
Advertising Regulations

New Decree Amending and Supplementing Regulations on Cross-border Advertising

On 20 July 2021, the Government issued Decree No. 70/2021/ND-CP ("**Decree 70**") amending and supplementing several articles of Decree No. 181/2013/ND-CP implementing the Law on Advertising ("**Decree 181**"). Decree 70 took effect on 15 September 2021. Broadly, Decree 70 modifies the regulations governing cross-border advertising to keep pace with the development of the advertising market and ensure equality between domestic and foreign enterprises in the advertising industry.

Key features of Decree 70 include the following:

1. Consolidation of supervisory authority

In the past, under Decree 181, cross-border advertising services were under the supervision and management of different authorities, including the Ministry of Information and Communications ("**MIC**") for supervising online advertising, and the Ministry of Culture, Sports and Tourism for controlling websites of foreign entities that provide cross-border advertising services.

Decree 70 amends the inconsistency in supervisory authority by stating that MIC shall be the competent managing authority responsible for receiving (i) contact information (submitted 15 days before their cross-border advertising services are provided in Vietnam); (ii) reports (submitted annually or upon request) of foreign organisations and individuals involved in the provision of cross-border advertising services in Vietnam; and (iii) reports on illegal cross-border advertisements.

2. Foreign advertising agencies can directly conduct advertising services with Vietnamese-based customers

The Government has abolished Article 13.2 of Decree 181 which required Vietnamese entities to advertise their goods and services through Vietnam-based advertising agencies. Accordingly, Vietnamese organisations and individuals will no longer have to advertise their goods and services on foreign websites through a Vietnam-based advertising agency and foreign cross-border advertising service providers can provide their advertising services directly to Vietnamese-based customers without the involvement of any Vietnam-based advertising agencies.

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3. New notable obligations for cross-border advertising service providers

Decree 70 also provides for the obligations of cross-border advertising service providers. Some such new notable obligations are as follows:

(a) Compliance with the provisions of Vietnamese law

Decree 70 requires foreign cross-border advertising service providers to comply with Vietnamese regulations on advertising and network security, and regulations on management, provision, and use of Internet services and information on the internet, as well as tax payment obligations as per tax regulations.

(b) Handle infringing cross-border advertisement within 24 hours

Decree 70 explicitly outlines the method of preventing and eliminating infringing advertising contents. Specifically, after the receipt of the request sent by MIC, foreign cross-border advertising service providers are given 24 hours to address the issue.

If an illegal advertisement is not handled within the abovementioned time limit and no legitimate reason is provided, MIC will take action to restrict advertising that breaches the law. Moreover, when the identified cross-border advertisements threaten Vietnam's national security, competent Vietnamese authorities will immediately restrict such advertisements.

(c) Offer technical solutions to control and remove infringing contents

Decree 70 also requires advertising service providers to offer enabling technical solutions to advertisement distributors and advertisers in Vietnam as per their requests. These technical solutions shall enable the control and removal of advertisements which violate Vietnamese law on service provision systems.

If you have any queries on the above, please feel free to contact our team members below who will be happy to assist.

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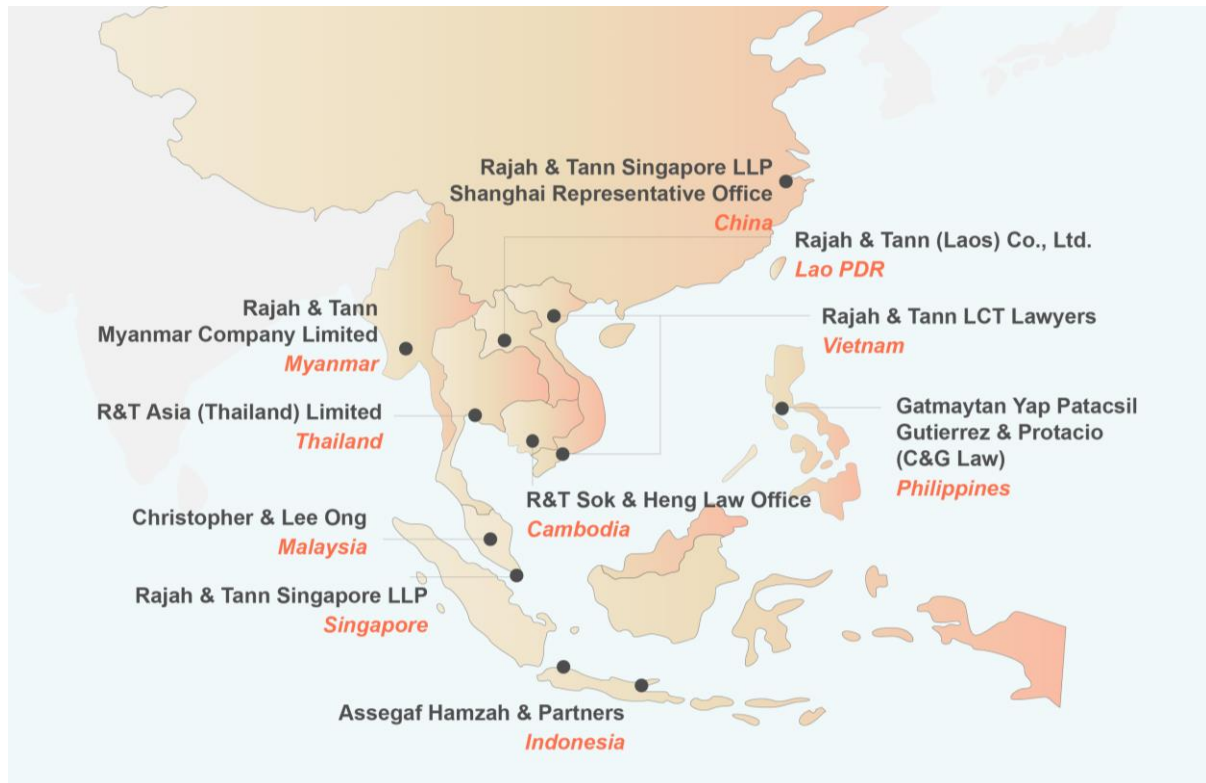
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