

## Client Alert

July 2010

### Vietnamese Government Tightens Regulations on Websites and Online Social Networks

The Ministry of Information and Communications (MIC), on 29 June 2010, issued Circular No 14/2010/TT-BTTTT (“**Circular No. 14**”) on the management of websites and online social networks, which supplements and further details the regulations set out in Decree No. 97/2008/ND-CP, dated 28 August 2008, on the management, provision and use of Internet services and electronic information on the Internet (“**Decree No. 97**”). Circular No. 14 takes effect on September 1 2010.

Decree No. 97 “applies to organizations and individuals involved in the management, provision and use of Internet services and electronic information on the Internet in Vietnam”. Circular No. 14, however, arguably broadens this scope in at least some of its provisions. While Circular No. 14’s licensing requirements only apply to onshore websites of entities in Vietnam, Article 5 apparently gives authorities broad discretion to block any website, on or offshore, that contains sensitive content (see below discussion).

#### Definition of General News Websites

Circular No. 14 clarifies the definition of “general news websites”, which are subject to licensing requirements set out in Decree No. 97. Under Decree No. 97, a “general news website” is a website of an organization or enterprise providing general news on politics, economics, culture and society by citing information from official sources of press agencies or websites of Party and State agencies.” Circular No. 14 states that “‘general news on politics, economics, culture, and society’ means news synthesized from different sources of information or from different types of information on one or many aspects of politics, economics, culture, and society.”

#### Licensing Requirements

General news websites are not allowed to publish readers’ comments about the information they collect and cite. Websites that provide Internet application services are also subject to the same licensing requirement as a general news website if they provide information on politics, economics, culture and society.

Websites not subject to licensing requirements include those that only provide information on the activities, services, products and business of an enterprise or organization without citing information from other sources, or those that are websites of State agencies providing information on their operations, structure and functions. The website must display, however, the name, address, phone number and email address of the organisation managing the site, as well as the name of the webmaster in charge of maintaining the site.

Websites that require licenses, such as general news websites, media agency websites, websites providing Internet application services, and online social networking websites, must also display the license/registration number and license/registration issuance date.

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A written notification must be sent to the licensing/registration authorities 10 working days before general news websites and online social networks terminate their activities.

Websites licensed under Decree No. 55/2001/NDD-CP dated 21 August 2001 and Decision No. 27/2002/QĐ-BVHTT dated 10 October 2002 must apply for a license in accordance with this Circular within 90 days from 1 September 2010 if they provide “general news” within the definition of this Circular.

## Responsibilities of Online Social Network Service Providers in Vietnam

Circular No. 14 reaffirms the responsibilities of online social network service providers set out in Decree No. 97 and Circular No. 07/2008/TT-BTTTT dated 18 December 2008, which also implements Decree No. 97, including a requirement to actively prevent and remove any information in violation of Vietnamese laws, and a requirement to provide related information to authorities when necessary.

In addition, Circular No. 14 sets out detailed registration conditions and registration dossier components for the provision of online social network services. New registration conditions include, for example, having a valid domain name and having “appropriate” business lines or functions. The registration dossier must include, inter alia, a plan for the provision of online social network services, and regulations on the provision and exchange of information on the online social network.

## ISPs Must Block Offending Websites at Authorities’ Request

Decree No. 97 lists a variety of prohibited activities, such as abusing the Internet to oppose the State of Vietnam, causing conflict among religions, sabotaging national unity, disclosing state secrets; disseminating information that offends the reputation of any organization, stealing and illegally using personal passwords, and creating and installing virus programs, amongst others. Under Article 5 of Circular No. 14, if Internet service providers (ISPs) discover any such violation by individuals, organizations or enterprises, they are required to terminate the service and notify the authorities.

At the authorities’ request, ISPs must also (i) cease to provide Internet services to organizations or individuals if they engage in the prohibited activities, (ii) block websites that violate the provisions of Decree No. 97 or Circular No. 14, and (iii) provide the authorities with information concerning the websites in violation.

As the prohibitions contained in Decree No. 97 and Circular No. 14 are broad and often unclear, Circular No. 14’s Article 5 appears give the authorities wide discretion to block offending websites such as those criticizing the government or containing other sensitive information. While the scope of Decree No. 97 and Circular No. 14 appears to be limited to entities established in Vietnam in regard to licensing requirements, Article 5 of Circular No. 14 does not contain such a limitation, and therefore arguably allows the government to order ISPs to block any website (onshore or offshore) that violates the relevant provisions of Decree No. 97 and Circular No. 14.

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