

April 15 2022

New trends in Russian advertising law

Gorodissky & Partners | Tech, Data, Telecoms & Media - Russia



ILYA
GORACHEV

- › [Introduction](#)
- › [Outdoor advertising signs](#)
- › [Online advertising subject to more control](#)
- › [Restrictions on alcohol advertising](#)
- › [Advertising for non-commercial entities](#)
- › [Ban on advertising featuring nicotine products](#)
- › [Transport vehicles used as advertising boards](#)
- › [Comment](#)

Introduction

The Russian advertising regulatory landscape is subject to constant developments. The main advertising legal act in Russia is the Federal Law on Advertising 2006,⁽¹⁾ and the enforcer of the law is the Federal Antitrust Authority (FAS), while local authorities have powers with regard to granting permission for outdoor advertising constructions.

This article covers the recent updates on advertising issues that both domestic and multinational players need to know when building their advertising strategy from a legal standpoint.

Outdoor advertising signs

On 29 March 2022, the Russian Supreme Court rendered an important decision relating to the procedure of approval for outdoor advertising signs.⁽²⁾

Under Russian law, it is necessary to obtain approval from the local authorities to put advertising constructions (eg, boards and signs) outdoors. If the advertising board contains a trademark image, the applicant needs to provide evidence of trademark registration or permission from the trademark holder (such requirements are set out in the regional rules of the local authorities).

The dispute that reached the Supreme Court arose around what exactly may serve as evidence of "permission" from the trademark holder in order to comply with the regulatory requirement and whether a simple letter of consent would be acceptable evidence instead of a licence agreement. The Court ruled that the local authority should reconsider the application for outdoor advertising despite the evidence of permission to use the trademark being a simple letter of consent.

Online advertising subject to more control

Starting 1 September 2022, new online advertising regulations will come into force.

Under the new requirements, advertisers that publish online advertising will need to report any advertising published to the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications. The specific criteria that will be used for determining which specific groups of advertisers will need to report the online advertising will be set by the Russian government.

At present, advertisers will need to closely monitor those developments in order to have enough time to ensure compliance with the reporting obligations.

Restrictions on alcohol advertising

The advertising law contains a general ban on publishing alcohol advertising in some specific places, such as:

- in children's, educational, medical, sanatorium, health and military organisations;
- in theatres, circuses, museums, houses and palaces of culture, concert and exhibition halls, libraries, lecture halls, planetariums and at a distance of less than 100 metres from the buildings and structures occupied by such venues; and
- in sports and recreation facilities, and at a distance of less than 100 metres from such facilities.

With its letter of 30 September 2021,⁽³⁾ the FAS clarified that the ban applies to advertising of alcoholic beverages distributed in any way in these organisations and on their territory, including in the form of advertising booklets, cardboard dolls and portable pillars.

Further, the FAS also provided guidance on the calculation of the 100-metre limit. For this calculation, it will be necessary to measure the shortest distance from the location of placement (distribution) of advertising to the nearest point along the perimeter of the specified buildings, structures or fences of the venue or facility, and to do so in a straight line, taking into account existing obstacles or barriers.

Advertising for non-commercial entities

With its letter of 24 May 2021,⁽⁴⁾ the FAS resolved the practical issue relating to which cases the restrictions of the advertising law apply when it comes to non-commercial entities. The FAS clarified that such information may qualify as advertising if it relates to:

- the business activities that the non-commercial entity exercises; or
- the non-commercial entity, without specifying its activity, on condition that, in general, the non-commercial entity at issue exercises business activity.

Ban on advertising featuring nicotine products

With its letter of 14 January 2021,⁽⁵⁾ the FAS clarified previous amendments to the advertising law relating to the ban of advertising that features nicotine-containing products and related devices.

Previously, the ban extended only to tobacco, tobacco products and smoking accessories. Following the amendments, the ban covers also advertising featuring:

- devices for consuming nicotine-containing products, such as modifications of devices used as electronic cigarettes for delivering nicotine or heating tobacco; and
- nicotine-containing products, such as various fillings for electronic devices delivering nicotine or for heating tobacco (eg, sticks, liquids and cartridges).

Thus, the FAS outlines that any demonstration of nicotine-containing products, including via electronic devices, is not allowed in advertising.

The provisions are already reflected in enforcement practice. For instance, the watchdog recognised wording in advertising such as "POD-systems", "liquids for vapes" and "one-use electronic devices" relating to nicotine-containing products as illegal.⁽⁶⁾

Transport vehicles used as advertising boards

Russian advertising law bans the use of vehicles exclusively or primarily as mobile advertising structures, including:

- the conversion of vehicles for the distribution of advertising, as a result of which vehicles have completely or partially lost the functions for which they were intended; and
- the conversion of vehicles with the appearance of a certain product.

In its letter of 29 December 2021,⁽⁷⁾ the FAS clarified that bans extend to cases where a vehicle with an advertising medium placed on it:

- is regularly used exclusively for the purposes of advertising distribution;
- is parked in one place in a technically defective condition (eg, without wheels); or
- is parked without movement for a significant amount of time (eg, for several weeks).

Comment

In recent years, the advertising regulation in Russia has been undergoing changes, and FAS letters are useful when clarifying new developments.

In this regard, while building up an advertising campaign in Russia, it is necessary to take new regulations into account.

Additionally, the soon-to-be-launched system of online advertising reporting is expected to raise practical issues requiring in-depth knowledge of how to comply with the new requirements in cost-effective ways.

Further, expected clarifications of the Supreme Court with regard to the requirements for approving outdoor advertising (in cases where the advertising contains trademark images) will facilitate a simplification of documentary compliance mechanisms.

For further information on this topic please contact Ilya Goryachev at Gorodissky & Partners by telephone (+7 495 937 6116) or email (goryachevi@gorodissky.ru). The Gorodissky & Partners website can be accessed at www.gorodissky.com.

Endnotes

(1) Law N 38-FZ of 13 March 2006.

(2) Court case No. A41-13514/2020.

(3) No. KT/82670/21.

(4) N AK/41745/21.

(5) No. AK/1262/21.

(6) Resolution of Samara, city division, 14 January 2022, the FAS regarding case N 063/04/14.3.1-1034/2021.

(7) N KT/112564/21.