

The impact of new Russian personal data and media laws

New laws and regulations impact international companies

New laws and regulations in Russia require companies to store the personal data of Russian citizens on Russian territory, and impose controls and limitations on websites and foreign investments in media. These new rules reflect the increased attention of the Russian authorities on the digital world and media sector. International companies active in the Russian market have scrambled to determine the appropriate response to the new rules.

Local Storage Law

In July 2014, the Russian State Duma approved amendments to the Russian Personal Data Law to include local storage requirements ('Local Storage Law'). Initially, the Local Storage Law was due to come into force in September 2016, however, the deadline was moved to 1 September 2015. The amendment reads as follows: 'when collecting personal data, data operators must use databases located in Russia to record, systematise, accumulate, store, amend (update and change) and extract personal data of Russian citizens.' Such brief language raises interpretation issues including, for example, what a 'database located in Russia' means and the method by which companies should verify the nationality of their users to determine whether personal data has come from Russian citizens.

The most important question is whether the Local Storage Law applies to international companies. The general consensus is that companies with no corporate presence in Russia (in the form of a subsidiary, branch or representative office) should not be covered by the law. However, online businesses with no local presence could still be affected, particularly if they customise their websites for Russian users or promote services in Russia.

The second question is whether companies are still allowed to store the personal data of Russian citizens abroad. Some experts note that the Local Storage Law does not prohibit or restrict cross-border data transfers. Accordingly this can be interpreted to mean that once the data is collected and stored in Russia in a so-called 'primary database,' it is then possible to transfer this data abroad, provided that the cross-border transfer complies with the provisions of the Russian Personal Data Law. This approach has been indirectly confirmed by officers of the Russian media regulator, Roskomnadzor. On 16 July 2015 the Roskomnadzor announced that it does not plan to have any unscheduled inspections concerning compliance with the Local Storage Law until the end of 2015, so companies still have some time before Roskomnadzor starts actively enforcing the law.

Internet Data Storage Law

In May 2014 Russia introduced a number of changes to another key statute governing the online sector - the Information Law (dubbed the 'Internet Data Storage Law,' also known as the 'Blogger Law'). The changes came into effect on 1 August 2014. The Internet Data Storage Law imposes new requirements on

companies that organise the dissemination of information on the internet. It is understood that the law targets, primarily, social networks and other services that allow internet users to communicate with each other. However, the definition of 'organisers of the dissemination of information on the Internet' can be broadly interpreted to cover any website that allows users to leave comments or send an email to the company using a web form.

Such 'organisers of the dissemination of information' must store information about users and their communications in Russia for six months, make the stored data available to Russian law enforcement authorities and use certain hardware and software that allows such authorities to gain access to the records and monitor them. Roskomnadzor keeps a register of the organisers of the dissemination of information. Companies can register voluntarily or wait until they get a notice from Roskomnadzor, in which case registration is mandatory. Around 40 companies are on the list, including VK.com, and Mail.ru. The good news is that, reportedly, Roskomnadzor is of the view that the Internet Data Storage Law only applies to companies on the register. However, this view is not yet supported by any formal clarification.

Foreign investment restrictions in mass media

The Russian Mass Media Law was amended in October 2014 to limit foreign investment in mass media to 20% from 1 January 2016. The amendments will apply to TV, radio, print and all other forms of mass media. Until recently the internet sector was not especially concerned by these restrictions as the registration of a website as an instrument of 'mass media' - and corresponding requirements - has always been voluntary. Currently, only online versions of traditional mass media, such as radio stations or magazines, as well as some news websites, typically obtain such registrations.

However, on 17 June 2015, *Izvestia* - one of Russia's largest newspapers - reported on a new initiative to make all popular websites register as mass media. If this becomes law then all online companies and websites distributing content to Russian users may be affected. If the Russian 'mass media' rules are applied to websites, this could mean that foreign citizens and companies may not control more than 20% of such websites. In addition, the content on these websites may have to be reviewed for compliance with other restrictions applicable to mass media.

Despite these challenges, both the internet and media sectors in Russia are relatively dynamic. It is hoped that a balance can be found between the new requirements of Russian law and the needs of internet and media businesses.

Anastasia Dergacheva Associate
Ksenia Andreeva Associate
 Morgan Lewis & Bockius LLP, Moscow
 adergacheva@morganlewis.com