

### At a glance...

The government issued Decree 91/2020/ND-CP dated 14 August on anti-spam text messages, emails and calls. Decree 91 comes into effect on 1 October and replaces Decree 90/2008 and Decree 77/2012.

# In detail...

Key points include:

- Spam calls are now included in the anti-spam regulations, along with spam text messages and emails which were covered under Decree 90 and its amendment, Decree 77.
- Clearer definitions of spam are provided. Accordingly, spam text messages/emails/phone calls are those that have an advertising purpose without the prior consent of the user/recipient, those which breach regulations in Decree 91, or those which contain subjects prohibited in other relevant laws (as listed in Decree 91).
- Key control & prevention measures previously stated in Decree 90 and Decree 77 are retained and upgraded. New regulations on spam phone calls are also added. Notable ones include:
  - Advertisers are only permitted to send advertising text messages or to make advertising telephone calls after they have been issued with a name identifier/brand name.
  - It is prohibited to send advertising text messages/phone calls to someone who registers for 'Do-Not-Call' or where the user/recipient has not provided advance consent to receive such advertisements.
  - For those users/recipients who are not on the 'Do-Not-Call' List, an advertiser is only permitted to send one initial advertising registration/subscription message. If the user/recipient refuses to receive the advertisement or does not respond after receiving such text message for advertisement registration/subscription, the advertiser is not permitted to send any other text message to that user/recipient.
  - Each advertiser is permitted to make no more than one advertising phone call and cannot send more than three advertising text messages/emails to one user/recipient within 24 hours, except if otherwise agreed.
  - Advertising text messages may only be sent from 7am until 10pm, and advertising telephone calls may only be made from 8am until 5pm.
- Along with the penalties listed in Decree 15/2020 (on penalties for violations of regulations on postal services, telecommunications, radio frequencies, information technology and electronic transactions), stricter penalties are now applicable to violations of anti-spam regulations, for example:
  - Fines ranging between VND80m and VND100m (apx. USD3,400 and USD4,300) will apply to advertisers who send any advertising text message or make any advertising phone call to a user/recipient of the 'Do-Not-Call' List.
  - Fines ranging between VND10m and VND170m (apx. USD400 and USD7,300) will also apply to violations committed by telecom/internet service providers, such as failure to provide tools or applications enabling users/recipients to proactively block spam emails or to report spam emails; failure to take measures to prevent advertising text messages/phone calls to users/recipients on the 'Do-Not-Call' List; or failure to take other professional measures when requested by the Information Security Department - Ministry of Information and Communications.

## Contact us

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