

25 December 2015

*To our clients and friends*

## **INFORMATION LETTER**

### **Amendments to Legislation in the Informatization Sphere**

The Law dated 24 November 2015 introduced amendments on the issues of informatization<sup>1</sup> into a number of normative legal acts of the Republic of Kazakhstan. The said amendments will be put into effect starting 1 January 2016, and certain amendments in the sphere of tele- and radiobroadcasting – starting 1 January 2017, and are generally aimed at the following.

#### **1. Amendments Related to Electronic Document Management and Personal Data Protection**

- The Law adds to the Civil Code the provisions that a written form of a transaction is to be performed in hard copy or in the electronic form. From now on, performance of a transaction in writing includes, inter alia, exchange of emails determining the transaction subjects and the content of their expression of will.
- The amendments introduced by the Law into the Environmental and Customs Codes provide for a possibility to submit, in certain cases, documents to the authorized agencies in the electronic form.
- The Law supplements the Law on Personal Data and Protection Thereof with an important provision whereby personal data are to be stored by an owner and/or operator and a third party *in a base stored in the territory of the Republic of Kazakhstan*. Thus, starting 2016, foreign companies working in Kazakhstan will have to store personal data only in the territory of Kazakhstan. However, it is unclear whether this requirement will cover the personal data of persons staying outside Kazakhstan territory (for example, employees of foreign companies who are not the RK citizens and who reside outside Kazakhstan).
- The Law introduces criminal liability for distribution of information on private life of persons constituting their personal or family secret without their consent, or causing harm to their rights and legitimate interests as a result of illegal collection and/or processing of other personal data.
- The Law introduces new sets of elements of administrative violations related to informatization, commitment of which entails liability, including for failure to observe personal data protection measures, to comply with requirements to use electronic keys and electronic sources, etc.

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<sup>1</sup> RK Law No. 419-V "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on the Issues of Informatization" dated 24 November 2015 (the "Law").



## 2. Amendments to the Mass Media Law Related to the Use of Websites

The Law adds a new form of mass media to the Mass Media Law – "*online media*," which means "*a website registered with the authorized agency, communication infrastructure of which is located in the territory of the Republic of Kazakhstan.*"

The definition of online media is broad enough, in which connection we believe that an authorized agency may make almost any website (including websites of companies) equal to online media.

It is worth mentioning that foreign individuals, legal entities and stateless persons are prohibited to directly and/or indirectly own, use, possess and/or manage more than 20% of shares (participation interests, units) of a legal entity, which is an owner of a Kazakh mass media and, accordingly, online media.

Online media working in the Kazakhstan territory are subject to mandatory registration with the authorized agency.

## 3. Amendments to Legislation on Television and Radio Broadcasting

The Law establishes a requirement for foreign legal entities that are the owners of foreign television and radio channels to mandatorily register their representative offices in the Kazakhstan territory. If such entity is with the state participation, in order to distribute its television and radio channels in the Kazakhstan territory it is obligated to register in Kazakhstan a subsidiary legal entity where such legal entity's share is not to exceed 20%.

Foreign television and radio channels distributed by the Kazakhstan television and radio broadcasting operators are to be registered with the authorized agency.

The above requirements will be put into effect starting 1 January 2017.

Should you have any questions in connection with the new statutory requirements, we would be happy to provide you with the required advice.

Best regards  
AEQUITAS Law Firm