

New Decree on management, provision and use of Internet services and online information

On 9 November 2024, the Government issued Decree No. 147/2024/ND-CP, on Management, provision and use of Internet services and online information (“Decree 147”). Decree 147 shall take effect on 25 December 2024 to replace Decree No. 72/2013/ND-CP dated 15 July 2013, on Management, provision and use of Internet services and online information, as amended by Decree No. 27/2018/ND-CP dated 1 March 2018 and Decree No. 150/2018/ND-CP dated 7 November 2018 (“Decree 72”).

Compared to Decree 72, Decree 147 has many noteworthy new or amended provisions, in particular, as below:

1. Cross-border Provision of Information

1.1 Responsibilities When Providing Information:

When conducting cross-border provision of information to Vietnam using data storage services in Vietnam or achieving a total number of regular visits from Vietnam in 1 month (average statistics over 6 consecutive months) of 100,000 or more, foreign entities have some new responsibilities such as:

(a) To notify the contact information to Authority of Broadcasting and Electronic Information directly managed by Ministry of Information and Communications (“ABEI”) according to Form No. 10 in the Appendix to Decree 147 within 60 days from the time of using hosting services in Vietnam or achieving the number of visitors as prescribed.

Decree 147 expressly stipulates that only foreign entities

conducting cross-border provision of information to service users in Vietnam who have notified their contact information to the MOIC will be eligible to provide the livestream feature or perform revenue-generating activities in any form;

(b) To implement content cooperation agreements with Vietnamese press agencies when providing information quoted from Vietnamese press on the basis of intellectual property regulations.

Decree 147 states that contents of these agreements must include the following basic information: Agreement term; scope of use, used contents, and responsibilities of each party; method/form of payment of benefits. In case the two parties do not reach a cooperation agreement, foreign organizations, enterprises and individuals providing cross-border information must not use or display information quoted from such agencies;

(c) To store information of service users from Vietnam when registering for a social network account, including: Full name, date of birth, mobile phone number in Vietnam (or personal identification number); in the case where the social network service user is a child (i.e. person under 16 years old), the child's parent or legal guardian shall register the account using the information of the child's parent or legal guardian and shall be responsible for monitoring and managing the content that the child accesses, posts and shares information on the social network;

(d) To provide information of service users in Vietnam to competent authorities upon written request;

(e) To verify the accounts of social network service users using mobile phone numbers in Vietnam. Only in the cases where users confirm that they do not have a mobile phone number in Vietnam, foreign organizations, enterprises, and individuals providing social network services shall verify the accounts using personal identification numbers in accordance with the laws on identification and electronic authentication. In the

cases where social network service users use the livestream feature for commercial purposes, foreign organizations, enterprises, and individuals providing social network services shall verify the accounts using personal identification numbers in accordance with the laws on identification and electronic authentication.

Decree 147 also stipulates that only authenticated accounts are allowed to post information (writing articles and comments, livestreaming) and share information on social networks;

(f) Within 48 hours of receiving complaints from service users in Vietnam about contents that violate Article 8 of Law on Cyber Security, foreign organizations, enterprises and individuals providing cross-border information must block and remove content, services and applications violating the laws;

(g) To describe the process and method of distributing contents on their social networks and publish it in the Service Provision Agreement/Community Standards for users to choose to use the service;

(h) To comply with the laws on providing pay radio and television services if the social network directly provides on-demand radio and television content services and collects subscription fees from service users;

(i) To make periodic reports no later than November 25 every year according to Form No. 09 in the Appendix to Decree 147 on the provision of services to users in Vietnam or make ad hoc reports related to national security issues, social order and safety, and emergency situations upon written request or sent via electronic means of the ABEI.

1.2 Responsibilities When Dealing With Violations:

When there is a violation of the laws, foreign entities must implement the following procedures for dealing with illegal

content, services and applications:

(a) Prevention and removal of illegal content, services and applications that violate Vietnam's national security must be implemented by foreign organizations, enterprises and individuals within 24 hours from the time of a request written or sent via electronic means from the MOIC, the Ministry of Public Security ("MOPS") or a competent authority as provided for by specialized laws.

(b) For social network accounts, community pages, community groups, and content channels that regularly provide illegal content (i.e. within 30 days, there are at least 5 times of providing illegal content or within 90 days, there are at least 10 times of providing illegal content that the MOIC and MOPS request to block or remove), foreign organizations, businesses, and individuals must temporarily block such accounts, community pages, community groups, and content channels from allowing users in Vietnam to access these contents no later than 24 hours from the time of a request written or sent via electronic means from the ABEI, the Department of Cyber Security and High-Tech Crime Prevention and Control under the Ministry of Public Security ("Department of Cyber Security") or a competent authority as provided for by specialized laws ("Competent Authority"). The temporary blocking period ranges from 7 days to 30 days, depending on the number of times and severity of violation.

(c) Upon request of the Competent Authority, foreign organizations, enterprises and individuals shall permanently block accounts, community pages, community groups and content channels from being accessible to users in Vietnam when they have posted content that violates national security or those which have been temporarily blocked 3 times or more.

Decree 147 clearly states that in the case where foreign entities fail to implement or do not promptly prevent or remove contents that violate Vietnam's national security upon request of the Competent Authority, the MOIC and MOPS will

deploy technical measures to block all contents, services and applications on the network that violate the laws and impose administrative sanctions by law. The blocking measures will only be removed after the violations have been handled by foreign organizations, enterprises and individuals upon request of the Competent Authority.

2. Website

2.1 Licensing Websites:

Entities operating in Vietnam are only allowed to set up a general website and provide social network services upon obtaining a General Website Establishment License (this provision of Decree 72 is retained by Decree 147), a Social Network Service Provision License (formerly a Social Network Establishment License under Decree 72) or a Certificate of Notification of Social Network Service Provision (this is a new type of license under Decree 147).

Websites that are not required to obtain the above Licenses include: (i) Websites providing specialized services; (ii) Personal websites, internal websites; (iii) Portals providing online information and public services of the State agencies on the network environment; (iv) Internal forums on websites. However, to provide general information, websites (i), (ii) and (iii) will need a General Website Establishment License.

2.2 Responsibilities of Entities Establishing General Websites:

(a) To have at least 1 server system located in Vietnam for inspection, examination, storage, provision of information upon request of the Competent Authority and to resolve complaints from users regarding the provision of services by law. (Current laws stipulate that general websites and social networks subject to licensing must use at least 1 “.vn” domain name and store information on a server system with an IP address in Vietnam).

(b) To be connected to the MOIC's monitoring system for monitoring news article posting on the general website and statistics on the number of visitors.

(c) To prevent and remove contents, services, and applications that violate the laws or infringe upon Vietnam's national security within 24 hours (3 hours under Decree 72) from the time of request by phone, in writing, or via electronic means from the ABEI, the Department of Cyber Security, or the local Department of Information and Communications ("DOICs") and competent authorities as prescribed by specialized laws or when detecting violations themselves.

(d) General websites are allowed to link with electronic press agencies (excluding radio and television stations) to produce contents in the following fields: Science, technology, economics, culture, sports, entertainment, advertising, and social welfare based on a written agreement on cooperation in production of contents.

Regarding point (c) above, Decree 147 clearly stipulates that in case of failure to handle as requested, the MOIC and MOPS will deploy technical measures to block contents, applications, and services that violate the laws and take statutory measures. The blocking measures will only be removed after the violations of the laws have been handled as requested by the Competent Authority.

3. Social Network

3.1 Classification of Social Networks:

Decree 147 classifies social networks as follows:

(a) Foreign social networks provided by foreign entities cross-border to Vietnam of which the management shall be implemented according to the regulations for foreign organizations and individuals providing cross-border information as mentioned in Section 1 above.

(b) Domestic social networks provided by entities with legal status in Vietnam, including:

(i) Social networks with a total number of regular visits in 1 month (average statistics over 6 consecutive months) of 10,000 or more or with more than 1,000 regular users in a month according to Decree 72 are now called “social networks with a large number of regular visitors”;

(ii) Social networks with a total number of regular visits in 1 month (average statistics over 6 consecutive months) of less than 10,000 visits or with less than 1,000 regular users in a month according to Decree 72 are now called “Social networks with a low number of regular visitors”.

3.2 Licensing Social Networks:

Entities in Vietnam are only allowed to provide social network services upon:

(a) A license to provide social network services, for social networks with a large number of regular visitors; or

(b) A certificate of notification of provision of social network services (for social networks with a low number of regular visitors).

3.3 Management of Social Networks:

Only social networks that have been granted with a Social Network Service License by the Ministry of Information and Communications are allowed to provide livestreaming features or provide revenue-generating activities in any form. However, social networks with low numbers of regular visitors, if they need to provide livestreaming features or provide revenue-generating activities, can apply for a Social Network Service License.

Multi-service digital platforms (providing and integrating multiple services on the same website or application) when

providing social network services and other specialized services falling within conditional business lines must have a License/Certificate of notification of provision of social network services, License/Certificate/Confirmation of notification of provision of other specialized services and comply with the relevant legal regulations. In case of multi-service digital platforms providing social network services and a general website, these two types of business activities must be assigned into separate categories according to the principle of not mixing content with each other.

Internal websites and websites providing specialized services must meet the above-mentioned conditions for providing domestic social networking services if providing social networking services.

3.4 Responsibilities of Domestic Social Network Services Providers:

(a) To not post or allow users (including their own staff) to produce contents in the form of reports, investigations, press interviews and post them on social networks.

(b) To check, monitor and remove information and services that violate the laws no later than 24 hours from the time of detecting the violation.

(c) To implement measures to prevent and remove information and services that violate the laws no later than 24 hours from the time of request by phone, in writing or via electronic means from the Competent Authority.

(d) To temporarily block accounts, community pages, community groups, and content channels that regularly post illegal contents (within 30 days, there are at least 5 times of providing illegal content or within 90 days, there are at least 10 times of providing illegal content that the MOIC and MOPS request to block or remove) within 24 hours at the latest upon request by phone, in writing or via electronic means from

the Competent Authority or upon self-discovery of a violation. The temporary block period ranges from 7 days to 30 days, depending on the severity and number of violations.

(e) To permanently block social media accounts, community pages, community groups, and content channels that post content that violates national security; or that have been temporarily blocked 3 or more times upon request by phone, in writing, or via electronic means from the Competent Authority.

(f) To block and remove contents, services, and applications that violate the laws within 48 hours of receiving complaints from service users in Vietnam about content that violates Article 8 of the Law on Cyber Security.

(g) To have at least 1 server system located in Vietnam for inspection, examination, storage, and provision of information upon request of the Competent Authority, and to resolve complaints from users regarding the provision of services by law.

(h) To be connected to the MOIC's monitoring system for the purpose of statistics and monitoring the number of service users and accesses.

Regarding points (d) and (e) mentioned above, Decree 147 clearly stipulates that in the case where a social network services provider fails to deal with illegal content or services, or fails to temporarily or permanently block illegal accounts upon request; the MOIC will suspend its provision of social network services or revoke the granted License/Confirmation of notification of provision of social network services.

4. Online Games

4.1 Classification of Online Games:

In addition to online games for players aged 18 and over, 12

and over, and all ages according to Decree 72, Decree 174 adds online games for players aged 16 and over (symbolized as 16+).

4.2 Management of Online Games:

Decree 147 stipulates that, to provide online gaming services to players in Vietnam (including cross-border provision of such services), foreign entities must establish an enterprise incorporated under Vietnamese laws.

4.3 Licensing Online Games:

According to Decree 147:

(a) Enterprises are allowed to release G1 online games when they have a License to provide G1 online gaming service and a Decision to release G1 online game (previously, according to Decree 72, it was the Decision to approve the scripts for each electronic game) issued by the ABEI.

(b) Enterprises are allowed to release G2, G3 or G4 online games when they have obtained a Certificate to provide G2, G3, G4 online gaming service (according to Decree 72, it was the Certificate of registration to provide online gaming service) and a Confirmation of notification of release of G2, G3 or G4 online game (according to Decree 72, service providers only had to notify the provision of services for each electronic game).

5. Provision of Information Content Services on Mobile Telecommunications Networks

5.1 Definition of "Provision of Information Content Services on Mobile Telecommunications Networks":

Decree 147 defines for the first time "Provision of information content services on mobile telecommunications networks" as the establishment of an equipment system in Vietnam by an organization or enterprise to connect to the mobile telecommunications network to provide information

content to users of mobile telecommunications services, which is associated with messaging services, voice services (high-priced calling services, free calling services, information answering services) and Internet access services on mobile telecommunications networks.

5.2 Managing Provision of Information Content Services on Mobile Telecommunications Networks:

For information content services on mobile telecommunications networks (except free call services, high-priced call services) that make payments from mobile SIM accounts for mobile telecommunications services, information content services on mobile telecommunications networks, service providers must have a Certificate of registration for connection to provide information content services on mobile telecommunications networks, and this Certificate is only granted to organizations and enterprises established under Vietnamese laws with functions, tasks or registered business lines providing information content services on mobile telecommunications networks that have been posted on the National business registration portal.

For information content services provided to mobile telecommunications service users associated with Internet access services on mobile telecommunications networks, service providers must obtain a License, Certificate, or Specialized Confirmation issued by the MOIC or DOIC respectively./.