

## Newsletter

### *Changes in the Russian advertising landscape: new rules for distributing online advertisements*

September 6th, 2022

Dear Ladies and Gentlemen!

On September 1st, 2022, amendments to the Federal Law "On Advertising" of 13.03.2006 N 38-FZ (the "**Advertising Law**") came into force. Now, advertisements on the Internet are subject to mandatory labeling and registration, which significantly complicates such advertising on the Internet, in Russia ("**online advertisement**").

In this regard, we present you an overview of the key changes, that companies need to take into account, when distributing online advertisements.

<b>Subjects of online advertisements</b>	
<ul style="list-style-type: none"> <li>• advertisers (advertisement customers)</li> <li>• advertisement distributors (advertisement agencies, freelancers, bloggers)</li> <li>• operators of advertisement systems ("OAS") (owners of systems, via which online advertisements are placed)</li> </ul>	
<b>Labeling of online advertisements</b>	
<p>Online advertisements are subject to mandatory labeling. Each advertisement unit should be labeled (including post, video and broadcast). Online advertisement should contain<sup>1</sup>:</p> <ul style="list-style-type: none"> <li>• a mark "advertisement"</li> <li>• an indication of the advertiser and (or) the website, the website page on the Internet, with information about the advertiser.</li> </ul>	
<b>Registration of online advertisements</b>	
<p>The Unified Register of Online Advertisements ("Register") is being introduced. The Register will be operated by Federal Service for Supervision of Communications, Information Technology, and Mass Media ("RKN"). Subjects of online advertisements are required to register advertisement materials, and submit information about online advertisements, to the Register through advertisement data operators ("ADO"). ADOs are owners of software designed to establish the fact of online advertisement distribution. ADOs are authorized, by RKN, to keep records of such advertisements. The register of ADO has not yet been established, though it will be operated and controlled by RKN, as well<sup>2</sup>. The conditions, for inclusion into the register of ADO, are set by the Government<sup>3</sup>.</p>	
<b>Stage 1 of registration: registration of advertisement materials and obtaining of an identifier</b>	<p>Advertisement materials and advertisement agreements, concluded between subjects of online advertisements, must be registered with ADO, <u>before the distribution of an online advertisement</u>. Any subject of online advertisements, in the chain of online advertisement, can register the material with ADO.</p>

<sup>1</sup> Article 18.1 (16) of the Advertisement law (as amended as of September 1st, 2022)

<sup>2</sup> RKN order No. 62 of April 11th, 2022

<sup>3</sup> Decree of the Government of the Russian Federation of 28.05.2022 No. 966

	<p>After the registration, ADO assigns an identifier to the advertisement material. <u>Further distribution of online advertisements must always be accompanied by this identifier and labeling.</u></p> <p>Advertisement distributed by bloggers, barter advertisement and gratuitous advertisement is also subject to the registration.</p>
<p>Stage 2 of registration: transfer of information about the online advertisement, after its placement</p>	<p>Within 30 days, following the month when online advertisement was distributed, the information about online advertisement must be submitted to ADO for inclusion into the Register<sup>4</sup>.</p> <p>This includes information about the specific advertisers, advertisement distributor(s), OAS (including their tax ID), information about the advertisement (description of the object of advertisement, type of advertisement campaign, advertisement distribution and display statistics, etc.), and advertisement contracts, including their price and acts of acceptance<sup>5</sup>.</p> <p>The advertiser may contractually oblige the advertisement distributor, or OAS, to register the advertisement material and transfer the information about online advertisement to the Register.</p>
<p>Consequences of including information into the Register</p>	<p>RKN keeps the information, included in the Register, for at least 5 years and verifies this information with those online advertisements that were actually placed and distributed. Information, from the Register, will also be provided by RKN to the Federal Tax Service, the Federal Antimonopoly Service and other bodies and persons, the list of which should be established by the Government.</p> <p>Advertisers, advertisement distributors, OAS and ADO can obtain access to information from the Register, if it directly concerns their rights and obligations<sup>6</sup>. The procedure for obtaining such access is established by Roskomnadzor<sup>7</sup>.</p> <p>From March 1st. 2023, ADO will also be entitled to monitor and analyze online advertisements. In case of detection of inconsistencies, between the actually distributed online advertisement and the information about it in the Register, ADO will inform RKN.</p>
<p style="text-align: center;"><b>Submission of information to the Register</b></p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <p><b>1. Registration of advertisement material before its distribution</b></p> <div style="border: 1px solid black; padding: 5px; width: 200px; margin: 10px auto;">Advertisers Advertisement distributor OAS</div> </div> <div style="text-align: center;"> <p><b>Inclusion of information about the identifier and online advertising</b></p> <div style="border: 1px solid black; padding: 5px; width: 200px; margin: 10px auto;">ADO</div> </div> <div style="text-align: center;"> <p><b>2. Submission of information after the distribution of advertisement</b></p> <div style="border: 1px solid black; padding: 5px; width: 200px; margin: 10px auto;">Register (RKN)</div> </div> </div> <div style="text-align: center; margin-top: 20px;"> <p><b>Federal Tax Service, the Federal Antimonopoly Service, etc.</b></p> </div>	

<sup>4</sup> The procedure, for inclusion of information in the Register, is established by the Government Decree No. 974 of May 28th, 2022

<sup>5</sup> The detailed list of the information to be submitted, is established by the Government Decree No. 1362-r of May 30th, 2022

<sup>6</sup> The list of information to access, to which can be provided, is established by RKN Order No. 63 of 11.04.2022

<sup>7</sup> Ibid.

### Subjects who are not obliged to submit information to the Register<sup>8</sup>:

- advertisers:
  - 1) who own the exclusive rights to the objects of advertisement *and /or*
  - 2) who are manufacturers, or sellers, of advertised goods who have contractually imposed the obligation, to submit information about online advertisement to RKN and ADO on advertisement distributors, or on OAS
- social advertisement operators<sup>9</sup>

### Online advertisement which can be not labeled<sup>10</sup>:

- advertisement placed in TV programs and TV shows, radio programs and radio broadcasts distributed on the Internet

### Online advertisement which should not be registered<sup>11</sup>:

- advertisement of goods produced by subjects of online advertisement, distributed by them independently, or by persons belonging to the same group, in the form of email messages and push notifications to groups of users
- advertisement as part of TV programs, TV shows, radio programs and radio broadcasts, distributed on the Internet, without changes in sequence, form, and volume in comparison to terrestrial, satellite, or cable broadcasting
- social advertisements

### Liability for violation of labeling and registration requirements



Advertisers, advertisement distributors and OAS are responsible for the **completeness, accuracy, relevance and timeliness of information about online advertisements submitted to RKN.**



The advertisement distributor is also responsible for compliance with the requirements for mandatory online advertisements.



Despite the fact that information about online advertisement can be technologically submitted to the Register, by one of the subjects of the online advertisement, within the chain of such advertisement placement, each of the subjects is responsible for the submission of their data (except for the advertiser, which can contractually oblige the advertisement distributor, or OAS, to register the advertisement material and submit information about online advertisements to the Register).

It is also necessary to note that the risks of negative tax consequences increase, since information from the Register will also be transmitted to the Federal Tax Service.



There is no specific liability for failure to comply with labeling and registration requirements. However, in case of violations of these requirements subjects can be fined under the general Article 14.3 (1) of the Russian Code of Administrative Offenses:

- for officials - from 4,000 RUB (approx. 65 USD) to 20,000 RUB (approx. 330 USD)
- for legal entities - from 100,000 RUB (approx. 1 650 USD) to 500,000 RUB (approx. 8 300 USD)

<sup>8</sup> The criteria for determination of subjects, to which the new requirements apply, are established by the Government Decree of 25.05.2022 No. 948

<sup>9</sup> 18.1 (4) of the Advertisement Law (as amended as of September 1st. 2022)

<sup>10</sup> Article 18.1 (16) of the Advertisement Law (as amended as of September 1st. 2022)

<sup>11</sup> The list of exceptions is established by the Government Decree of 30.05.2022 No. 1362-r

### TERMS OF ENTRY INTO FORCE

The amendments to the Advertising Law came into force on September 1st. 2022. However, it is reported, by RKN, that for a few months from the date of its entry into force, the new procedure for the distribution of the online advertisement will work in a test mode. Therefore, it is highly likely that the State authorities will not initiate administrative proceedings for non-compliance within the test period. Beware however, that this test period and liability's exemption are not provided in the legislation.

We hope that the information provided herein will be useful for you. If any of your colleagues would also like to receive our newsletters, please let us know by sending us his/her email address in response to this message. If you would like to learn more about our [Intellectual Property Practice](#), please let us know in reply to this email. We will be glad to provide you with our materials.

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**Maria  
Ostashenko**

**Partner**

Commercial, Intellectual Property,  
Data Protection and Cybersecurity

Sincerely,  
**ALRUD Law Firm**

E: [mostashenko@alrud.com](mailto:mostashenko@alrud.com)