

Kazakhstan – September 2023

The Law on Online Platforms and Online Advertising

On July 10, 2023, the Law of the Republic of Kazakhstan No. 18-VIII "On Online Platforms and Online Advertising" (hereinafter referred to as the "**Law on Online Platforms and Online Advertising**") was adopted in the Republic of Kazakhstan (hereinafter referred to as "**Kazakhstan**").

On July 11, 2023, the Law on Online Platforms and Online Advertising was officially published and it entered into force from September 10, 2023.

The Law on Online Platforms and Online Advertising regulates online platforms operating on the territory of Kazakhstan, as well as production, placement, distribution and storage of online advertising on the territory of Kazakhstan.

The Law on Online Platforms and Online Advertising does not apply to relations that arise between users when using instant messaging services for personal and family needs.

The Law on Online Platforms and Online Advertising provides the following basic definitions:

Online platform – an Internet resource and/or software running on the Internet, and/or an instant messaging service for receiving, producing and/or posting and/or distributing and/or storing content on the online platform by the user of the online platform through the account, the public community that she/he has created, except for the Internet resource and/or Internet-based software and/or instant messaging services for financial services and electronic commerce.

Online advertising – an advertising on online platforms, produced and/or placed, and/or distributed, and/or stored by users of online platforms and/or owners of online platforms in the form of targeted advertising and/or sponsorship content, and/or other information intended for an indefinite range of persons.

Profiling – a set of algorithms aimed at determining the preferences and/or interests of users.

In addition, this law defines account, sponsorship content, false information, public community, public community moderator, influencer (blogger), instant messaging service, online advertising distributor, online platform content, online platform user, targeted online advertising, etc.

The main provisions of the Law on Online Platforms and Online Advertising

Language of online platforms

Owner of the online platform:

- Creates the opportunity of using the interface, as well as familiarizing with the user agreement of the online platform, including a summary of its main conditions in Kazakh language;
- Creates the opportunity to automatically translate content into Kazakh language;
- Provides moderation of content in Kazakh language.

Legal regime of online platforms operation

The interface of the online platform should not be misleading or otherwise prevent the user from making a decision.

To carry out activities on the territory of Kazakhstan owners and/or other legal representatives of online platforms, the average daily access to online platforms of which during the month is more than 100 000 (one hundred thousand) users, located on the territory of Kazakhstan, appoint their legal representative to interact with the Ministry of Information and Public Development of Kazakhstan (hereinafter referred to as the “**Authorized Body**”).

Owners and/or legal representatives of online platforms must:

- Take measures to counter the dissemination of illegal content on the territory of Kazakhstan;
- Consider the request of the Authorized Body within 24 (twenty-four) hours after its receipt;
- Immediately notify the law enforcement bodies of Kazakhstan in case of detection of illegal content that entails a threat to the life or security of an individual and a citizen;
- Inform the Authorized Body on measures to counter illegal content;
- Make public the information on the average monthly number of users on the territory of Kazakhstan for the last 6 (six) months of operation of the online platform;
- Take measures to ensure the security of minors;
- Take measures to improve:
 - content moderation systems;
 - artificial intelligence algorithms;

- ensuring the security of minors on the online platform;
- countering the placement and distribution of illegal content on the territory of Kazakhstan;
- interaction with the state bodies of Kazakhstan.
- Suspend the activities of accounts on the territory of Kazakhstan that post and distribute illegal content, information recognized as a cyberbullying in relation to a child, on the basis of the order of the Authorized Body, etc.

Grounds for classifying information as illegal content, suspension, termination of placement and distribution of illegal content

The placement and distribution of illegal content on online platforms is prohibited in Kazakhstan.

Illegal content is: a call, appeal, propaganda or agitation of a violent change in the constitutional order, violations of the integrity of Kazakhstan, undermining the security of the state, war, social, racial, national, religious, class and family superiority, the cult of cruelty and violence, suicide, pornography, narcotic drugs, psychotropic substances, their analogues and precursors, the ideas of separatism, fraud, information contributing to the violation of interethnic and interfaith consent, as well as statements, questioning the statehood and territorial integrity of Kazakhstan, information revealing state secrets or other secret protected by law, and other information prohibited by the laws of Kazakhstan.

The owners or legal representative of the online platform must take measures to remove information recognized as a cyberbullying in relation to the child within 24 (twenty-four) hours after receiving the order of the Authorized Body.

Personal data protection on online platforms

In order to protect personal data on the online platform, owner and/or legal representative of the online platform shall:

- Familiarize users with the privacy policy of the online platform before completing their registration;
- Ensure the integrity, security and confidentiality of personal data;
- Not allow the distribution of personal data without the consent of the user or his legal representative;

- Immediately notify the user in case of violation of confidentiality of his personal data.

Filing and handling of user complaint

The user has the right to file a complaint to the owner of the online platform about the content, interface, other users, actions of the online platform.

The mechanism and rules of submission of the complaint by the user are defined by the owner of the online platform.

The complaint mechanism should be accessible to the user and enable describing the content of the complaint.

The owner of the online platform is obliged to provide a substantive response to the user who filed a complaint within 20 (twenty) calendar days from the day following the day of receipt of the complaint.

Regulation of online advertising

Online advertising must be identifiable and labelled.

The online platform provides users with the ability to identify targeted online advertising using text and/or graphic and/or other designations.

Targeted online advertising must:

- Contain text and/or graphic and/or other designations indicating that the content is an online advertisement;
- Identify the account of the user who posted the online advertisement.

Profiling on the basis of data on race or nationality, political views, biometric or personal data that allow identifying an individual, information about the state of health of the user is prohibited.

Targeted online advertising should not target users identified by the online platform as a minor user.

Online platforms should provide users with the technical ability to identify online advertising using text and/or graphic and/or other designations.

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The online platform must have a secure repository containing information about online advertising, including targeted online advertising. This information must be stored for 1 (one) year after the last placement, distribution of online advertising.

The repository should not contain personal data of users, among whom online advertising was or could be distributed.

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