- Broad definition of regulated “*Internet-based text and call services*” covers all services that allow Internet users (on fixed or mobile telecommunications networks) to send messages or make calls.
- The provision of OTT Services (for free) would require a telecommunications license (for domestic providers) - or a commercial agreement with a Vietnamese entity that possesses one (for foreign providers that do not have servers in Vietnam).

C. Other upcoming regulations

- **Draft Circular on OTT Services**
- Foreign providers may only place a server in Vietnam in cooperation with a duly licensed Vietnamese telecommunications enterprise.
- All providers of free OTT Services (domestic or foreign) that have more than one million subscribers must notify the MIC before making their OTT Services available in Vietnam
- Providers of free OTT Services are prohibited from connecting their users to Vietnamese telephone subscribers using Vietnamese telephone networks
- Concerned parties are advised to make their comments of the Draft Circular known to the MIC before 6 January 2015

C. Other upcoming regulations

- **Draft IT Services Decree**
- Cross-border service provision: a service is provided from offshore to Vietnam's territory or can be accessed by users in Vietnam via the network, generates direct and indirect revenue in Vietnam. This means that there is no movement of the provider and the customer to each other's territory.
- Offshore service providers must designate a lawful agent in Vietnam on behalf of the cross-border IT service provider to deal with relevant issues before Vietnam's state bodies and provide the MIC with identity information of the lawful agent

C. Other upcoming regulations

- **Draft IT Services Decree**
- IT companies would be required to register certain IT services
- IT consultants (Vietnamese and foreign) would be required to obtain a practicing certificate from DIC/MIC or get recognized for a foreign practicing certificate.
- Investors in the business of renewing and refurbishing hardware would be required to apply for a license from the MIC.



Thank you!

If you have any question, please contact:
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