

**DRAFT**

## **A draft law has been put before the State Duma regarding the prohibition of advertising on banned websites**

*FAO: advertisers and distributors of advertising*

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**Pepeleiaev Group advises that, on 21 June 2024, draft law No. 652920-8 "On amending article 12 of the Federal Law 'On counteracting extremist activity' and articles 5 and 38 of the Federal Law 'On advertising'" (the "Draft Law") was put before the State Duma.**

According to the explanatory note, the purpose of the Draft Law is to prevent the distribution of advertising on information resources:

- of a foreign or international non-governmental association whose activity is deemed undesirable in Russia<sup>1</sup>,
- of an organisation whose activity is prohibited<sup>2</sup>,
- if access to such information resources has been restricted pursuant to Russian legislation on information, information technologies and the protection of information.

### **What the draft law essentially does**

The draft law contains a proposal that article 12 of Federal Law No. 114-FZ "On combating extremist activity" dated 25 July 2002 should be supplemented with part 3 reading as follows:

"If the court recognises a non-governmental association or religious organisation or another organisation as extremist on the grounds provided for in this Federal Law, it is prohibited to distribute advertising on the information resources of such an association or such organisation in information and telecommunications networks including the Internet".

The list has been [published](#) on the website of the Russian Ministry of Justice of non-governmental associations and religious organisations that are subject to a court's decision, which has come into legal force and concerns the

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<sup>1</sup> Pursuant to Federal Law No. 272-FZ dated 28 December 2012 "On sanctions against persons involved in violating fundamental human rights and freedoms and the rights and freedoms of Russian citizens"

<sup>2</sup> Pursuant to Federal Law No. 114-FZ "On combating extremist activity" dated 25 July 2002 or Federal Law No. 35-FZ "On combating terrorism" dated 6 March 2006.

liquidation or prohibition of activity on the grounds provided for in Federal Law No. 114-FZ "On combating extremist activity" dated 25 July 2002.

Placing advertising on information resources of such organisations will be a violation of the requirements of article 12 of Federal Law No. 114-FZ "On combating extremist activity" dated 25 July 2002.

The draft law also proposes that article 5 of the Federal Law "On advertising" should be supplemented with part 10<sup>6</sup> reading as follows:

"It is not permitted to distribute advertising on information resources of a foreign or international non-governmental organisation whose activity has been recognised as unlawful in the Russian Federation pursuant to Federal Law No. 272-FZ "On sanctions against persons involved in violating fundamental human rights and freedoms and the rights and freedoms of Russian citizens" dated 28 December 2012 or an organisation whose activity has been banned pursuant to Federal Law No. 114-FZ "On combating extremist activity" dated 25 July 2002 or Federal Law No. 35-FZ "On combating terrorism" dated 6 March 2006, as well as other information resources to which access is restricted pursuant to Russian legislation on information, information technologies and the protection of information".

The [website](#) of the Russian Ministry of Justice contains the List of foreign and international non-governmental associations whose activities have been deemed undesirable within the Russian Federation.

The [website](#) of the Russian Federal Security Service publishes a Unified Federal List of organisations, including foreign and international organisations that have been recognised as terrorist organisations under Russian legislation.

Whether access to an information resource is limited may be checked on the [website](#) of the Federal Service for Supervision of Communications, Information Technology and Mass Media (abbreviated in Russian as 'Roskomnadzor') in the Unified Register of Domain Names and URLs of websites in the Internet and web addresses allowing websites to be identified with content that is prohibited from being distributed in Russia.

An important point is that the Draft Law provides for prohibitions with respect to any type (method) of distributing advertising. For instance, if advertising is distributed through the personal page of a blogger on an information resource to which the prohibitions set out in the Draft Law apply, this may also be recognised as an offence.

If the Draft Law is adopted, it will come into force 10 days after it is officially published.

## **Liability**

Liability for breaching the requirements provided for in the Draft Law will be borne by customers and/or distributors of advertising. Provision is also made

for amendments to this effect to parts 6 and 7 of article 38 of the Federal Law "On advertising".

As the Draft Law does not provide for amendments to be made to the Russian Code of Administrative Offences, in the event of a breach of the requirements in question it is the advertisers and/or distributors of advertising that will bear liability under article 14.3(1) of the Russian Code of Administrative Offences (which imposes an administrative fine on legal entities from RUB 100,000 to 500,000).

We believe that a person in breach of these requirements may also be held liable under criminal law under article 282.2 of the Russian Criminal Code ("Organising the work of an extremist organisation") or article 282.3 of the Criminal Code ("Financing extremist activity").

### **What is advertising?**

**Advertising** means information disseminated in any way, in any form and using any tools, addressed to the public at large and aimed at drawing attention to the advertised item, creating and maintaining interest in it and promoting it on the market<sup>3</sup>.

In other words, the law does not restrict the ways, forms and means by which advertising is distributed.

It is an important point that a "fee-paying basis" has not been introduced as a part of the definition of advertising and cannot be regarded as a criterion that distinguishes information that does not have the nature of advertising from advertising.

The list of information that does not have the nature of advertising is provided for in article 2(2) of Federal Law "On advertising"<sup>4</sup>. Among other things, the following do not constitute advertising:

- information that is subject to compulsory disclosure or distribution pursuant to legislation;
- an announcement unrelated to the conduct of business operations;
- the mentioning of a commodity, its means of identification, and the manufacturer or seller of the commodity that is naturally integrated in works of science, a literary work or a work of art and does not in itself constitute information that has the nature of advertising.

### **What to think about and what to do**

We recommend doing as follows:

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<sup>3</sup>Article 3(1) of Federal Law 38-FZ "On advertising" dated 13 March 2006.

- 1)** inform the marketing department and/or advertising department of the planned new developments;
- 2)** arrange for the monitoring of lists (registers) of information resources:
  - of foreign or international non-governmental associations whose activity is recognised as undesirable in Russia<sup>5</sup>,
  - of organisations whose activity is prohibited<sup>6</sup>,
  - if access to such information resources has been restricted in accordance with Russian legislation on information, information technologies and the protection of information;
- 3)** exclude the distribution of advertising on such resources;
- 4)** analyse which information resources your advertising is distributed on (or may be distributed on) and stop it from being distributed on the information resources that are listed above;
- 5)** stipulate the necessary clauses in contracts with customers and/or distributors of advertising.

### **Help from your adviser**

The lawyers of Pepeliaev Group stand ready to provide comprehensive legal support to companies as they comply with legislation on the distribution of advertising in the Internet.

Pepeliaev Group provides the following range of services:

- advising customers and distributors of advertising on issues of distributing advertising via the Internet (including in terms of labelling advertising);
- advising on how to interact with customers/distributors of advertising;
- representing a client when dealing with state authorities; and
- other services.

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### **Contact details**

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<sup>5</sup> Federal Law No. 272-FZ dated 28 December 2012 "On sanctions against persons involved in violating fundamental human rights and freedoms and the rights and freedoms of Russian citizens"

<sup>6</sup> Pursuant to Federal Law No. 114-FZ "On combating extremist activity" dated 25 July 2002 or Federal Law No. 35-FZ "On combating terrorism" dated 6 March 2006.



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