

## Law Proposes New Penalties for Data Controllers and IT Companies in Russia

***IT companies face higher fines in Russia for noncompliance with data privacy and content moderation rules.***

In December 2019, Russia imposed large fines for certain types of violations of the Russian data privacy and content moderation rules. The amendments to the Russian Code of Administrative Offenses (the Law and the Code, respectively) introduced significant penalties for data controllers and various types of IT businesses, including the owners of instant-messaging services, search engines, and audiovisual resources.

The most feared consequence of violation used to be access to the resource (a website or app) being blocked from the Russian territory. Previously, data controllers and IT companies faced fines, depending on the type of violation, but the amount of those fines was usually relatively low. However, now that the Law has entered into force, the potential fines have increased considerably.

Enforcement has already taken place. A Russian court recently issued fines of RUB4 million (about US\$70,000) against international companies for failure to comply with the Russian data localization rules. This indicates that the Russian regulator is determined to ensure that both Russian and global companies with Russian users comply with Russian data privacy and content moderation rules.

### Fines Under the Law

The Code imposes various types of penalties on legal entities and individuals (including officers of legal entities) for different violations, which do not qualify as crimes. The Law made the following amendments to the Code:

#### *Data operators*

- Personal data controllers (Russian law uses the term “data operators”) that direct their activities at the Russian market are obliged to comply with data localization rules, pursuant to which [all personal data of Russian citizens must be collected through a Russian database](#). Previously, the consequences of not complying with this rule could lead to blocking of the resource for access in the Russian territory and to fines, whose amounts were not as large as fines imposed by other jurisdictions (e.g., Europe under the GDPR). However, blocking resources for failing to comply with Russian data localization rules will now be supported by the imposition of larger fines by the Russian regulator. The Law provides for a fine for legal entities of up to RUB18 million (about US\$300,000) and a fine for officers

of up to RUB800,000 (about US\$13,000) for violation of this rule. The amount of this fine for violation of privacy-related rules in Russia is unprecedented.

#### *Arrangers of information distribution and owners of messaging services*

- Arrangers of information distribution on the internet (hereinafter, arrangers), e.g., those offering or assisting in communications services via the internet, must notify Russian authorities of commencement of their operations and comply with a number of additional obligations set out in the [so-called Yarovaya law](#) (including, if they provide messaging services, use of authorised software and provision of decryption keys for messages to the authorities). The Law provides for a fine of up to RUB6 million (about US\$95,000) for legal entities and a fine of up to RUB500,000 (about US\$8,000) for officers for failure to file. How often the Russian authorities will apply this fine in practice remains to be seen.

#### *Search engines*

- Every search engine operating in Russia must be connected to the government information system, which lists blocked information and resources. A search engine must exclude such blocked information and resources from the search results. The Law imposed a fine of up to RUB5 million (about US\$80,000) for legal entities and up to RUB500,000 (about US\$8,000) for the violation of these rules.

#### *Owners of audiovisual resources*

- Owners of resources (e.g., websites and apps) with audiovisual content that have more than 100,000 daily users in Russia (audiovisual resources' owners) are obliged to comply with various obligations, including to delete prohibited information within 10 business days upon notification of the need to make the deletion. The Law imposed a fine of up to RUB3 million (about US\$50,000) for legal entities and RUB700,000 (about US\$11,000) for officers.
- The Law also increased fines for failure to comply with the rules relating to content, in particular rules on the protection of children (i.e., people under the age of 18 years) and dissemination of so-called extremist information. The fines are now up to RUB5 million (about US\$80,000) for legal entities and up to RUB800,000 (about US\$13,000) for officers for failure. The definition of "extremist information" under Russian law is very broad and can encompass various types of information, e.g., information with racist content, information aimed to change the constitutional order of Russia, and information containing a knowingly false accusation of publicly exposed persons in crime, etc.

## **Conclusion**

The Law is consistent with the overall Russian trend of tightening regulation for IT, digital, and online businesses that have Russian users. The Law is reportedly based on the global legislative trend of increasing fines for data privacy and more stringent content moderation-related rules, and, based on existing practice and recent enforcement, is intended to apply to global businesses. However, how often the Law will be applied and whether the authorities will continue targeting large global organisations remains to be seen.

Russian and global IT companies with Russian users should continue to ensure that their current processes comply with Russian rules to avoid or mitigate the risk of facing increasing fines in Russia.

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