

LEGAL UPDATE (December 06th, 2022)

The draft Law on Telecommunications (amended) will add new regulations on the business of Data Centers and cloud computing.

The Law on Telecommunications has been promulgated since 2009 for 13 years and reveals many inadequacies. Therefore, the Law on Telecommunications (amended) is expected to be discussed at the National Assembly session in May 2023 and submitted to the National Assembly for approval in October 2023. In the draft, the cloud platform is considered the digital infrastructure of the economy. The view of the Telecommunications Law Drafting Committee is to promote the development of data center and cloud and manage data protection according to international practices. The State intends to have priority policies, encourage investment, and develop data centers that meet international standards.

The provisions apply to all enterprises providing data center and cloud computing services to users in Vietnam. The data center service business means setting up data centers to provide services for commercial purposes. Cloud computing services mean using infrastructure to provide cloud computing services to the public for for-profit purposes.

Regarding classification, data center services include data center rental, server rental, and data storage space rental. Cloud computing services include providing server resources, providing the ability to create, develop, manage, and operate software, and delivering software. Enterprises must register on the Ministry of Information and Communications portal to supply in these services. At the same time, enterprises must meet the conditions specified in Article 74, specifically: complying with technical standards and regulations when designing, building, operating, and exploiting data centers; complying with standards and technical rules on network information security; protection of user data; publicly and transparently disclosing information of enterprises, the degree of compliance with technical standards and regulations; ensuring at least the contents as prescribed when signing the service agreement; not restricting competition, unfair competition, oppressing or blocking other enterprises; not limiting or providing services to users for illegal reasons.

Enterprises are responsible for storing data in Vietnam in according to relevant laws, have a technical plan to secure the user's information during data processing and storage, and do not disclose user information to any other party without consent. Upon termination of the service agreement, enterprises must return the data to the user or transfer the data to a third party at the user's request or delete the information.

The draft also requires enterprises to immediately notify the Ministry of Information and Communications when detecting activities that take advantage of services to carry out illegal actions. In addition, businesses are forced to remove information that violates privacy, copyright, intellectual property rights, etc., at the request of a competent state agency.

We hope this Newsletter would bring you useful information.

Best regards.



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