
Technology, Media, And Telecommunications

Technology, Media and Telecommunications Update in Vietnam

Introduction

As the fourth quarter of 2017 have begun, we are very excited to share with you the significant legal developments in the technology, media and telecommunications (“**TMT**”) sector during the second quarter of the year.

This quarterly update aims to highlight the significant TMT-related legal developments in the ASEAN region, as well as in the key economies across the world.

Written as a series of short, easy to digest summaries, we hope this update will help keep you informed of important events in the past year, and set you thinking about the potential opportunities as well as the legal issues in the area of technology in 2016. We will issue these short regional updates every quarter to help you and your business keep up to speed with the latest developments.

ASEAN

VIETNAM

1. New Law on Technology Transfer

On 19 June 2017, the new Law No. 07/2017/QH14 on Technology Transfer was passed (“**Law No. 07**”), which will supersede the existing Law on Technology Transfer (2006) from 1 July 2018. the Law No. 07 sets out significant changes regarding issues as follows:

- (i) The Law No. 07 was passed for the purpose of increasing the country’s production capacity and competitiveness in both domestic and foreign markets. Compared to the existing 2006 law which prescribed optional registration, the Law No. 07 now requires certain technology transfer agreements to be registered with the science and technology authorities. These include cross-border technology transfers (whether to or from Vietnam) and domestic transfers that uses state capital or the state budget.
- (ii) For the purpose of limiting the transfer of outdated technologies and equipment from abroad into Vietnam, the Law No. 07 adds a separate chapter on appraisal of technologies of investment projects.
- (iii) Instead of voluntary registration to enjoy incentive as provided by the current Law on Technology Transfer enacted in 2006, the Law No. 07 provides that almost technology transfer agreements, excepting the independent technology transfer agreement and licensed restricted transfer technology, are required to register at competent authorities.¹
- (iv) The Law No. 07 further specifies tax incentives that may be applied for certain subjects, including notably incubators for science and technology (including for innovative start-ups).

¹ The Law No. 07, Article 31.1

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2. New regulation on regulating the conditions of doing business in camouflaged sound recording, video recording and positioning devices and software.

On 19 May 2017, the Government issued Decree No. 66/2017/ND-CP on regulating the conditions of doing business in camouflaged sound recording, video recording and positioning devices and software ("**Decree 66**"). Decree 66 takes effect on 05 July 2017. Major points of Decree 66 are as follows:

- (i) There are only several business establishments can do business in camouflaged devices as follows:²
 - a. Business establishments of the Ministry of Public Security that are granted certificates of satisfaction of security and order conditions by a competent agency of the Ministry of Public Security;
 - b. Business establishments of the Ministry of National Defense that are granted certificate of satisfaction of security and order conditions by a competent agency of the Ministry of National Defense;
 - c. Business establishments other than those specified above that are granted certificate of satisfaction of security and order conditions by a competent agency of the Ministry of Public Security.
- (ii) The business establishments only sell camouflaged devices to subjects permitted by law to secretly use sound recording and video recording measures as follows:³
 - a. Specialized agencies in charge of protection of national security and social order and safety;
 - b. Agencies responsible for executing secret sound recording and video recording measures under the conditions, competence and procedures for special procedural investigation measures prescribed by the Criminal Procedure Code.

This Decree takes effect on 05 July 2017.

3. Online System for Issuance of Work Permits

On 15 August 2017, the Ministry of Labor, Invalids and Social Affairs issued Circular No. 23/2017/TT-BLĐTBXH to guide the online issuance of work permits to foreign workers in Vietnam. This circular will come into effect from 2 October 2017.

Under this circular, the labour authorities have implemented an online system through which work permits may be processed. Particularly, if electing to use the online system, the work permit procedures are as follows:

- (i) At least 7 working days before the planned date on which foreign workers start working for the employer, the employer electronically submits the declaration and application for work permit to the labour authorities through the designated website.
- (ii) Within 05 working days from the receipt of a sufficient declaration and application for work permits, the labour authorities will response to the employer by the email to confirm the conformity of the application. If the application is sufficient, the employer will, in person or by post, submit the original work permit application to the labour authority for verification and retention.

² Decree 66, Article 6.2

³ Decree 66, Article 11.5

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- (iii) No later than 8 working hours from the receipt of the original work permit application, the labour authority will issue its result to the employer in person or by post at the employer's election.

However, note that while the application procedure has been streamlined, the circular does not change the type of supporting documents required for the work permit. Therefore, employers/employees are still required to prepare the required supporting documents in accordance with the law.

4. Supplementation to registration of provision of information content services

On 23 June 2017, Circular 08/2017/TT-BTTTT was promulgated by Ministry of Information and Communications ("**Circular 08**") to amend Circular 17/2016/TT-BTTTT stipulating procedures for registration of provision of information content services on mobile telecommunication network.

According to the Circular 08, mobile network operators ("MNOs") providing periodic services to subscribers has further obligations as below:

- (i) For subscribers who subscribe periodic services, MNOs must send text message to users notifying the automatic extension of the service with the following contents: name, code, number of the service, fee period, fee, cancellation method, customer care hotline. Such notice will be sent every 07 days for daily and weekly services, every 30 days for monthly and yearly services, and from 7.00am to 10.00pm.
- (ii) For subscribers who cancel the services, MNOs must notify the result of such request via text message.⁴

This Circular takes effect from 21 September 2017.

5. Tightening the management of mobile subscribers to block spam messages

In an effort to prevent spam messages, the Government issued the Decree No. 49/2017/ND-CP ("**Decree 49**") on amendment a number of regulations on management of mobile subscribers. Some notable points of Decree are as follows:

- (i) As per Decree 49, the provision of Subscriber Identity Module ("**SIM**") cards to users shall only be conducted at Points of Telecommunications Services ("**PTS**") established by the telecommunications companies or at PTS authorized by the telecommunications companies⁵.
- (ii) Telecommunication companies are required to take and retain photos of persons directly concluding the telecommunications services contracts⁶.
- (iii) Decree 49 abolishes the limit on the number of prepaid mobile subscribers that each individual can registered in each telecommunications companies. However, for the fourth or forwards subscriber numbers, the user is required to conclude a contract with telecommunications company⁷.

⁴ Article 1.3(b), Circular 08

⁵ Decree 49, Article 1(15.1)

⁶ Decree 49, Article 1(15.5)

⁷ Article 1(15.7) of Decree 49

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- (i) Decree 49 also increases the administrative fines for the violations of the provisions thereof, with the monetary fines increased up to VND 200 million⁸.

This Decree takes effect on 24 April 2017.

⁸ Decree 49, Article 2(30.8)

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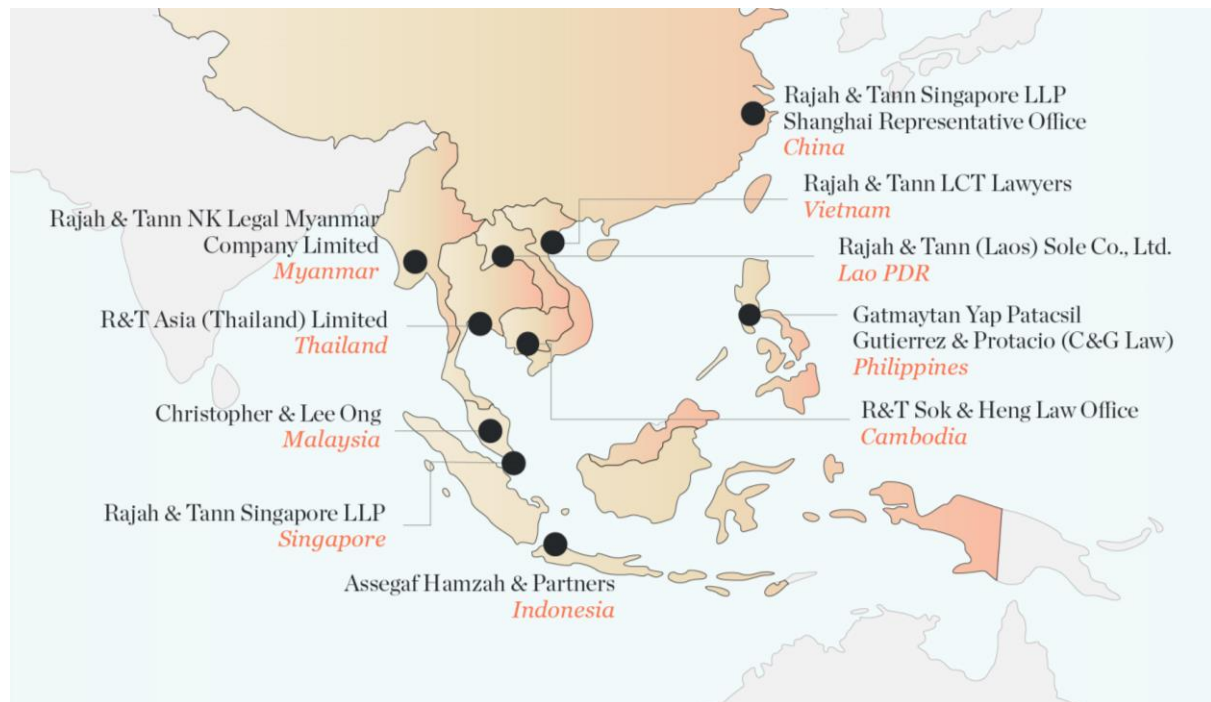
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Client Update: Vietnam

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