
Technology, Media and Telecommunications

Technology, Media and Telecommunications Quarterly Regional Update: A Snapshot of the Past Year & A Look Ahead

Introduction

As the first quarter of 2017 has begun, we are very excited to share with you the significant legal developments in the technology, media and telecommunications (“TMT”) sector during the last quarter of 2016 and the first quarter of 2017.

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 on the end of 2016 and the beginning of 2017. 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

Key information technology products

On 16 February 2017, the Ministry of Information and Communications (“MIC”) issued Circular No. 01/2017/TT-BTTTT detailing a list of key information technology products (“Circular 01”). Circular 01 shall take effect from 2 April 2017.

The list includes the key information products which are defined as products satisfying one of the following requirements: (i) having a great demand in the domestic market or creating a high added value; (ii) having export potential; (iii) having positive impacts on technological renewal and having economic efficiency for other economic sectors; or (iv) meeting defense and security requirements.¹

¹ Circular 01, Article 2.1

Technology, Media and Telecommunications

Accordingly, the list of products have been prepared for the purpose of constituting key information technology products systems; to assist investment activities; to apply the tax and incentive policies; or to manage the import and export, quality, other activities related to those products.²

In addition, the list shall be updated and supplemented by the practical requirements and announced in the Portal of the MIC.³ Under Circular 01, the list of key information technology products includes the following products:

- (1) Receiver/transmitter/signal converter equipment to be used in 2nd generation digital video broadcasting and the next generation;
- (2) Ipv6 equipment;
- (3) RFID tag and RFID reader equipment;
- (4) Open IoT platform software;
- (5) Open big data analysis platforms software;
- (6) Open e-Government platforms software;
- (7) Information safety product.

New regulations on electronic games for foreigners

On 30 December 2016, the Government issued Decree No. 175/2016/ND-CP amending and supplementing some articles of Decree No. 86/2013/ND-CP dated 29 July 2013 on business in prize-winning electronic games for foreigners ("**Decree 175**"). The Decree 175 took effect from 15 February 2017.

Accordingly, electronic game machines must be 100% new with technical specifications announced by manufacturers and verified by G7-based independent certification organizations. In addition, payout rates of slot machines installed in gaming facilities shall be at least 90%.⁴

Regarding the conditions for Business Eligibility Certificate, Decree 175 states that equity capital of entities licensed to offer customers to play electronic game machines shall be no less than VND 200 billion (approx. USD 8,770,000).⁵

New Circular stipulating the list of digital information content products

On 26 December 2016, MIC issued Circular No. 43/2016/TT-BTTTT providing the list of digital information content products ("**Circular 43**"). Circular 43 took effect from 10 February 2017.

The list of digital information content products systematizes the specialized industry products with digital content to serve as grounds for investment activities, application of tax and incentive policies, import and export

² Circular 01, Article 2.2

³ Circular 01, Article 2.3

⁴ Decree 175, Article 1.3

⁵ Decree 175, Article 1.6

Technology, Media and Telecommunications

management, quality management and other activities relating to digital information content products.⁶ Digital information content products include:⁷

- (i) Digital products for education;
- (ii) Digital books and documents;
- (iii) Entertainment and education products on mobile and landline telecommunication networks;
- (iv) Electronic games;
- (v) Digital library and digital data storage;
- (vi) Digital film, picture, music and advertising;
- (vii) Other digital information content products.

The list of digital information content products shall be updated and supplemented subject to the market developments, telecommunication development policy and management requirements from time to time.⁸

New regulations on standard form contracts in the telecommunications sector

On 26 December 2016, MIC issued Circular No. 39/2016/TT-BTTTT regulating the provision of standard form contracts in the telecommunications sector ("**Circular 39**"). Circular 39 took effect from 15 February 2017.

Subject to each types of telecommunication services, Circular 39 divides the telecommunication services into telecommunication services for which applicable standard form contracts must registered and telecommunication services for which applicable standard form contracts must be notified to the authorities.

Accordingly, standard form contracts for: (i) landline telephone services; (ii) land mobile information services; and (iii) internet access service on landline telecommunication network must be registered with the Ministry of Industry and Trade or the relevant Department of Industry and Trade.⁹

Standard form contracts for: (i) fixed telecommunications services such as private leasing channel services, data transmission services, video conferencing services, virtual private network services and (ii) other telecommunications services must be notified to the MIC.¹⁰

In addition, standard form contracts for telecommunication services must be made in writing in Vietnamese and have minimum contents as stipulated by the Circular 39.¹¹

New Circular on the cross-border provision of public information.

⁶ Circular 43, Article 3.1

⁷ Circular 43, Appendix

⁸ Circular 43, Article 3.2

⁹ Circular 39, Article 3

¹⁰ Circular 39, Article 4

¹¹ Circular 39, Article 5

Technology, Media and Telecommunications

On 26 December 2016, the MIC issued Circular No. 38/2016/TT-BTTTT providing detailed regulations on the cross-border provision of public information ("**Circular 38**"). Circular 38 took effect from 15 February 2017.

Under Circular 38, an offshore entity that provides cross-border public information into Vietnam and (i) has more than 1 million views from Vietnam per month or (ii) leases a data center to store digital information in Vietnam in order to provide its services, must provide contact information (including but not limited to registered name, country, head office address, nationality and contact point of the offshore service provider) to the MIC by direct submission, by post or email (report38@mic.gov.vn).¹²

Circular 38 also specifically implements content restrictions provided under Article 5 of Decree No. 72, in which the use and provision of the internet should not, inter alia, oppose the Socialist Republic of Vietnam, threaten national security, incite violence, arouse racial and religious animosity, propagate pornography or contradict national traditions (infringing content). If the MIC identifies infringing content on a forum provided by an offshore service provider, the MIC shall apply the necessary preventative measures.¹³

Telecommunication enterprises and onshore data center service providers are required to report infringing content by direct submission, post or email to the MIC within 3 hours of discovery. In addition, onshore data center service providers must either periodically or upon the MIC's request notify the MIC of their service supply to offshore service providers.¹⁴

Other newly-issued legal documents

- (1) Decree 08/2017/ND-CP by the Government dated 8 February 2017 regulating on electronic depositary to forms of newspaper, television and electronic media which are independent of press agencies. This Decree will take effect from 30 March 2017.
- (2) Circular 49/2016/TT-BTTTT by Ministry of Information and Communications dated 26 December 2016 detailing and guiding dossiers and procedures for the grant, exchange and withdrawal of journalist cards. This Circular took effect from 15 February 2017.
- (3) Circular 48/2016/TT-BTTTT by Ministry of Information and Communications dated 26 December 2016 detailing and guiding the operating licenses of newspapers, electronic newspapers, publishing additional publications, opening specialized page of electronic newspapers, publishing supplements, bulletins and specialties. This Circular took effect from 15 February 2017.
- (4) Circular 47/2016/TT-BTTTT by Ministry of Information and Communications dated 26 December 2016 detailing investment priorities, procurement of products, services of information technology from domestic production utilising the state budget. This Circular took effect from 01 March 2017.
- (5) Circular 46/2016/TT-BTTTT by Ministry of Information and Communications dated 26 December 2016 regulating list of radio equipment exempt from using radio frequency, technical and exploitation conditions attached. This Circular took effect from 14 February 2017.
- (6) Circular 42/2016/TT-BTTTT by Ministry of Information and Communications dated 26 December 2016 regulating list of unsafe products and goods under the management responsibility of Ministry of Information and Communications. This Circular will take effect from 1 October 2017.

¹² Circular 38, Article 3.2 and 4.1

¹³ Circular 38, Article 5

¹⁴ Circular 38, Article 6

Technology, Media and Telecommunications

- (7) Circular 40/2016/TT-BTTTT by Ministry of Information and Communications dated 26 December 2016 regulating the training, granting, re-granting and withdrawal of certificates of radio marine staff. This Circular took effect from 15 February 2017.
- (8) Circular 37/2016/TT-BTTTT by Ministry of Information and Communications dated 26 December 2016 regulating the processes and procedures for measurement of data announcements of television audience for effective assessment of television content. This Circular will effect from 1 July 2017.
- (9) Circular 36/2016/TT-BTTTT by Ministry of Information and Communications dated 26 December 2016 detailing the operating licenses and reporting regime for newspapers and television. This Circular took effect from 15 February 2017.
- (10) Circular 24/2016/TT-BTTTT by Ministry of Information and Communications dated 15 November 2016 regulating on service quality management of radio and television. This Circular took effect from 4 January 2017.
- (11) Circular 269/2016/TT-BTC by Ministry of Finance dated 14 November 2016 regulating rates, regime of collection, payment, management and using fees and charge under the field of safety information. This Circular took effect on 1 January 2017.
- (12) Circular 208/2016/TT-BTC by Ministry of Finance dated 10 November 2016 regulating rates, regime of collection, payment, management and using fees and charges of national domain name “.VN” and internet address (IP) of Vietnam. This Circular took effect on 1 January 2017.
- (13) Circular 23/2016/TT-BTTTT by Ministry of Information and Communications dated 02 November 2016 regulating investigation yield and average price for the public postal services and public service in the press distribution. This Circular took effect on 16 November 2016.
- (14) Decision 45/2016/QĐ-TTg by Prime Minister dated 19 October 2016 on receiving dossier, returning settlement results of administrative procedures through public postal services. This Decision took effect from 16 December 2016.
- (15) Decree 142/2016/ND-CP by the Government dated 14 October 2016 on the prevention of online information conflicts. This Decree took effect from 01 December 2016.

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ASEAN Economic Community Portal

The launch of the ASEAN Economic Community ("AEC") in December 2015, businesses looking to tap the opportunities presented by the integrated markets of the AEC can now get help a click away. Rajah & Tann Asia, United Overseas Bank and RSM Chio Lim Stone Forest, have teamed up to launch "Business in ASEAN", a portal that provides companies with a single platform that helps businesses navigate the complexities of setting up operations in ASEAN.

By tapping into the professional knowledge and resources of the three organisations through this portal, small- and medium-sized enterprises across the 10-member economic grouping can equip themselves with the tools and know-how to navigate ASEAN's business landscape. Of particular interest to businesses is the "Ask a Question" feature of the portal which enables companies to pose questions to the three organisations which have an extensive network in the region. The portal can be accessed at <http://www.businessinasean.com>.

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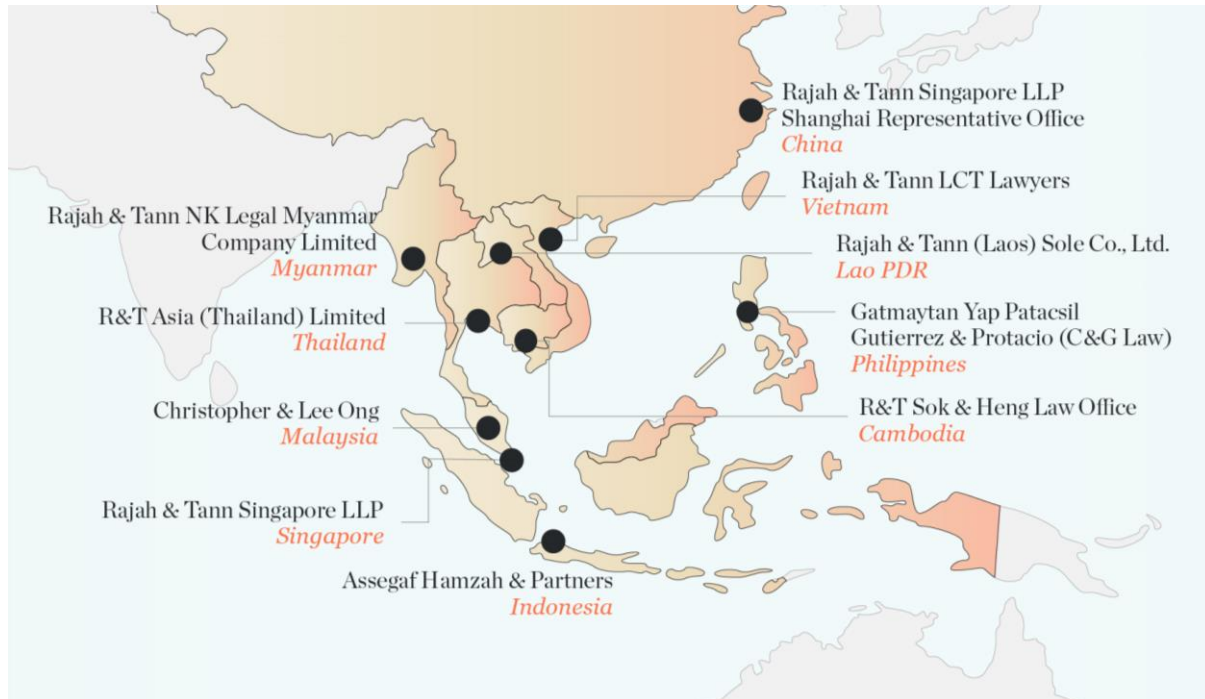
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Client Update: Vietnam

2017 APRIL

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Rajah & Tann LCT Lawyers is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Japan and South Asia.

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