



THE MASS MEDIA MUST DISCLOSE INFORMATION REGARDING FOREIGN FINANCING: MARKET PLAYERS FACE NEW REQUIREMENTS

FAO: CEOs and legal departments of media companies

Pepeliaev Group advises that the Law of the Russian Federation "On Mass Media" and the Code of the Russian Federation On Administrative Offences were amended with regard to the obligation of mass media editorial offices, broadcasters and publishers to notify the Russian Federal Service for Supervision of Communications, Information Technology and Mass Media (known by the Russian abbreviation 'Roskomnadzor') of their receipt of foreign financing

Main new developments

On 10 January 2016, the Federal Law No. 464-FZ "On Amending the Law of the Russian Federation "On Mass Media" and the Code of the Russian Federation On Administrative Offences" dated 30 December 2015 (the "**Law No. 464-FZ**") came into effect. The Law No. 464-FZ provides that the mass media editorial offices, broadcasters and publishers must report to Roskomnadzor of their receiving the funds from foreign sources (article 19.2 of the Media Law, as amended¹). The Law No. 464-FZ defines foreign sources as foreign states, international organisations, foreign not-for-profit organisations acting as foreign agents in accordance with the laws of the Russian Federation, foreign citizens, stateless persons and Russian entities in which the above mentioned persons are members and/or founders.

The exception from the above mentioned disclosure rule shall be the following cases where a mass media editorial office, a broadcaster or a publisher receives money:

- a) from a founder of the respective media outlet²;
- b) from advertising;
- c) from distribution of products of the respective media outlet;
- d) as a lump sum payment in the amount, which is less than RUB 15,000.

It should be noted that the above disclosure requirements do not apply to the representative offices of the foreign mass media and the mass media established under international treaties of the Russian Federation.

A mass media editorial office, a broadcaster or a publisher discloses to Roskomnadzor the information on its receipt of the funds from foreign sources by sending corresponding reports on a quarterly basis (the reporting period) not later than 10th day of the month following the reporting period. Roskomnadzor shall post the information so received on its official website on the Internet.

Account must be taken of the fact that the Law No. 464-FZ sets out only general disclosure requirements. In this context, it is provided that the Russian Government will determine the contents of and the procedure for disclosure, while Roskomnadzor is to determine the form of the notice. Neither the Russian Government, nor Roskomnadzor have adopted any acts regulating such matters so far. This may impede the new provisions of the Law No. 464-FZ from being implemented in practice.

¹ The Law of the Russian Federation No. 2124-1 "On Mass Media" dated 27 December 1991 (the "**Media Law**").

² It should be noted that starting from 1 January 2016 a foreign entity or a Russian entity with foreign participation may not act as a founder of a media outlet.

As a penalty for the failure by a mass media editorial office, a broadcaster or a publisher to file the corresponding notice with Roskomnadzor or to meet the filing deadlines, administrative liability will be imposed in the form of a fine, which amounts to RUB 30,000 to RUB 50,000 for executive officers and for legal entities such fine will be equal to an amount or double the amount of the funds received. If the offence is a recurring offence, the fine will be increased up to RUB 60,000 to RUB 80,000 for executive officers and up to three or four times the amount of the funds for legal entities.

It should be noted that the initial draft of the Law No. 464-FZ imposed more stringent liability for repeated breach of the obligation to disclose the information to Roskomnadzor, right up to a potential termination of the business of the media outlet by the court. However, eventually, after account was taken of the opinion of the market players, the rule was excluded from the final version of the Law No. 464-FZ and replaced with an administrative fine.

What to think about and what to do

In view of the above developments, we would recommend that the persons engaged in the mass media sector analyze their existing financing structures as to the need (i) to send the respective notices to Roskomnadzor and/or (ii) to potentially change their approach to the ways of obtaining funds from the foreign sources.

Assistance from your adviser

Pepeliaev Group lawyers are ready to provide support to the mass media market players with regard to their compliance with the Law No. 464-FZ. We can assist you with developing and amending the procedures for attracting funds from the foreign investors in accordance with the new provisions of the law.

Contact details



Ilya Bolotnov
Partner
Head of Corporate Practice
«Pepeliaev Group»
T.: +7 (495) 967-00-07
i.bolotnov@pgplaw.ru



Natalya Ivashchenko
Head of multidisciplinary tax
and telecoms group
«Pepeliaev Group»
T.: +7 (495) 967-00-07
n.ivashchenko@pgplaw.ru



Egor Lysenko
Head of Siberian office
in Krasnoyarsk
«Pepeliaev Group»
T.: +7 (391) 277-73-00
e.lysenko@pgplaw.ru



Sergey Spasenov
Partner (St Petersburg)
«Pepeliaev Group»
T.: +7 (812) 640-60-10
s.spasenov@pgplaw.ru