

**V I L A F****VIETNAM INTERNATIONAL LAW FIRM**

# Vietnam issued New Anti-spam Regulation

Decree No. 91/2020/ND-CP dated 14 August 2020 ("Decree 91") will enter into force on 10 October 2020 and introduce important new legal requirements on advertising text messages, emails and phone calls. Decree 91 supersedes the prior anti-spam decrees ("Old Decrees") in their entirety.

This publication highlights important changes introduced by Decree 91.

## Expansion of scope to cover phone calls

The Old Decrees only cover spam emails and text messages. Decree 91 expands its scope to also govern spam phone calls.

## Brand Names

Decree 91 prohibits the making of advertising text messages and phone calls from standard phone numbers and provides for new rules of management of Brand Names. A marketer may only send advertising text messages or make advertising calls after registering its/his/her Brand Name and must use the registered Brand Name for such advertisements. Any person may register and use Brand Names for purpose of sending advertising text messages and phone calls. The Ministry of Information and Communication ("MIC") manages and issues such Brand Names, each of which is valid for three years, renewable. Any person may search the effective Brand Names on this official web portal: [tendinhdanh.ais.gov.vn](http://tendinhdanh.ais.gov.vn).

Within 90 days after Decree 91 takes effect, telecommunication service vendors must transfer electronic records of Brand Names which have previously been declared to them to the MIC. Within 180 days after Decree 91 takes effect, the MIC will announce the list of lawful Brand Names based on a screening of the records provided by telecommunication service vendors.

### Prior consents of the recipients

The Old Decrees permitted distribution of advertising text messages and emails as long as the respective recipients have not refused to receive them. In contrast, Decree 91 permits the making of advertising text messages, emails or calls only to recipients who have previously consented to the receipt of such advertisements in one of the following methods:

- with respect to advertising text messages, consenting to receive such advertisements in response to the marketer's consent solicitation message; the marketer may send only one unsolicited text message to a recipient without his/her consent, which is for purpose of soliciting consent;
- consenting on the standard registration form on printed paper, on a web portal or online application, or via the social network of the marketer;
- calling or sending a consent text message to the voice switchboard of the marketer; or
- registering to receive advertisements on an advertising technology facility.

The MIC is tasked to develop and operate a facility which receives and handles reports on spam text messages, phone calls and emails. When a marketer distributes advertising text messages, it must concurrently send a copy of such text messages to the above anti-spam report facility of the MIC.

### DoNotCall List

Decree 91 introduces the new concept of DoNotCall List, which is the list of phone numbers of persons who have registered not to receive any consent solicitation message, advertising text messages or phone calls. Any user of telecommunication services may register to be

included in or withdrawn from the List. The MIC is tasked to manage the DoNotCall List and will provide further guidance on how to register to be included in or withdrawn from the List.

Marketers are obliged to check the DoNotCall List to avoid sending consent solicitation message or advertising text messages and making advertising calls to the phone numbers on the DoNotCall List.

### Black List

The MIC shall organize, develop and update a list of IP addresses which distribute spam emails and shall publish this list publicly on its official web portal. Spam emails include advertising emails which are sent without consent of the recipients, advertising emails which violate the rules under Decree 91 or emails which violate legal prohibitions under certain provisions of the Law on Electronic Transactions, the Law on Information Technology, the Law on Telecommunications, the Law on Advertising, the Law on Internet Information Security and the Law on Cybersecurity.

### Other requirements

Each marketer is not permitted to send more than 3 advertising text messages to each phone number, 3 advertising emails to each email address and 1 advertising phone call to each phone number per 24 hours, except in case that the relevant recipient otherwise agrees.

Decree 91 does not change the hours limit during each day when advertising text messages may be sent but adds the hours limit for making advertising phone calls. Advertising phone calls may be made only from 8:00 to 17:00 each day unless otherwise agreed by the recipients. An advertising text message or email must be labelled [QC] or [AD] at the beginning of the message or at the subject heading of the email as applicable.

An advertising text message or advertising email must include an opt-out feature to enable the recipients to refuse to receive future advertisements.

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## VILAF UPDATE



## VILAF earns new international recognitions

### ALB Japan Law Awards, ALB M&A, and IFLR1000

VILAF team sends to all clients and friends our best wishes for the health of you and your loved ones! September 2020 brought along a number new prestigious recognitions to VILAF team.

VILAF is awarded with the **Project Finance Deal of the Year** in the **ALB Japan Law Awards** for Van Phong 1 Thermal Power Plant BOT Project in Vietnam. The 11-year project reached financial closure on April 2019 with a total value of US\$2.58 billion.

Additionally, VILAF is again recognized as a **FIRST TIER** law firm in the 2020 editions of **ALB M&A Rankings** and **IFLR1000** in the following practice areas of Banking & Finance, Capital Markets: Debt, Capital Markets: Equity, M&A, and Project Development.

Partners Duyen Ha Vo and Phong Tran are among the only 7 lawyers in Vietnam named as **IFLR Asia Best Lawyers 2020** by IFLR.

Last but not least, IFLR1000 recognizes our following lawyers as leading lawyers in Vietnam:

**Market Leader**  
Phong Tran

**Notable Practitioner**  
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**Highly Regarded Lawyers**  
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Duyen Ha Vo  
Hung Q. Nguyen  
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**Rising Star**  
Lam Nguyen  
Tung Nguyen

FOR MORE INFORMATION PLEASE CONTACT:



Duyen Ha Vo  
Partner  
Ho Chi Minh City  
(84-28) 3827 7300  
duyen@vilaf.com.vn



Quynh Nhu Le  
Associate  
Ho Chi Minh City  
(84-28) 3827 7300  
quynhnhu.le@vilaf.com.vn