

# Newsletter Russia

## INTERNET ADVERTISING: NEW REGULATION IN RUSSIA



Over the past few years, the online advertising market (advertising disseminated via the Internet - hereinafter "Internet Advertising") in Russia has been showing stable growth of about 25-30% per year. However, the trend reversed in 2022: according to the Russian Association of Communication Agencies, the demand for advertising and the supply both decreased<sup>[1]</sup>. A number of popular platforms, such as Instagram and Facebook<sup>[2]</sup>, were blocked in Russia, while major advertisers, such as Coca Cola, started to suspend their advertising campaigns and activities in Russia as a whole<sup>[3]</sup>.

Against this backdrop, amendments to the Federal Law "On Advertising" came into force on 1 September 2022, aimed at keeping records of Internet advertising. The legislator's idea is to create a unified information system for keeping records of Internet advertising (hereinafter the **"Unified Registry of Internet Advertising"**), which should ensure that the procedures for gathering and processing information about Internet advertising are automated, that the information itself is recorded and stored, and that it can be accessed<sup>[4]</sup>.

## **1. The nature of the new requirements**

According to the new rules, certain categories of Russian and foreign advertisers, advertising distributors, and advertising system operators placing online advertisements targeted at Russian advertising consumers are required to obtain an advertising identifier in advance from a special organization, i.e. the advertising data operator.

After the actual dissemination of the advertisement, information about the advertisement is again transmitted to the advertising data operator, which then transmits it to the Unified Registry of Internet Advertising.

## **2. Who do the new requirements apply to?**

### 2.1 Advertisers

The advertiser is the manufacturer or seller of a product, or the person who determined the subject or contents of the advertisement<sup>[5]</sup>.

As a general rule, the new requirements apply to all advertisers, whether legal or natural persons, as well as individual entrepreneurs.

The only exceptions are those advertisers who:

- have an exclusive right to the subject of the advertising, or
- are manufacturers or sellers of goods

for which advertising information is provided to the Russian communications regulator Roskomnadzor by advertising distributors or advertising system operators under an agreement.

### 2.2 Advertising distributors and advertising system operators

As a general rule, the new requirements apply to all advertising distributors, i.e. persons distributing advertisements by any means, and advertising system operators, i.e. persons administering information systems and programmes for the distribution of advertisements. These can be legal entities or natural persons, as well as individual entrepreneurs.

It does not matter who acts as the advertiser.

Advertisements may be distributed on the Internet in the form of banners, text blocks or text/graphic blocks, videos, audio recordings, or live audio or video broadcasts.

Specific categories of advertising distributors, i.e. the owners of social networks, audiovisual services, news aggregators, organisers of the distribution of information on the Internet, including instant messaging service providers, and search engine operators, are also required to comply with the new requirements.

### 2.3 Advertising data operators and advertising identification

Advertising data operators will play a crucial role in the new system for keeping records of Internet advertising.

Advertising data operators are Russian companies that are authorised by Roskomnadzor and which possess special software designed to establish the fact that advertisements are being distributed on the Internet<sup>[6]</sup>.

The advertising data operator is a new entity that performs many functions in the new system:

Firstly, it keeps records of Internet advertising and provides information to the Unified Registry of Internet Advertising.

Secondly, it assigns an identifier to each advertisement. *The advertising identifier* is a unique alphanumeric designation in the form of a link or in the adChoice menu, which is used to track and keep records of Internet advertisements<sup>[7]</sup>. Requirements on the advertising identifier, its content, and the procedure for its assignment and placement are to be developed by Roskomnadzor.

Advertising data operators include companies such as MTS, VimpelCom, VK, Ozon, AmberData, Yandex and Sber.

As soon as the operators have been identified, advertisers, advertising distributors, and advertising system operators will have to enter into agreements with the advertising data operators.

For example, the subsidiary OOO Internet Resheniya (OZON) was incorporated in June 2022. OOO OZON ORD is already proposing to conclude the relevant agreements.

### **3. Information to be recorded by Roskomnadzor**

According to the new rules, quite a lot of information is to be recorded, both about the advertiser, advertising distributor, and advertising system operator and about the advertisement itself<sup>[8]</sup>.

The following information must be provided in respect of the advertisement itself, for example:

- the advertising identifier (assigned by the advertising data operator);
- a description of the subject of the advertisement in Russian;
- the means of distribution of advertisements (e.g. websites or software);
- on the volume and distribution of ad impressions;
- the advertisement period;
- the target audience for the advertising - information on sex, age, territory of residence (if available);
- information on the entire chain of agreements between the advertiser, the advertising distributor, and the advertising system operator.

Quite detailed information will also be recorded about the advertiser, the advertising distributor, and other persons, such as names, locations and contact details, telephone numbers, etc.

All of this information is supposed to be provided to the advertising data operator 20 calendar days after the date of distribution of the advertisement on the Internet<sup>[9]</sup>.

An exception is made for social advertising operators: they are not required to provide all of the aforementioned information<sup>[10]</sup>.

#### **4. Access to information on Internet advertising**

Roskomnadzor is entitled to grant access to information on the distributed advertisements to the Federal Antimonopoly Service (the "**FAS**") and the Federal Tax Service (the "**FTS**"). These authorities will interact with Roskomnadzor in two ways:

- through requests sent by the FAS and FTS to Roskomnadzor;
- and vice versa: Roskomnadzor will automatically make a selection of advertisements based on certain criteria and send them to the FAS or the FTS. The specific criteria and other terms are to be stipulated in an agreement on information interaction between these agencies.

All interactions will take place online, i.e. the employees of the FAS and FTS will have user accounts (login and password) to access Roskomnadzor's information system<sup>[11]</sup>.

Advertisers and other persons will be entitled to access the information stored by Roskomnadzor on advertisements that directly relate to their rights and obligations.

The information can be accessed at [www.erir.grfc.ru](http://www.erir.grfc.ru). To log in, the advertiser or other person will need to have an approved account on the State Services (Gosuslugi) portal.

## **5. Labelling of Internet advertisements**

According to the new requirements<sup>[12]</sup>, Internet advertisements must include the following information:

Firstly, advertisements disseminated on the internet must be appropriately marked as an "advertisement". The Federal Antimonopoly Service of Russia points out that the laws do not provide for any other designation<sup>[13]</sup>.

Secondly, in the case of Internet advertising, it should be stated who the advertiser is. Alternatively, the website where such information about the advertiser can be found may be specified.

## **6. Bloggers**

Advertisements posted by bloggers and other influencers are also subject to the new restrictions. An advertising identifier must be obtained before a blogger publishes a post with advertising information.

This can be done either by the blogger itself or by anyone else in the advertisement placement chain, such as an advertiser.

Since the blogger acts as the advertising distributor, once an advertisement has been published, the blogger will also be under the obligation to provide information about it to the Unified Registry of Internet Advertising.

## **7. Exceptions**

The new advertising record-keeping requirements do not apply in a number of cases.

The first exception is the case where advertising about one's own products is distributed through e-mail newsletters or in the form of e-mails on the Internet.

The second exception applies to advertisements in TV and radio programmes broadcast over the Internet, if they are identical to the advertisements in the same programmes broadcast by a different means of broadcasting.

## 8. Liability

There are currently no specific regulations establishing liability for violating the requirements for keeping records of Internet advertising.

However, the Code of Administrative Offences of the Russian Federation (hereinafter the "**Code of Administrative Offences**") contains a general rule providing for liability for breaches of advertising legislation, i.e. Article 14.3 of the Code of Administrative Offences.

According to the general rules, breaches of advertising legislation by an advertiser, advertising producer, or advertising distributor are punishable by an administrative fine:

- from RUB 2000 to RUB 2500 for citizens;
- from RUB 4000 to RUB 20,000 for officials;
- from RUB 100,000 to RUB 500,000 for legal entities.

At the same time, Roskomnadzor has reported that interactions within the system for keeping records of Internet advertising will continue to be refined until March 2023, and therefore there are no plans to impose administrative penalties for breaches of the new requirements<sup>[14]</sup>.

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[1] [https://www.akarussia.ru/knowledge/market\\_size/id10152](https://www.akarussia.ru/knowledge/market_size/id10152)

[2] Meta Platforms, Inc. has been declared extremist and is banned in Russia, and has been entered on Rosfinmonitoring's List of Terrorists and Extremists.

[3] <https://www.coca-cola.ru/news-and-trends/news/all-promotions-in-russia-suspended>

[4] Explanatory note on Draft Federal Law No. 1173900-7 "On Amending the Federal Law 'On Advertising' to Create the Unified Information System for Keeping Records of Advertising on the Internet Information and Telecommunications Network".

[5] Clause 5 of Article 3 of the Law on Advertising

[6] Clause 2 of the Terms and Conditions for the Selection of Advertising Data Operators, approved by Resolution No. 966 of the Government of the Russian Federation dated 28 May 2022.

[7] Clause 17 of Article 18.1 of the Law on Advertising; [https://interactivead.ru/wp-content/uploads/2022/08/arir22\\_rkn.pdf](https://interactivead.ru/wp-content/uploads/2022/08/arir22_rkn.pdf)

[8] Order No. 1362-r of the Government of the Russian Federation dated 30 May 2022 "On Approving the Content of Information on Advertisements Disseminated on the Internet That Is to Be Recorded, Stored and Processed by Roskomnadzor".

[9] Draft Resolution of the Government of the Russian Federation "On Amending Certain Acts of the Government of the Russian Federation" (prepared by the Ministry of Digital Development, Communications and Mass Media, draft ID 02/07/08-22/00130611).

[10] Clause 4 of Article 18.1 of the Law on Advertising

[11] Clause 4 of the "Rules for the Federal Service for Supervision of Communications, Information Technology and Mass Media to Provide Access to Information about Advertisements Disseminated on the Internet to the Antimonopoly Authority and the Federal Executive Body Authorised to Control and Supervise Taxes and Levies", approved by Resolution No. 969 of the Government of the Russian Federation dated 28 May 2022.

[12] Clause 16 of Article 18.1 of the Law on Advertising.

[13] Letter No. KT/90922/22 of the Federal Antimonopoly Service of Russia dated 3 October 2022 "On Clarification of Parts 12, 15, 16 of Article 18.1 of the Federal Law 'On Advertising'".

[14] <https://adindex.ru/news/right/2022/08/15/306103.phtml>

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