

IPBA JOURNAL

IPBA NEWS AND LEGAL UPDATE



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Vietnam's New Draft Regulations on Online Games



With 13 million gamers, Vietnam is an attractive destination for enterprises operating in the online gaming industry. The Government has worked for a long time on new draft regulations governing online gaming issues. Once this draft is enacted, there may be significant changes for gaming providers, as well as gamers.

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Vietnam is considered to be an attractive market for online gaming in Asia. With more than 13 million gamers, Vietnam is becoming a popular destination for investors in the online gaming industry. For gaming clients (games installed on computers and played on online) only, the expected market value for 2012 is VND5600 billion (approximately US\$269 million).¹ However, a complete legal framework for online gaming in Vietnam is still in the drafting process.

The Vietnamese Government is currently working on the final draft of the Decree on the Management, Supply and Use of Internet Services and Information Content on Networks ('Draft Decree') for official issuance. At the time of writing this article, the implementation date of the new regulations remains unclear. Nevertheless, once it is launched, it will have a significant impact on the online gaming business in Vietnam.



Managing More Games

Currently, only internet-based games that have interaction among the players, or between the players and the servers of the gaming providers, are governed under the online gaming regulations. Other types of games that have no interactions among the players or between the players and the supplier's server, such as downloaded games, are not included in the regulations. As a consequence, downloaded games are not managed as tightly as online games.

However, downloadable games which are played without any interaction also fall under the governance of the Draft Decree, along with other types of online games and are collectively called 'electronic games on networks'. Specifically, electronic games here include: (i) games that players would play concurrently via the server system of the gaming providers; (ii) games with interaction between the players and the provider's servers; (iii) games with interactions among the players but without interactions with the provider's servers; and (iv) downloadable games without interactions of the players and the provider's servers. This changes the traditional thought that only online games are under licensing requirements. The definition of electronic games also provides more specifics on the devices that gamers use for playing games, which include any terminal devices such as computers and mobile

phones. This makes the coverage of electronic games much more comprehensive and will help enterprises avoid confusion in classifying whether their games are covered by the Draft Decree.

More Permits Required

The Draft Decree retains the same requirement that enterprises entitled to supply games must be established in Vietnam. Furthermore, a new type of permit requirement was added to the draft. Accordingly, any enterprises intending to provide electronic games on networks must obtain a license from the Ministry of Information and Communications (MIC). The Draft Decree also requires the licensed enterprises to apply for amendment of the license whenever they add a new game to category (i) above (ie games concurrently played among the players and the games provider's server). As a result, an enterprise in the gaming industry may have to apply to amend its license many times after the first time. As for the remaining games, the enterprise must register with MIC to launch a new game.

The enterprise must also apply for amendment of the license if there is any change to the name of the enterprise, name of the game, or place for locating the enterprise's server, or if the enterprise ceases or suspends supplying the licensed games within six months of the licensing date.

A license for provision of electronic games on networks has a maximum term of 10 years. This maximum term includes the term for extension of the license. If the license has a term of 10 years as its first license, any extension of such license will be no more than one year.

No cash deposit or fee for issuing the license is mentioned under the Draft Decree.

Virtual 'goods'

Similar to many other jurisdictions around the world, virtual items are not recognized as assets under Vietnamese laws. Currently, under the Joint Circular No 60/2006/TTLT-BVHTT-BBCVT-BCA on Online Game Management ('Circular 60'), virtual items are prohibited from being created for profit-earning purposes.

The Draft Decree does not provide such explicit prohibition like Circular 60. It stipulates that virtual items, as well as bonus points, are not allowed to 'be exchanged into money or assets in any form'. It seems clear under this regulation that gamers are not allowed to convert virtual items into money or any kind of real property. However, it is not expressly provided whether gaming providers are also prevented from creating such virtual 'goods' for selling to gamers. The question may be clarified in the official version of the Decree or further confirmation under a circular.



If the Draft Decree is issued with the intention to prohibit enterprises from creating virtual 'goods' in games for commercial purposes (as provided by the current law), there are many games that may not be activated in Vietnam due to this barrier. In fact, the online gaming industry is developing rapidly and many games are offering virtual items to gamers as a type of goods. Purchases of such virtual 'goods' in certain games are conditions for participating in the games.

Despite these prevailing and draft regulations, a number of cases have arisen in practice where gamers sell and purchase virtual 'goods' and then have disputes with each other. In the future, where players have to pay a huge amount of money for a virtual item, or in a situation where thousands of players ask for the real value of the virtual items, it would not only be an issue on legal paper, but would become a major social issue. A legal consequence of a civil transaction which contradicts laws such as a 'commercial transaction' of virtual 'goods' may not be recognized and settled by the relevant authorities and court.

Payment for Online Games

Gamers often use credit cards (eg Visa, MasterCard), debit cards, or electronic banking to buy hours for playing games, or to buy games (and to buy virtual items in a number of games). However, in Vietnam, many gamers are youths or students. Most of them are not able to earn money and rarely use international payment cards, internet banking or debit cards. Rather, they often use cash to buy certain types of payment cards, such as game cards or calling cards to make game account payments.

It would be more convenient for a gaming provider to directly collect the payment and provide a payment facility for the gamers, especially for gaming providers that issue a virtual currency for use in their games (eg for buying virtual items in a game). These virtual currencies can be converted from real money paid by the gamers.

However, in Vietnam, while the laws are silent on the subject of issuance of a virtual currency, the granting of licenses to conduct payment services is very limited for organizations that are not banks, like a gaming provider. To date, only nine non-banking organizations have been licensed to provide intermediate payment services. Several of these enterprises are companies operating in the information technology area. A license to a non-banking organization is considered by the State Bank of Vietnam (SBV) on a case-by-case basis only. Practically speaking, possible reasons for the

SBV to limit foreign non-banking organizations in providing payment services may be to control the potential risks, such as international gambling on the internet or money laundering.

A new draft on non-cash payment provides stricter conditions for non-banking organizations to be able to provide these types of services. Further conditions are proposed under this new draft. Specifically, the organization must have a minimum of VND50 billion in charter capital and sufficient financial capacity to establish engineering equipment systems, and maintain operations which are appropriate for the scale of service provision. With these conditions, it seems the SBV tends to limit enterprises in a completely different industry, eg the games industry, from conducting payment services.

Gamers and Internet Cafes

For fear of an increase in crimes due to the possible impaired physical and mental health of gamers, gamers will have to register their personal information each time in order to be able to play and they will be limited to a maximum of three hours per game. Gaming providers and internet cafes are not allowed to provide gaming services between 10pm and 8am. Internet cafes are not permitted to serve customers in school uniforms between 8am and 5pm. These facilities must verify and save personal information of gamers, including name, age, permanent address and an identity card number or passport. Gaming content including violent or sexual acts, brutal fighting or bleeding, is strictly prohibited.

Internet use is now a major part of people's daily lives. Online gaming, as a form of entertainment, has become very popular especially among the youth in society. While people expect to have varied forms of entertainment made available to them, this must be balanced with mechanisms in place to prevent gaming addiction, as well as other negative consequences arising from online gaming. Enterprises operating in the gaming industry are concerned about tighter restrictions which could be burdensome. Meanwhile, enterprises may be influenced while waiting for the Decree to be issued, eg because there is a limitation on granting new licenses to gaming providers. The Decree, therefore, is greatly anticipated by gamers as well as relevant enterprises.

Note:

¹ <http://laodong.com.vn/Sci-Tech/Game-lau-xam-chiem-thi-truong-Viet/81980.bld>.