



**Morgan Lewis**

**2021 YEAR IN REVIEW: MAJOR LEGAL  
DEVELOPMENTS IN TECHNOLOGY, MEDIA AND  
PERSONAL DATA**

# Foreign IT Companies' 'Landing' in Russia: Challenges and Expectations (1)

## Federal Law No. 236 on *Foreign Persons' Internet Activities in the Russian Federation* dated July 1, 2021

**Applies to** foreign entities:

- ① owners of websites/web pages/IT systems/computer software carrying out activities on the Internet in Russia with a daily audience of over **500,000** unique Russian users, **and** who:
  - *provide/disseminate information in the Russian language, languages of the Russian republics, and other languages of the peoples of Russia*
  - *distribute and target advertising at Internet users located in Russia*
  - *process data of users located in Russia*
  - *receive money from Russian entities or individuals*
  
- ② the following entities that have, among others, Russian users/customers:
  - *hosting providers/other persons providing information resources' storage on the Internet*
  - *advertising systems operators*
  - *organizers of information dissemination on the Internet*

**See also:** Russian Federation Government [Resolution](#) No. 2567 of December 29, 2021; Russian Federation Government [Resolution](#) No. 1837 of October 27, 2021; Russian Federation Government [Resolution](#) No. 1836 of October 27, 2021; Russian Federation Government [Resolution](#) No. 1835 of October 27, 2021; Roskomnadzor [Order](#) No. 159 of August 13, 2021; Roskomnadzor [Order](#) No. 158 of August 13, 2021; Roskomnadzor [Order](#) No. 157 of August 13, 2021; Roskomnadzor [Order](#) No. 156 of August 13, 2021; Roskomnadzor [Order](#) No. 130 of July 16, 2021; and Roskomnadzor [Order](#) No. 129 of July 16, 2021.

# Foreign IT Companies' 'Landing' in Russia: Challenges and Expectations (2)

## IT Companies' Key Obligations

1

**From July 1, 2021:** create a personal account on the Roskomnadzor website to liaise with the Russian government authorities

2

**From July 1, 2021:** install one of the software programs offered by Roskomnadzor to calculate the number of a web resource users

3

**From July 1, 2021:** on the web resource, provide an online feedback form for messages from Russian users

4

**From January 1, 2022:** establish a branch or representative office or incorporate a Russian legal entity



## Liability

The new regulation provides for **8 various enforcement sanctions:**

- informing web resource users of violation
- ban on advertising the infringing foreign entity and/or its web resource
- ban on advertising on the infringing web resource
- restrictions on money transfers and acceptance of payments made to the infringing foreign entity
- removal from web search results
- ban on personal data collection and cross-border transfer
- partial web resource blocking
- full web resource blocking

**See also:** [List](#) of foreign entities engaged in internet activities in Russia; [description](#) of the 'landing' requirements; [online test](#) to help in determining whether the 'landing' requirements apply to a specific entity

# The 'Gorelkin Counter': Can Internet Audience be Measured? (1)

**Federal Law No. 266-FZ on Amendment of Certain Legislation of the Russian Federation dated July 1, 2021**, including the amendment of Russian Federation Law No. 2124-1 on Mass Media dated December 27, 1991 (the '**Mass Media Law**') and Federal Law No. 149-FZ on Information, Information Technologies, and Information Security dated July 27, 2006 (the '**Information Law**')

**Applies to** news aggregators, audiovisual services, and mass media. The new requirements also apply to other information resources if they disseminate information in the Russian language, languages of the Russian republics, and other languages of the peoples of Russia, **and**

- *average daily audience over a month exceeds **1,000** users located in Russia, **or***
- *users have the technical capability to independently post information on such resources*
- *such resources publish information which is in the public interest*

**Roskomnadzor** will maintain a register of information resources whose audience is subject to measurement (the '**Register**'). As of January 26, 2022, the Register has not been created

**An authorized organization for audience measurement** will liaise with the owners of information resources included in the Register. Its functions will be performed by Mediascope company

**See also:** Russian Federation Government [Resolution](#) No. 1929 of November 12, 2021; Russian Federation Government [Resolution](#) No. 1894 of November 1, 2021; Roskomnadzor [Order](#) No. 246 of December 16, 2021; Roskomnadzor [Order](#) No. 199 of September 20, 2021; Roskomnadzor [Order](#) No. 198 of September 20, 2021; Roskomnadzor [Order](#) No. 197 of September 20, 2021; Roskomnadzor [Order](#) No. 196 of September 20, 2021; Roskomnadzor [Order](#) No. 195 of September 20, 2021; Roskomnadzor [Order](#) No. 194 of September 20, 2021; Roskomnadzor [Order](#) No. 185 of September 17, 2021; and [Meeting Minutes](#) No. 1 of the Authorized Organization Designation Committee of December 30, 2021

# The 'Gorelkin Counter': Can Internet Audience be Measured? (2)

## How will the audience be measured?

- 1 **Committee for the Designation of the Authorized Organization for Audience Measurement** will propose information resources to be included in the Register
- 2 **Authorized Organization for Audience Measurement** will notify owners of information resources of their inclusion in the Register
- 3 **Owners of information resources** will provide the authorized organization with data required to measure audience

Data will have to be provided from **March 1, 2022**  
(at least twice daily, certain exceptions may apply)

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## Note:

Key dates on which the new requirements take effect are July 1, 2021 (as regards the Mass Media Law) and October 1, 2021 (as regards the Information Law)



Considerable volume of data has to be provided (e.g., user equipment identifier, devices' IPv4 or IPv6 network dynamic addresses)



Data transferred may be a trade secret, subject to communication secrecy, or have commercial value



What would happen if an Internet user prohibits collection of his/her data, especially where such personal data is protected by foreign laws?



Yet no specific liability has been established for breaches of the new regulation

# Anything New for Audiovisual Services? Mandatory Public Channels

**Federal Law No. 261-FZ dated July 1, 2021 on *Amendment...*** of the Mass Media Law and the Information Law

**What's new? From October 1, 2021**, the owner of an audiovisual service is obligated to:

- 1 Distribute, in the audiovisual service, unaltered and at no charge to users, all Russian national mandatory public channels and multiplex 1 & 2 channels (i.e., Channel One, Russia 1, Match TV, NTV, Channel Five, Russian 24, Russia K (Culture), Carousel, OTR, TV Center, Ren TV, Spas, CTC, Domashny, TV 3, Piatnitsa, Zvezda, MIR, TNT, and Muz TV)
- 2 enter into an **agreement with an authorized organization** for distribution of channels on the Internet (to be designated pursuant to Roskomnadzor [Order](#) No. 186 of September 17, 2021)
- 3 **inform Internet users** of availability of mandatory TV and multiplex channels for viewing
- 4 use or install a Roskomnadzor-compliant **computer software** for distribution of mandatory TV channels (the Roskomnadzor [Order](#) which sets out requirements applicable to such software will take effect from March 1, 2022)

**Important!** Failure to comply with these obligations may result in access being restricted to an infringing audiovisual service on demand of Roskomnadzor based on a court judgment

**See also:** Roskomnadzor [Order](#) No. 193 of September 20, 2021; Roskomnadzor [Order](#) No. 192 of September 20, 2021; Roskomnadzor [Order](#) No. 191 of September 20, 2021; Roskomnadzor [Order](#) No. 190 of September 20, 2021; Roskomnadzor [Order](#) No. 189 of September 20, 2021; and Roskomnadzor [Order](#) No. 186 of September 17, 2021

# New Regulation of Social Media (1)

The **definition of social media** has been introduced to include websites, IT systems, and computer software that meet the following criteria:

- 1 are used for provision and/or dissemination of information among users through user-created personal pages in the official language of Russia, official languages of the Russian republics, or other languages of the peoples of Russia
- 2 contain advertising aimed at customers in Russia and
- 3 daily active users in Russia exceed 500,000

Roskomnadzor monitors information resources and maintains a [register](#) of social media

**Important! From February 1, 2021**, owners of social media are obligated, without limitation, to:

- 1 monitor and prevent criminal offenses and dissemination of prohibited information (e.g., extremist materials and materials)
- 2 install an access counter (a program to calculate user numbers)
- 3 post **social media rules**
- 4 post a **form for users to send messages** concerning any illegal information they may identify and publish annual reports on how such messages were dealt with

**See also:** [Federal Law](#) No. 530-FZ of December 30, 2020; [Federal Law](#) No. 511-FZ of December 30, 2020; Russian Federation Government [Resolution](#) No. 1192 of July 15, 2021; Russian Federation Government [Resolution](#) No. 1191 of July 15, 2021; Roskomnadzor [Order](#) No. 52 of April 12, 2021; Roskomnadzor [Order](#) No. 47 of April 2, 2021; Roskomnadzor [Order](#) No. 46 of April 2, 2021; Roskomnadzor [Order](#) No. 45 of April 2, 2021; and Roskomnadzor [Order](#) No. 37 of March 30, 2021

# New Regulation of Social Media (2)

Article 13.41 of the Administrative Offences Code sets graded fines **for social media owner's failure to remove any prohibited information**:

- 1 For a **first-time** violation (for companies), from **RUB 800,000 to RUB 4,000,000**; if the violation is related to certain types of prohibited information (e.g. calls for extremism), from RUB 3,000,000 to RUB 8,000,000
- 2 For a **repeated** violation (for companies), from **1/20 to 1/10 of the total proceeds**, but **no less than RUB 4,000,000**; if the violation is related to certain types of prohibited information (e.g. calls for extremism), from 1/10 to 1/5 of the total proceeds, but no less than RUB 8,000,000

In some cases, Roskomnadzor uses a "slowing down" mechanism:

- 1 No such liability mechanism is provided for specifically with respect to social media
- 2 Similar to such mechanism is a "partial restriction of access" under Federal Law No. 236-FZ on *Foreign Persons' Internet Activities in the Russian Federation*

According to Roskomnadzor's official data, in 2021 fines imposed on companies under Article 13.41 of the Administrative Offences Code were **over RUB 180,000,000**



# Roskomnadzor Checks: New Rules in the Old Shell

**Important!** From July 1, 2021, the new rules introduced a **risk-oriented approach** to government monitoring (supervision) over personal data processing.

The higher the severity and likelihood of risk, the more frequent monitoring (supervisory) activities are performed with respect to the operator.

**Likelihood of risk** depends on how recent the preventive measures were and on penalties imposed on the operator for violation of personal data laws. **Severity of risk** is affected by, but not limited to, the following factors:

- Processing of **special categories** of personal data (health conditions, etc.), **biometric data** (fingerprints, etc.), **personal data of minors**
- **Cross-border transfer** of personal data to countries that do not provide adequate protection of data subjects' rights
- Collection of personal data in databases **abroad**, using foreign software and services, etc.

**See also:** [Federal Law](#) No. 248-FZ dated July 31, 2021; Russian Government [Resolution](#) No. 1046 dated June 29, 2021; and [Order](#) No. 1187 of Russian Ministry of Digital Development, Communications and Mass Media dated November 15, 2021

## Monitoring (supervisory) activities



**Inspection visit** without prior notice to the operator; duration is 1 business day



**Desk audit** by requesting documents and written explanations; duration is 10 business days



**On-site inspection** with at least 24 hours prior notice to the operator; duration is 10 business days

## Preventive measures



**Keeping operators informed** on the Roskomnadzor's website



Roskomnadzor's annual **summarizing** of law enforcement practice in the form of a report



**Issuing a warning to an Operator** regarding inadmissibility of non-compliance with mandatory requirements



Roskomnadzor's **consulting** of operators by phone, video conferences and during personal reception



**Preventive visit** to an operator personally or by video-conferencing; duration is 5 business days

# New Rules for Processing of Personal Data Permitted by Data Subject for Dissemination

## If you want to disseminate personal data:

- 1 Prepare a consent form in line with Roskomnadzor's requirements or using [a special service on Roskomnadzor's website](#)
- 2 Request individual consents from personal data subjects and allow them to impose restrictions on personal data processing
- 3 Subject to consents, prepare and place in the personal data dissemination source the rules governing their processing by third parties.
- 4 Determine the procedure for handling requests of personal data subjects and ensure timely review of such requests.

See also: [Federal Law](#) No. 519-FZ dated December 30, 2020; Roskomnadzor [Order](#) No. 18 dated February 24, 2021; and Roskomnadzor [Order](#) No. 106 dated June 21, 2021

## If you want to use the personal data being disseminated:

- 1 Review the personal data processing rules on the resource where they are disseminated
- 2 If there are no such rules, please analyze whether you have any grounds for processing of the personal data disseminated on it
- 3 If there are no suitable grounds, take steps to ensure that they are available: ask for consent, or find alternative grounds
- 4 Determine the procedure for handling requests of personal data subjects and ensure timely review of such requests

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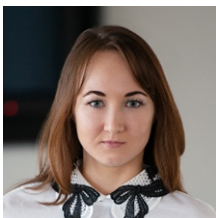


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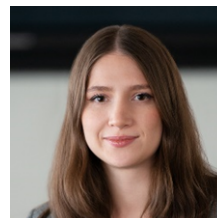


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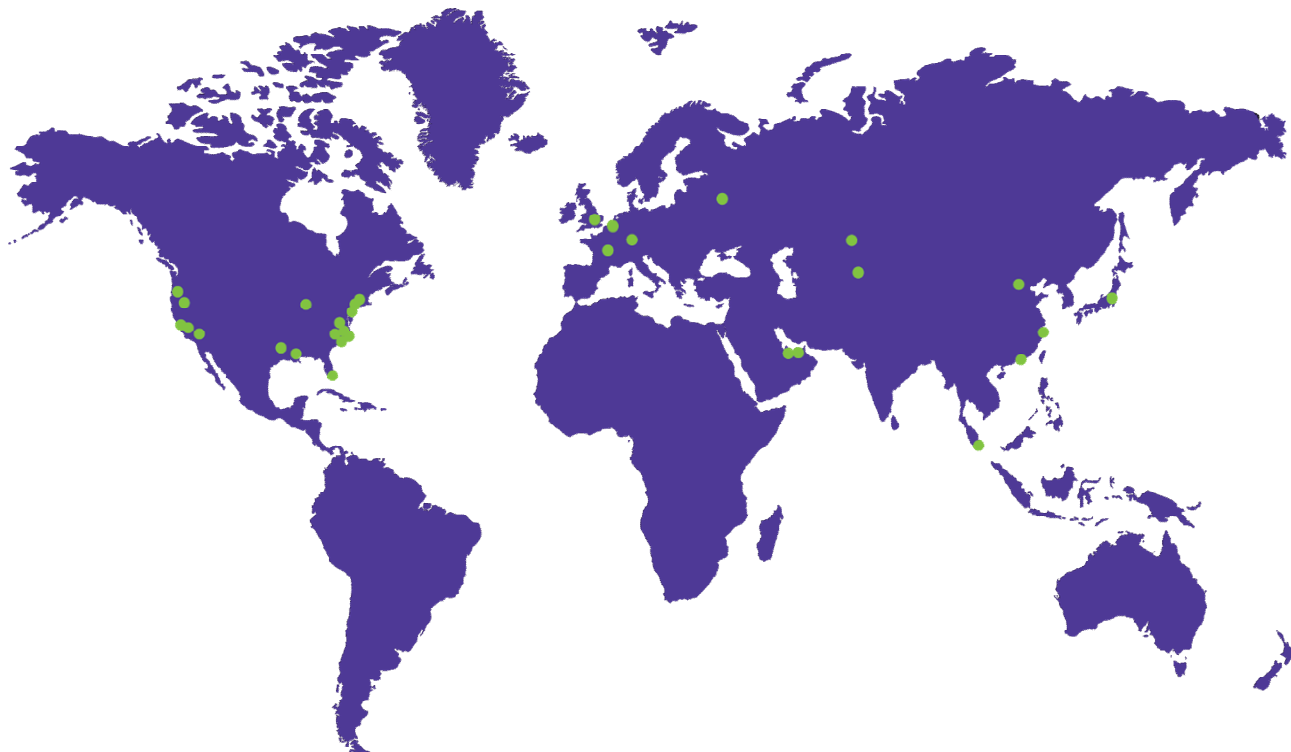
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