

# Personal data processing in Russia

## Corporate compliance

Due to the expected day-to-day amendments to the Code of Administrative Offences which will rise up the fines for the violation of the federal law No 152-ФЗ "On personal data" dated July 27, 2006 (the "**Law**") up to 500,000 Roubles (app. US\$ 16,600) we would like to draw attention to the significant issues of the Law application.

Taking into account that The Federal supervision service on network, information technology and mass communications ("**Roscomnadzor**") is a supervision body which is in charge of providing inspections (scheduled and unscheduled) on the Law application please insure that your Company is in compliance with the Law and in case of any incompliance please make appropriate changes in internal regulations.

### I. The necessity to receive consent for the personal data processing

Personal data processing is permitted only with the prior consent of personal data owner (the "**Owner**"). The prior consent may be given in any form which may corroborate that the consent was given (also the consent may be given by the Owner representative).

Personal data processing is permitted with the Owner's prior *written* consent if the personal data relates to: race, nationality, political and religion views, health conditions, intimacy, biological and physiological data under which the individual may be identified and finally when personal data is transfers abroad.

In case of any dispute the burden of proof for the consent receipt lies with the personal data operator (the "**Operator**"). The Owner may withdraw the consent in any time.

### II. Obligation to notify Roscomnadzor

The Operator shall notify Roscomnadzor prior to processing of any personal data unless:

- 1) Personal data is processed under employment relationship;
- 2) Personal data was received under the contract if the Owner is the party of the contract. In that case the personal data should not be transferred to a third party;
- 3) Personal data was made public by the Owner;
- 4) Personal data includes only the full name of the Owner;
- 5) Personal data is necessary to provide one-time entry pass to the Operator's premises;
- 6) Personal data processing holds without automatic performance.

### III. The Operator's obligations

The Law provides the following Operator's obligations:

- 1) Appointment of an employee who will be in charge of the personal data processing;
- 2) Issuing internal regulations which will regulate the personal data processing and protection;
- 3) Application technical, organizational and legal remedies for the personal data protection;

- 4) All employees familiarization with the Law, internal acts and (if necessary) employees training regarding personal data protection.

The Operator should provide unlimited access to the personal data processing acts and at Roscomnadzor request should provide them with it.

#### IV. The possibility to delegate personal data processing to a third party

The Operator may delegate the personal data processing to a third party with the Owner's consent under the contract.

The contract should stipulate the exact actions to be performed with the personal data, purpose of the personal data processing, confidential clauses.

The third party is not in charge of obtaining the consent from the Owner. In case of any dispute the

Operator bears responsibility before the Owner and the third party bears responsibility before the Operator.

#### V. Violation of the Law

Defaulting person or entity bears administrative, disciplinary and criminal liability and also should compensate moral damages under the RF Civil Code.

For breaching any obligations set out in Law, currently the Operator may be subject to fines up to 10,000 Roubles, (app. US\$ 333 as of February 2012). However we are expecting day-to-day amendments to the Code of Administrative Offences which will rise up the fines up to 500,000 Roubles (app. US\$ 16,600) or a prohibition to carry out activity for up to 90 days.

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