

LAW ON ONLINE PLATFORMS AND ONLINE ADVERTISING

On 10 July 2023, Kazakhstan adopted the Law on Online Platforms and Online Advertising (the "**Law**"), which was put into effect on 10 September 2023. Below are the key aspects worth paying attention when doing business in the online space of Kazakhstan, including for the owners of websites, distributors and/or users of advertising on the Internet (including social networks), and bloggers.

■ **Sphere of Application**

- online platforms functioning in the territory of Kazakhstan (Internet resources, software on the Internet, social networks, etc.); and
- online advertising (production, placement, distribution, and storage in the territory of Kazakhstan).

■ **Subjects**

- owner of an online platform (the "**Owner**")¹;
- user of an online platform²;
- influencer (blogger)³; and
- distributor of online advertising⁴.

■ **Online Advertising**

- Any advertising placed on an online platform is recognized as online advertising and considered by the Law in the form of (1) targeted advertising; (2) sponsor content; or (3) other information intended for an indefinite range of persons.
- When placing advertising on the Internet, it is necessary to identify it using text or graphics and label. The labeling procedure will be determined by an authorized agency, and placement and distribution of advertising must comply with the Advertising Law.

¹ Understood as the **owner** is an individual and/or a legal entity holding the right of ownership to an online platform.

² **User of an online platform** is an individual and/or a legal entity that registered and/or provided own personal data and/or underwent identification on an online platform.

³ **Influencer (blogger)** is a user of an online platform publishing information on the online platform addressed to an indefinite range of persons for the purpose of business activities.

⁴ **Distributor of online advertising** is a user of an online platform producing and/or placing and/or distributing online advertising.

■ Language Requirements

- Owners must ensure on online platforms:
 - 1) possibility to use the Kazakh language interface;
 - 2) possibility of automatic translation of the content into the Kazakh language; and
 - 3) content moderation in the Kazakh language.

■ Personal Data Protection

- Personal data must be protected from unauthorized persons. In case of a confidentiality breach, the Owner must immediately notify a user. If the user requests to delete his/her personal data, the Owner must immediately do this.

■ Filing of User Complaints

- Online platforms must provide for the functions allowing users to file complaints with automatic confirmation of the receipt of such complaints.
- The Owner must submit a substantiated response to a complaint within 24 calendar days.

■ Legal Representative of the Owner

- Owners whose online platforms record daily average access within a month of more than 100,000 of users must appoint a representative to interact with an authorized agency⁵.

■ Prohibition of Illegal Content

- The elements of illegal content include, among other things, as follows: call for or propaganda of forcible change of constitutional order, infringement of territorial integrity of Kazakhstan, social, racial, national, religious, class and other superiority, cult of cruelty and violence, suicide, pornography, narcotic substances and their analogues, idea of separatism, fraud, which contribute to violation of inter-ethnic and interfaith harmony, and other information prohibited by the Kazakhstan legislation.
- In case illegal content poses threat to life or safety of people, the Owner must immediately notify the law-enforcement authority.
- Activities of accounts in the Kazakhstan territory with illegal content must be suspended based on the authorized agency's ordinance⁶.

■ Other Obligations of the Owner

- The Law provides for the placement of public information regarding the average monthly number of users of an online platform in the territory of Kazakhstan.
- It is mandatory to publish an annual report on identified risks and measures taken to mitigate them, as well as received ordinances, complaints, and relevant solutions.

⁵ This requirement does not apply to the instant messaging services used as part of internal corporate services.

⁶ Procedure for suspension of work of networks is stipulated by Article 41-1 of the Communications Law.

■ User Rights

- Users, including influencers (bloggers), may apply to the Owner with a request to delete false information (information in any form, which fails to represent the facts or contains significant distortion of facts, creates false representation of persons, objects, events, phenomena and processes).
- Any user may file a complaint to the Owner regarding the content, interface, other users, and actions of an online platform.

■ Preventive Control

- The authorized agency will exercise preventive control without visits to an entity (facility) no more than once in a quarter.
- In case of detecting any violations, an entity will be sent relevant recommendations on elimination of violations, which must be fulfilled within 3 (three) business days.

■ Liability

- Starting 10 September 2023, the Administrative Code introduced administrative liability for placement, distribution of false information and illegal content in the form of a fine in the amount from 30 to 100 MCI⁷. Please note that administrative liability will be imposed even if such actions do not contain any features of a criminally punishable act⁸.
- Besides the above liability, in case of violating this Law, the governmental agency may limit the activities of the Owners in the territory of Kazakhstan.

Should you have any additional questions in connection with this Legal Update, we would be happy to provide more detailed information.

Contact details:

Yuliya Chumachenko
Partner
y.chumachenko@aequitas.kz

Dianna Ten
Associate
d.ten@aequitas.kz

Legal Updates shall not be treated as a legal advice or a reason for making specific decisions on the Kazakh law issues. Should you need a legal advice, we would be happy to assist.

⁷ Starting 1 January 2023, one monthly calculation index (MCI) is KZT 3,450, which is approximately equal to USD 7.5.

⁸ Criminal liability for distribution of patently false information is stipulated by Article 274 of the Criminal Code of Kazakhstan.