

Unofficial Translation



Lao People's Democratic Republic Peace Independent Democratic Unity and Prosperity

Ministry of Post and Telecommunications

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Decision On Software Business Operation and Internet Content Center Operation

- Pursuant the Prime Minister's Decree on Internet Data Center, No. 412/GOVT, dated 10 November 2016,
- Pursuant the Prime Minister's Decree on the organization and responsibility of Ministry of Post and Telecommunications, no 303/PMO, dated 26 September 2011.

The Minister hereby issues the Decision:

Chapter 1 General Provision

Article 1 Objectives

This decision defines the principles, regulations and measures for managing, monitoring and inspecting a Software Business Operation and Internet Content Center Operation to promote and to develop quality usage and services; it aims to ensure order, safety, fairness for users and society, contributing to the National Socio-Economy Development.

Article 2 Operating Software Business and Internet Content Center

Operating Software Business is to conduct business services to build, develop, sell, and provide other services on Software.

Operating Internet Content Center is to conduct business services to build, develop, and provide services in electronic forms.

In order to Operate Software Business and Internet Content Center, license must be approved from Post and Telecommunications sector.

Article 3 Definitions

The terms used in this Decision have the following meanings:

1. **Software** means programs or set of commands that operate a computer or any other electronic devices to function on a certain operation;
2. **Internet Content Center** means any Internet Content Service Center in the electronic form such as social media, video, image, voice, music, and document via Internet;
3. **Electronic Data** means data that is recorded or stored in the digital form that can be read from data output media system, printing or by other forms;
4. **Data Base** means a systematic storage of data in electronic form that can be managed, modified and used.
5. **National Internet Exchange, International Internet Gateway** means an interconnection point among domestic Internet Service Providers (ISPs) and between domestic and international networks;
6. **Website** means an information system that is constructed of one or many web pages;
7. **Correctness** means software processing must be accurate as expected and secure;
8. **Reliability** means minimum erroneous operation; if there is an error, it must be solved easily and timely;
9. **Efficiency** means the use of minimum computer system and Internet resources;
10. **Malicious Software** means software or programs that are built to destroy Computer System, to steal computer data or to set opportunities for manipulating entry or control computer.
11. **ISO/IEC 29110 (International Organization for Standardization/International Electrotechnical Commission 29110)** means International Standard relating to Software development for using in Software Engineering Procedures;
12. **Business Operation Operator** means an entity who is permitted from Post and Telecommunications sector to operate a business on Software and Internet Content Center;
13. **Procedures** means processes in building, developing and other actions;
14. **Information and Communication Technology (ICT) Products** means Software, Hardware, and Information Technology that are related to ICT;
15. **Virus** means any program developed specifically for spreading, damaging or destroying computer system, computer network, and computer data.

Article 4 Scope of Applicability

This decision applies to individuals or legal entities conducting business on Software and Internet Content Center in Lao PDR.

Chapter 2 Approval

Article 5 Types of Business Operation

There are two types of Business Operation in Software and Internet Content Center as the followings:

1. Software Business Operation;
2. Internet Content Center Business Operation.

5.1. Software Business operator

Software Business operator is an individual who operates business on building, developing, installing, selling and renting Software.

5.2. Internet Content Center Business operator

Internet Content Center Business operator is an individual who operates business on building, developing, and providing services on message, image, voice, video in the form of electronic data which output on electronic devices that have Internet Connection.

Article 6 Technical Standard and Security Standard

6.1. Technical Standard

Software and Internet Content Center Technical standard must include the followings:

1. Supporting Lao Characters;
2. Ensuring Correctness and Reliability;
3. Ensuring efficiency, user friendliness, easy to install and maintainability;
4. Having user documentation;
5. Assuring virus-free or malware-free product;
6. Complying international standard in developing a product on software ISO/IEC 29110;
7. Having data and database located within Lao PDR;
8. Ensuring connection through an internet exchange of Ministry of Post and Telecommunications (MPT).

6.2. Security Standard

Software and Internet Content Center Security standard must include the followings:

1. Having Data Backup System for at least ninety (90) days and having Recovery System;
2. Having access control and authentication system before accessing Software and Internet Content Center;
3. Storing Confidential Data and transferring important data must have encryption for security measures;
4. Important user data in the system must be accessed by the authorized individual only;
5. Specifying equipment used for connection to ICT system for checking the connection of the equipment that it does come from specific authorized equipment or an authorized location for connecting.

Article 7 License Issuance

Legal entities who wish to operate business on Software and Internet Content Center must request approval license from Post and Telecommunications sector.

Article 8 Requirements for Issuing License

The requirements for issuing a license to operate business on Software and Internet Content Center are as follows:

1. Have appropriate required staffs for the type of service;
2. Have appropriate set up location;
3. Shall not be in the process of trial for bankruptcy or has been judged bankrupt according to the law of Lao PDR;
4. Submit documents as indicated in the attached annex.

Article 9 License Issuance Process

Processing, considering to issue a license must be completed within ten (10) working days after the date of receiving the request.

In the case that the submitted documents are incomplete, inaccurate or do not meet with requirements, the applicant shall be informed accordingly within five (5) working days.

Article 10 Renew, Change, Suspend or Withdraw

Renewing a license of Software and Internet Content Center must include submitting documents as specified in the attached annex and submit request at least thirty (30) days before expiry date where the management and inspecting authority will take five (5) working days to consider.

An individual or a legal entity that wishes to change the content of, suspend or withdraw their business operation shall seek approval from Post and Telecommunications sector together with a request document explaining their reasons.

Article 11 Service Scope of Business Operation

A license of Business Operation on Software and Internet Content Center may be used to conduct services as defined in the service type of their license and it is valid for one (1) year after the approval date.

Article 12 Fees and Service Charges

Fees and service charges for issuing a license to operate Software and Internet Content Center are according to the regulation on fees and service charges as promulgated from time to time.

Chapter 3 Rights and Obligations

Article 13 Rights and Obligations of Business Operator

Business operator of Software and Internet Content Center have the following rights and obligations:

1. To provide services according to approval type of business;
2. To request renewing, changing, suspending or withdrawing the business;
3. To protect rights and benefits within their services;
4. To ensure quality of service and to maintain, as appropriate, according to each type of Software and Internet Content Center;
5. To be responsible for their information and to ensure that the information will not affect others;
6. To respect rights and to protect personal data of service users, shall not disclose users' data, except when requested by related government authorities;

7. To cooperate, monitor, inspect and prevent any activities on Software and Internet Content Center of an individual and a legal entity domestically that impacts national defense-public security activities and culture-society;
8. To have other rights and to implement other obligations as specified in the laws or regulations.

Article 14 Rights and Obligations of Users

Users of Software and Internet Content Center have the following rights and obligations:

1. Receive quality, convenient, fast and safe service;
2. To request and petition a service business operator according to jurisdiction procedures for justice;
3. To propose to the management authority and inspection authority about quality, technical standards, and service fees of the business operator;
4. To take responsibility of their own information that would affect other individuals, legal entities, organizations and communities which are incompliant with the laws or regulations;
5. To pay service fees according to regulations;
6. To have other rights and to implement other obligations as specified in the laws or regulations.

Chapter 4 Prohibition

Article 15 General Prohibition

Individuals, legal entities or organizations are prohibited to:

1. Operate business without approval of Post and Telecommunications sector;
2. Block, obstruct the operation of Software Business and Internet Content Center;
3. Cooperate, create conditions or provide assistance to any individual, legal entity to violate articles as specified in this Decision;
4. Behave in ways that violate the laws or related regulations.

Article 16 Prohibition for Management and Inspecting Staffs

Staffs of Post and Telecommunications sectors are prohibited to:

1. Delay, impede, and forge documents;
2. Use the power under their authority to gain personal benefits with a business operator;
3. Disclose the confidential information of a business operator;
4. Behave in ways that violate the laws or related regulations.

Article 17 Prohibition for Business Operator

Business Operators of Software and Internet Content Center are prohibited to:

1. Lents, leases or transfers the license;
2. Provides services out of approved scope, as specified in the license or not within the mandates;
3. Supports, dominates or abuses power in the market on other service providers;
4. Behave in ways that violate the laws or related regulations.

Chapter 5 Management and Inspection

Article 18 Managing and Inspecting Organization for Software Business and Internet Content Center

Managing and Inspecting Organization for Software Business and Internet Content Center is the Post and Telecommunications sectors in the coordination with related sectors;

Article 19 Rights and Responsibilities of Ministry of Post and Telecommunications

Ministry of Post and Telecommunications has the following rights and responsibilities:

1. To consider to grant, renew, update, suspend or withdraw a license;
2. To monitor and inspect the implementation of requirements, standards and regulations according to this Decision document;
3. To warn, educate or issue fine to an individual or a legal entity who breaches this Decision and related regulations;
4. To consider modifying proposal about permitting operation of Software business and Internet Content Center services such as product quality, service, technical standard, safety, service fee and etc.;
5. To collect fees and service fees in issuing a license and other fees according to laws and regulations;
6. To execute other rights and responsibilities as specified in the law and regulations.

Article 20 Rights and Responsibilities of Provincial/Capital Division of Post and Telecommunications

Provincial/Capital Divisions of Post and Telecommunications have the following rights and responsibilities:

1. To consider to grant, renew, update, put a hold or suspend a license as accordance to the requirements issued by Ministry of Post and Telecommunications;
2. To monitor and inspect the implementation of requirements and regulations according to this Decision;
3. To warn, educate or issue fine to an individual or a legal entity who breaches this Decision;
4. To execute other rights as specified in the law and regulations.

Chapter 6 Measures for Violator

Article 21 Measures for Violators

Any individual or legal entity that violates this Decision shall be undergoing educated measures, fined, have their license suspended or withdrawn, depending on the severity level of each case as well as be liable for compensation for the loss incurred.

Article 22 Educated Measures

Any government official or a business operator violating this Decision shall be undergoing educated measures as followings:

1. Any government official who does not provide convenience, being slow for action, unreasonably impedes the process of considering a license proposal document, acts inappropriately or uses inappropriate words;
2. A business operator who does not provide convenience to users or those who violate the Prohibition lightly;

Article 23 Disciplinary Measures

Any management and inspection staff who violates this Decision, which is not a criminal offense and only creates a minor loss, shall be subjected to disciplinary measures based on case by case as followings:

1. Denouncing, warning of violation in accordance with regulations concerned with recording in working record of the violator;
2. Suspension of work rank and salary promotion as well as suspension of commendation;
3. Dismissal or demotion of position to work at the lower position;
4. Dismissal from the status of civil servant without any compensations.

The personnel(s) or official(s) subjects for disciplinary must return all the wrongfully acquired assets to the organization they belong to.

Article 24 Fine Measures

Any individual or legal entity violating this Decision shall be fined, as follows:

1. Operating business on Software Service and Internet Content Center without approval shall be fined 10,000,000 Kip;
2. Lending, leasing or transferring license to others, shall be fined 5,000,000 Kip;
3. Providing services out of scope as specified of license type, as specified in the license or not within mandates of the license, shall be fined 2,000,000 Kip;
4. Has counterfeited, supplied wrong information, covered up or has not cooperate with the Management Authority and Inspection Authority, shall be fined 5,000,000 Kip;
5. Publicizing, distorting, or Imputing other service providers, shall be fined 5,000,000 Kip;
6. Failing to renew license within 30 days after the expiry date of the license, shall be fined 1,000,000 Kip.

Article 25 Measures on Suspension and Withdrawal of License

The Management Authority and Inspection Authority will suspend a license of Software Business operation and Internet Content Center operation as follows:

1. Has provided services out of approved scope or not within mandates of the license;
2. Has counterfeited, covered up or supplied wrongful information that is not aligned with the Management Authority and Inspection Authority' specification;
3. Has not paid fees, service charge or taxes to the Government;
4. Has violated laws and other related regulations;

The Management Authority and Inspection Authority will withdraw a license of Software Business operation and Internet Content Center operation as follows:

1. Has lent, leased or transferred the license to others without a permission;
2. Has license suspended, but yet to follow notification of the Management Authority and Inspection Authority within 90 days;

3. Has violated other laws and related regulations;

Chapter 7 Final Provision

Article 26 Implementation

Assigned to the Department of Information Technology and Provincial/Capital Divisions of Post and Telecommunications strictly implement this Decision.

Article 27 Effectiveness

This Decision shall come into effect upon the date of signing and after fifteen days of publication in the Official Gazette.

**[Seal and Signature]
[Thansamay KOMMASITH, PhD]
Minister**

Annex

1. A set of documents to request a new License of Software and Internet Content Center are as follow:
 - Application/request form;
 - Resident certified document;
 - Identity Card/passport of the applicant;
 - Biography of the Managers;
 - Education Certificate of the Managers and Technical Staffs;
 - Business feasibly study document;
 - Copy of Enterprise License Certificate;
 - Financial Status Report/Business Transaction Statement;
 - Other related documents.
2. A set of documents to renew License of Software and Internet Content Center are as follow:
 - Request form;
 - Resident certified document;
 - Business Operation Report of the previous year;
 - Financial Status Report/Business Transaction Statement ;
 - Other related documents.
3. A set of documents to request to suspend, change, withdraw License of Software and Internet Content Center are as following:
 - Request form;
 - Resident certified document;
 - Copy of Enterprise License Certificate;
 - Other related documents.

[Seal and Signature]

Director General of Department of Information Technology

Thavisak Manodham, PhD