Business Activity on the Internet: Main Sources and Prospects of Legal Regulation

Larisa V. Shvarts

Associate Professor of Department of Civil and Labor Law, Russian Academy of National Economy and Public Administration under the President of the Russian Federation, North-West Institute of Management, St. Petersburg, Russian Federation, PhD in Juridical sciences; shvarz7@yandex.ru

ABSTRACT

The current Russian legislation defines the Internet as a kind of information and telecommunication network. The article is devoted to the problems of legal regulation of business use of the Internet. One of the main issues today in the context of relations "business — Internet" is the question of the ratio of the application of existing legislation and the adoption of special regulations that take into account the specifics of the world wide web. According to the author, there is no need to give a special status to the conclusion and execution of transactions through the Internet space, adopting special laws; it is enough to develop the provisions of existing ones, developing a mechanism for the use of Internet technologies.

Keywords: Internet, business activity, legal regulation, legislation

Internet space is actively filled in with commercial content managed by entrepreneurs. Intensive move of trade from "physical" market to the network market is ongoing, and previously non-existent forms of entrepreneurship are emerging in the market due to new developed and launched Internet technologies. This actually spontaneous economic reform was responded by development of the regulatory framework that regulates specific relationship in the Internet both at the international level and at the level of particular States.

In this context, it is worth to mention the UN Convention adopted on November 23, 2005 (hereinafter referred to as the "Convention") on the use of electronic communications in international contracts.[1] The Convention member states are obligated to recognize the legality of electronic communications used in contracts, and to keep record of the place and time of messages sent. The Convention also defines the concept of "electronic terms", the introduction whereof in the terms of the contract means for the parties that they recognize the exchange of electronic messages as a tool for business negotiations and recognition of such negotiations status as a valid transaction. For Russia, the document entered into force on August 1, 2014.

The World Intellectual Property Organization actively participates in regulating Internet entrepreneurship, its core business is protection of intellectual property, which is also relevant for e-commerce. For example, the "Agreement on trade-related aspects of intellectual property rights", was developed jointly with the World Trade Organization (WTO), and it is known as "Agreement on TRIPs, which has been in force in Russia since August 8, 2012.[2] It establishes and enables regulation of international trade in intellectual property in the global world market within the framework of the WTO.

The World Trade Organization has also developed and concluded the Agreement for communication information technologies (CIT) whereunder tariffs for goods directly related to information technologies are to be decreased.[3]

Directive No. 2011/83/EC "On Consumer Rights" and Directive 2000/31/EC "On Particular Legal Aspects of Information Services in the Internal Market, in particular, on e-commerce" are in force within the European Union.[4] According to these documents, each consumer is entitled to use legal remedies available in the country of permanent residence.[5] In fact, the European Union has made all the necessary preliminary steps towards the formation of the legal framework for development of e-commerce. And, despite the fact that Russia has not participated in this process, the European experi-

[1] The Convention is published in Russian on the official web portal of legal information Available at: http://www.pravo.gov.ru (accessed 18.09.2019).

[2] Collection of Legislative Acts of the Russian Federation. 10.09.2012. No. 37 (appendix, part VI). PP. 2818–2849.

[3] See: Zagashvili V. S. World Trade Organization in the Face of New Challenges [Vsemirnaya torgovaya organizatsiya pered litsom novykh vyzovov] // Russian Foreign Economic Journal [Rossiiskii vneshneehkonomicheskii vestnik]. No 7. M., 2016. P. 17. (In rus)

[4] Official website of the European Union Legislation. As of 25.08.2017. Available at: http://eur-lex.europa.eu (accessed 10.09.2019).

[5] See: Arkhipov V. V., Kilinkarova E. V., Melaschenko N. V. Problems of Legal Regulation of Circulation of Goods on the Internet from Distance Selling to Virtual Property [Problemy pravovogo regulirovaniya oborota tovarov v seti Internet: ot distantsionnoi torgovli do virtual'noi sobstvennosti]. M.: Law [Zakon]. 2014. No 6. P. 121. (In rus)

ence of legal regulation is of particular importance, since our country belongs to the same legal family as the majority of the European countries.

The United Nations Commission on international trade law developed the UNCITRAL model law, i.e. United Nations Commission on International Trade Law, UNCITRAL on electronic signatures[6], the UNCITRAL Model Law on Electronic Commerce.[7] The UNCITRAL model law on electronic signatures does not make much sense for Russia, since the Federal law "On electronic signature" has already been adopted. The model law on electronic commerce is more interesting for Russian legislators and entrepreneurs due to the lack of the appropriate law in the Russian legal system, and as such law affects the matters of electronic commerce as a whole, administration of legal requirements with regard to messages, transmission of data, shipping documents, and transportation of cargoes.

For the purpose of interpretation of the aforesaid legislative acts their international origin and the need to facilitate uniformity in their application and adherence to fair performance principles shall be taken into account.

Regarding the organization of online business within the country, it should be noted that notwistanding the rejection of the draft law No. 11081-3 "On Electronic Commerce"[8] by the legislators, there is currently a certain legal framework established for online business carried on via Internet in Russia, and this business demonstrates the trend for further continuing expansion and detalization.

The key source of legal regulation of business activities is the Civil Code of the Russian Federation. As a whole, the civil law does not define online business carried on online, but it appears that online commerce has the same set of features as the generic concept, but the difference lies in the means of such activity — it is carried on in Internet space. Therefore, Internet entrepreneurship includes business activities carried on through Internet, permeating all lines of business, such as insurance, trade, e-money, marketing, banking, and information exchange.

The legislator sets special requirements to business carried on via digital space also in the laws regulating particular legal relationship, for example: In the Federal Law No. 149-FZ of July 27, 2006 "On information, information technologies and information protection"[9], Law of the Russian Federation No. 2300-1 of February 7, 1992, "On Consumer Rights Protection",[10] Federal law No. 38-FZ of March 13, 2006, "On advertising".[11]

Thus, a kind of intermediary services in Internet is represented by the business of the organizers and owners of the website (software) copying the "uber" concept.[12] In Russian law, participants in such Internet relationships are referred to as owners of aggregators, and specifically: The law of the Russian Federation "On Consumer Rights Protection" introduced the general concept of the aggregator, while the Federal law "On information, information technologies and information protection" uses the term "news aggregator", by the Order of the Government of the Russian Federation of April 28, 2018 under No. 824r the concept of the "unified trade aggregator" was introduced, and customers using this term may effect procurement operations to satisfy public and municipal requirements. In the theoretical research works the following definition was given to this term: owners of aggregators are "organizations or individual entrepreneurs who are not real sellers, but act as intermediaries and direct recipients of funds transferred by consumers towards payment of the goods presented on their websites".[13]

"Intermediary sites" are very popular both among business entities and private entrepreneurs and among ordinary individuals, and this fact is explained primarily by simplicity of the search; for organizations

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[6] The document was not published. Available at: https://www.uncitral.org/pdf/russian/texts/ electcom/ml-elecsig-r.pdf (accessed 18.09.2019).

[7] The model law in Russian is published in the edition: UN Commission on International Trade Law. Yearbook. 1996, Vol. XXVII. New York: United Nations, 1998. PP. 319–323.

[8] In 2004, the draft Federal law was rejected in the second reading. Despite the rejection of the legislative draft, the provisions contained therein are essential for understanding specific terminology, as well as for interpretation of existing civil law norms in the context of e-business and are accepted by many entrepreneurs as illegal definitions and even to some extent a kind of behavior model, although not established at the level of the law, but being perceived as "common".

[9] Russian Newspaper [Rossiyskaya Gazeta]. 29.07.2006. No. 165.

[10] Russian Newspaper [Rossiyskaya Gazeta]. 16.01.1996. No. 8.

[11] Russian Newspaper [Rossiyskaya Gazeta]. 15.03.2006. No. 51.

[12] The term "uber" is derived from the name of the US company — Uber Technologies Inc. Uber is a company organizing transportation of passengers and baggage, while Uber itself is not a carrier and does not incur responsibility as a carrier under the general rule. Uber performs as intermediary between a customer and a carrier, and such business model has become very popular (inter alia, with different features and in different markets), while the name "Uber" is a common name.

[13] Leiba A. The State of Competition in Retail Internet Trade [Sostoyanie konkurentsii v roznichnoi internet-torgovle] // Competition and Law [Konkurentsiya i pravo]. No 3. M., 2016. P. 45. (In rus)

providing such services, the profit from such activity is very high. Nevertheless, because of the lack of clear-cut legal regulation of their activities, business entities and private entrepreneurs who own websites and are not classic sellers (contractors) did not actually bear the burden of compliance with consumer rights to the information about the seller (manufacturer, contractor), on products sold and services offered. Anyway, they perform as immediate recipients of cash funds, so they must be included into legal relationship between the contractor (seller) and the customer.

In the Directive of the European Parliament and the Council of the European Union of October 25, 2011 2011/83/EC, On Consumer rights, this trend was taken into account, and the said Directive defines the concept of "remote contracts" (organized schemes for remote sales of goods or remote provision of services without the need for concurrent physical presence of the seller and the consumer, with the exclusive use of one or several remote communication facilities until the moment when a contract is entered into).[14] It is expressly stipulated in article 8 of the Directive that the intermediary, who is the organizer of the remote sale scheme, must provide complete and reliable information about the product (service) before entering into the contract, as well as information about the seller (contractor).

Following the principle of promoting the proper functioning of the internal market by achieving a high level of consumer protection, the Russian legislator has compensated the lack of the rule of law by establishing the requirement to the effect that the organizer of the information disseminated in Internet (the owner of the social network or messenger), who, on the one hand, does not interfere in activity of its users, but, on the other hand, when providing Internet space, in case of violation of private or public interests must act as a person who is obligated to undertake actions required by law, and this obligation also corresponds to the status of the intermediary.

As for the necessity to introduce liability for the owners of aggregators for accuracy of information and for control over the sellers, it should be noted that the legislator has introduced substantial changes to the Law "On Consumer Rights Protection".[15] This, in accordance with part 2.1 of article 12 of this law "the owner of the aggregator, who provided the consumer with false or incomplete information about the product (service) or about the seller (contractor), relied upon by the consumer at the time of signing a sale-purchase contract (a contract for payable services) with the seller (contractor), is liable for losses caused to the consumer as a result of such information provided to it. The list of the instances wherein owners of aggregators are liable is not limited by the changes made, and the position for possible liability to be incurred by the aggregators on other legal grounds was reaffirmed in the explanations of the RF Supreme Court.[16]

Another essential aspect is worth noting here. An organizer of information disseminated via Internet is obligated to comply with requirements of the laws with regard to protection of intellectual property, but unlike the "ordinary" website owner, who on its own determines and fills up such website with content, the organizer primarily provides such possibility to registered users. Therewith provided that liability for posting unauthorized content shall be incurred by the person who has access to the website and posts information in such person's name. The organizer is required to assist in removing property items from public access. For violation of these requirements, the organizers will be held administratively responsible, and their websites will be blocked. It is a known fact that Internet enables users to quickly and uncontrollably post information, which circumstance in couple with a large number of Internet resources makes it almost ineffective to control the unauthorized distribution and use of intellectual property items. At the same time, possession of intellectual property plays an important role in entrepreneurial activity (business operations). Intellectual property enables uniqueness of an entity, attractiveness of an entity for counterparties, and it makes it possible to derive passive income.

A special category of intellectual property disputes is presented by disputes connected with a domain name. In the Russian law, a domain name is not currently regarded to be an item of intellectual property. In the draft version of the Federal law No. 47538-6 "On amendments to parts one, two, three and four of the Civil Code of the Russian Federation, as well as to some particular legislative acts of the Russian Federation" a domain name was recognized to be a means of individual identification, it was defined and it was stipulated that the exclusive right to a domain name arises with effect from its registration. Nevertheless, these provisions were removed during consideration of the draft law. V.I. Ere-

[14] Directive of the European Parliament and European Council dated 25.10.2011. 2011/83/EC Available at: http://www.wipo.int/ (accessed 10.09.2019).

[15] On amendments to the Law of the Russian Federation "On Consumer Rights Protection": Federal law No. 250-FZ of 29.07.2018 // Collection of Legislative Acts of the Russian Federation, 30.07.2018, No. 31, article 4839.

[16] On some aspects in application of laws governing truck carriage of cargoes, passengers and luggage and on contracts for cargo forwarding services: the resolution of the Plenum of the Supreme Court of the Russian Federation No. 26 of June 26, 2018 // Russian Newspaper [Rossiyskaya Gazeta]. No. 142, 04.07.2018.

menko, Doctor of Law, a former head of the Law Department of the Eurasian patent office, commented on this issue as follows: "Such outcome is logical, since no exclusive right to a domain name is officially recognized anywhere in the world, and inter alia, at the international level".[17]

Nevertheless, among interim measures available pay a party in a domain-related dispute, it is possible to provide for a prohibition for the administrator from performing any actions with the domain name, and also alienation, refusal, change of a registrar, as well as prohibition for the Registrar to cancel the domain name and to transfer the rights of administration of domain name to other person.[18] Another important aspect for resolving such disputes is involvement of the domain name administrator is a co-respondent (co-defendant) in the legal proceedings. Thus, in pursuance with article 1253.1 of the Civil Code of the Russian Federation, an information intermediary under the general rule is liable for violation of intellectual rights in the IT and telecommunications network on general grounds if the guilt is proved.

Federal law No. 63-FZ of April 6, 2011 "On electronic signature" plays a significant role in making civil transactions in the Internet space.[19] The introduction of electronic documentation flow in almost all fields of activities has made it necessary to have a digital analogue of the common physical signature. The law establishes the basic concepts used in these relationships. Thus, an electronic signature is understood as information in electronic form attached to other information in electronic form (signed information) or otherwise associated with such information and is used to identify the person signing the information. The law also defines the types of electronic signatures and establishes the procedure for such signatures to be obtained and used. As a whole, this act was adopted in order to ensure integrity of authenticity and accuracy of electronic documents and information certified by the electronic signature of the signatory, subject to the requirements stipulated in the law.

In this regard, I would like to note that on August 13, 2019 the Federal law No. 286-FZ of August 2, 2019 "On amendments to the Federal law on state registration of real estate"[20] came into force, and thereunder it is prohibited to consider an application filed in electronic form for state registration of a transfer of title or termination of title to a real estate property owned by an individual, if no information is available in the Unified state register of real estate about the possibility for filing such application in the form of electronic document and (or) electronic image of such document, signed by enhanced qualified electronic signature. Thus, it became impossible to submit documents for registration of a transfer of ownership in remote access, without the proprietor's permit, thereby minimizing the risks of fraudulent transactions with real estate.

In Russia as well there was adopted Federal law No. 161-FZ of June 27, 2011 "On the national payment system", which introduces key concepts for electronic commerce, such as "electronic payment instrument", "electronic money", "electronic money operator", etc. Electronic payment systems are organized by business entities, which, as a rule, are non-banking credit organizations whose activities are regulated by the Federal law No. 395-1 of December 2, 1990 "On banks and banking operations", acts of the Central Bank of the Russian Federation.

In its turn, the Code of the Russian Federation of administrative offences establishes liability for breaches of requirements applicable to business activities carried on both in general and via Internet. Thus, since September 2018, the legislator established administrative liability for non-compliance with the requirements related to prohibition on use of information networks for bypassing blockages, and search engines are required to connect to the Roskomnadzor (the Federal service for supervision of communications, information technology and mass communications) Unified register of prohibited websites, to follow the suit of the mobile operators who are already doing it. Also, providers will now be responsible for a failure to submit or for a late submission to Roskomnadzor of the relative data enabling Roskomnadzor to identify the owner of software and hardware used for accessing restricted information resources or networks. This rule will apply to information about notices given to the owner of such facilities about the need to post data that will enable identification of such owner (article 19.7.10 of the Russian Federation Code of Administrative Offences).

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[17] See: Eremenko V. I. On Improving the Legal Regulation of Domain Names in the Russian Federation [O sovershenstvovanii pravovogo regulirovaniya domennykh imen v Rossiiskoi Federatsii] // Legislation and Economics [Zakonodatel'stvo i ehkonomika]. No 10. M., 2012. P. 42. (In rus)

[18] On approval of the reference information to be provided on some particular issues related to the procedure established for interim measures be applied in a domain-related dispute: the resolution of the Presidium of the Court of intellectual property rights No. SP-23/3 of October 15, 2013. The document was not published. Available at: http://www.ipc.arbitr.ru/ (accessed 20.09.2019).

[19] Russian Newspaper [Rossiyskaya Gazeta]. 08.04.2011. No. 75.

[20] Russian Newspaper [Rossiyskaya Gazeta]. 07.08.2019. No. 172.

When talking about the prospects for development of business operations via the Internet, we will highlight the following two important documents. By the Decree of the President of the Russian Federation No. 203 of May 9, 2017 "On the strategy for development of information society in the Russian Federation for 2017–2030" the national interests in the field of digital economy have been approved.[21] By the order of the Government of the Russian Federation No. 1632-R of July 28, 2017, in pursuance with the aforesaid Decree of the President of the Russian Federation, the state program for digital economy of the Russian Federation was approved.[22]

For the purpose of implementation of the program's objectives, the State Duma Expert Council for digital economy and blockchain technologies under the Committee for economic policy, industry, innovative development and entrepreneurship commenced work in spring 2017.

Owing to the initiative of the Expert Council, Federal law No. 34-FZ of March 18, 2019 "On amendments to parts one, two, and article 1124, part 3 of the Civil code of the Russian Federation" came into force on October 1, 2019.[23] Article 141.1 "Digital rights" was incorporated in chapter 6 of part 1 of the Civil Code of the Russian Federation, and in pursuance with the said article the digital rights shall be understood as binding and other rights identified as such in the law, the content and conditions of exercising whereof are determined in accordance with the rules of the information system satisfying criteria established by the law. Accordingly, digital rights have been added to the objects of civil rights within the property rights (article 128 of the Civil Code of the Russian Federation). Implementation, disposal, and inter alia, transfer, pledge, charge, encumbrance of the digital right in other ways or restriction of the disposal of the digital right is possible solely in the information system without applying to a third party.

Terms and conditions applicable to determination of the owner of digital rights are regulated. It was established that the transfer of a digital right on the basis of a transaction does not require the consent of the person who assumed obligations under such digital right.

In addition, the law establishes conditions for compliance with the written form of the transaction effected with the use of electronic or other technical means enabling such person to reproduce contents of a transaction on a tangible carrier in unchangeable form, therewith the requirement to the existence of the signature shall be recognized to have been complied with if any method enabling to reliably identify a person who expressed his/her will is used (article 160 of the Civil Code of the Russian Federation). It appears that a possibility to reproduce the contents of the transaction on a physical carrier, among other things, means the ability to select the terms of the transaction into a separate file that can be saved (for example, on a hard disk of a server or a device) and print it.

As regarding the performance of the obligation arising upon occurrence of circumstances stipulated by the terms of the transaction, the creditor's will can now be expressed through the use of information technologies (article 309 of the Civil Code of the Russian Federation).

Part 2 of the Civil Code of the Russian Federation has been revised as well in connection with the said law adopted. It is established that the retail purchase and sale agreement is considered to be concluded in the proper form from the moment when the seller gives the buyer an electronic or other document confirming payment made for the goods with the use of remote methods of selling goods (ordering work, services) (article 493 of the Civil Code of the Russian Federation).

In Law No. 34-FZ contains provisions regulating the procedures for collection and processing of anonymized information about users. For example, chapter 39 was supplemented by article 783.1, which defines specifics of the contract for provision of information services, and, in particular, such contract (agreement) may incorporate a clause binding the parties to withhold from actions for a certain period if such actions may result in disclosure of such information to third parties. It is worth noting that similar confidentiality rules already exist, for example, in articles 771, 1032, 1467, 1470 of the Civil Code of the Russian Federation. Initially, the new rule was supposed to regulate the features of big data turnover, altogether modifying the concept of "database" in article 1260 of the Civil Code of the Russian Federation. The concept of database, however, has remained unchanged, and the issue of legal regulation of big data has remained open, and in connection therewith the reason for introduction of a separate rule is not clear.

It is also stipulated in the law that a nominal account agreement, and insurance agreement may also be entered into in the form of single electronic document signed by the parties, or by exchange of electronic documents by the parties (article 860.2 and 940 of the Civil Code of the Russian Federation).

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[21] Collection of Legislative Acts of the Russian Federation. 15.05.2017, No. 20, article 2901.

[22] Collection of Legislative Acts of the Russian Federation. 07.08.2017, No. 32. article 5138.

[23] Russian Newspaper [Rossiyskaya Gazeta]. 20.03.2019. No. 60.

At the same time, it is prohibited to make a will using electronic or other technical means (article 1124, part 3 of the Civil Code of the Russian Federation).

Therefore, at present, contractual and other rights to objects can be certified by digital rights, content and terms whereof are determined in accordance with the information system by model describing a security in article 142 of the Civil Code of the Russian Federation, while obligations under transactions can be performed in automatic mode. The legislator did not include self-executable contracts (so-called smart contracts) in the Civil Code of the Russian Federation as a separate type of contracts, but defined them as a subtypes of a written form of transaction. Under such approach the need to change the already existing legal models, as well as their implementation in the legal system and in the minds of law enforcement agencies has been eliminated.

The aforesaid innovations in the provisions of the Civil Code of the Russian Federation as amended by Federal law No. 34-FZ of March 18, 2019 "On amendments to parts 1, 2 and article 1124 of part 3 of the Civil Code of the Russian Federation" shall apply to legal relationship, as well as to those rights and obligations that were created after October 1, 2019.

In addition, commencing from January 1, 2020, Federal law No. 259-FZ of August 2, 2019 "On attraction of investments using investment platforms and on amendments to some particular legislative acts of the Russian Federation" will come into force.[24] As stated in the Explanatory note to this draft law, it was developed within the scope of the implementation of the IVth Strategy for development of small and medium-sized businesses in Russia for the period up to 2030, s approved by the Government of the Russian Federation. In line with the said strategy, solutions related to the development of an alternative source of financing for small and medium — sized businesses-collective financing (crowdfunding and crowd investing) shall be proposed. As noted by A. Aksakov, the Chairman of the State Duma Committee for the financial market: "This is already happening, we just set the rules to regulate this process. Individuals already invest in multiple projects, having watched good advertising, they invest money and sometimes they earn something, but often their profits are lost. And inter alia, because this process is not regulated by laws".[25] In this regard, this act regulates legal relationship in attracting investments with the use of information technologies, as well as those with operators of investment platforms for organizing retail financing, that is, regarding crowdfunding. It is stated in Law No. 259-FZ that solely Russian companies and individual entrepreneurs — operators of investment platforms, may attract money for small and medium-sized businesses for retail financing purposes. They will arrange for attraction of investments through investment platforms-special online platforms. Under the new rules the capital of the investment platform operators must be at least 5 million rubles The Bank of Russia will maintain a register of such operators. The law also regulates a number of other issues, such as follows: restrictions on attracting investments (one person can attract no more than 1 billion rubles per year); specific features of investments made by individuals (unqualified investors are not allowed to invest more than 600 thousand rubles within one calendar year within the scope of all investment platforms in the Russian Federation), etc. In this order, the following digital rights (utilitarian digital rights) can be acquired, alienated and exercised in the investment platform next year: The right to demand transfer of a thing (things); the right to require the transfer of exclusive rights to results of intellectual activity and (or) rights to use the results of the intellectual activities; the right to require execution of work and (or) provision of services. A separate article is dedicated to utilitarian digital rights in the Federal law No. 259-FZ of August 2, 2019. Taking the provisions thereof into account, as well subject to provisions of the digital rights Law, utilitarian digital rights should be understood as mandatory digital rights that are not subject to state registration, were initially created as digital rights, and circulation whereof is possible solely in the investment platform.

A possibility for depository accounting of utilitarian digital rights is stipulated in the Law. This means that not only the emerged and circulated utilitarian digital rights, but also the issuance and circulation of non-issue grade and non-documentary securities certifying utilitarian digital rights (digital certificates), which the depositary can dispose of, and securing the rights of the owners thereof to claim from such depository to provide services for exercising utilitarian digital rights and (or) dispose of them in a certain way, are regulated.

Federal law No. 259-FZ of August 2, 2019 introduced corresponding changes to a whole number of legislative acts; in particular, changes were made to the Law on advertising. It is established that advertising of investment assistance services using the investment platform must contain the following details: Address of the website whereon information is disclosed by the operator of the investment

[24] Russian Newspaper [Rossiyskaya Gazeta]. 07.08.2019. No.172.

[25] Available at:http://duma.gov.ru/news/27031/ (accessed 07.10.2019).

platform; a statement to the effect that conclusion of contracts via an investment platform, whereunder investments are to be attracted, is highly risky and may entail a loss of invested funds in full amount. Advertising related to attraction of investments in the following ways through an investment platform is prohibited: grant of loans; acquisition of placed shares of a non-public joint-stock company and issue-grade securities convertible into shares of a non-public joint-stock company; acquisition of utilitarian digital rights.

Changes have been introduced also to the Law on the national payment system: Therefore, in particular, funds received by organizations engaged in operations for arrangement of investments attraction are no longer deemed to be electronic funds.

It stated in the final provisions of the law that activities for organization of investments attraction through investment platforms after 01.01.2020 is allowed for persons whose information is included in the register of operators of investment platforms. This requirement, however, does not apply to organizations carrying on this activity as of January 1, 2020. The aforesaid organizations are required to bring their activities in compliance with the established requirements before July 1, 2020.

As a whole, requirements set by the law for participants of the investment platform are reasonable. Restrictions for individuals to the total volume of investments will protect them from reckless investments into risky projects. However, it is now clear that the existing platforms do not fit into the framework of the new regulation, as they imply attraction of investments in the form of cryptocurrencies, rather than fiat ones. Therefore, one of the regulation purposes is legalization of investments into tokens, is not achieved in fact, platforms and foreign investors will not rebuild their infrastructure and technology they use to meet the requirements of the Russian legislator.

Among other things, the liability aspect remains unclear. The law contains an article stipulating responsibility of the investment platform operator for losses incurred due to disclosure of inaccurate, incomplete or misleading information, for violation of rules prescribed in the law, as well as for the platform non-conformity to requirements of the law. The law does not contain information about other liability. At the same time, the law contains a whole number of prohibitions, for example, a ban on attracting investments into real estate through the platform. In this regard, it is not clear what type of responsibility will be borne by operators in case of violation of the established imperative prohibitions?

In addition, another draft law related to amendments to the Civil Code of the Russian Federation — No. 419059-7 "On digital financial assets and on amendments to some particular legislative acts of the Russian Federation" (on regulation of accounting and circulation of digital rights) is currently pending adoption. This law was expected to come into force on October 2019, as well as law No. 34-FZ. As indicated in the explanatory note to the draft law No. 419059-7, submitted to the State Duma of the Russian Federation on March 20, 2018, its purpose is "to legislate in the Russian legal field the definitions of the most widely used financial assets created and / or issued using digital financial technologies, which the draft law includes a distributed register of digital transactions…".[26] If, however, the first version of the draft law fully corresponded to this explanation, thereinafter its content has undergone material changes. A big glossary was removed from the project. Solely the definition of "digital financial assets" was left in the first article, while the rest of the concepts used in the document are not disclosed separately. As a whole, it can be noted that the draft law has a short but rather nonlinear history, which largely reflected the ambiguous attitude of state authorities to the technology of distributed registers and tools related to the said technology. Russian state authorities still can't decide what they should do with cryptocurrency. The law on digital financial assets seems to be almost ready, but new initiatives continue emerging. For example, the Ministry of Finance of Russia proposed cryptocurrencies be split into the following three categories: virtual assets, technical tokens, and digital financial assets, thereby increasing the effectiveness of regulating relationships between token holders.[27] The Ministry of Finance and the Bank of Russia oppose the status to be obtained by the cryptocurrency as a legal tender as they believe the crypto may compete with the ruble. It is stated explicitly in the draft law that digital assets are not a legal tender. It is assumed that the initiators of the draft law are willing to attach a legal status of property to cryptocurrency. At the same time, the token/cryptocurrency is not recognized as a security, but the requirements applicable to them actually copy the requirements established in the securities laws.

The analysis of the draft law also showed that many provisions of the draft law are declarative in nature, without providing for changes to the currently applicable legislation. It is stated in the certificate

[26] See: The explanatory note to the draft version of the Federal law on digital financial assets. Available at: http://www.asozd.duma.gov.ru/ (accessed 14.09.2019).

[27] The Ministry of Finance has found a way to regulate cryptocurrencies Available at: https://yandex.ru/news/story (accessed 15.09.2019).

to the draft law that the adoption of the draft law will not entail the need to make changes to the industry-specific legislative acts. However, in such case the draft law appears to be "torn off" from the Russian legal system. Therewith, "excessive" duplicating regulation of this sphere is visible. It is obvious that this draft law, in addition to the internal discrepancies, corresponds to the already adopted laws in the field of the digital economy in key aspects (also with regard to the terminological apparatus), and to the currently applicable Russian laws.

It was not accidentally anticipated that the legal regulation of relationships related to digital assets should be systemic. Even if the draft law on digital financial assets is passed, there is a high probability that cryptocurrencies will be banned as a legal tender in the territory of Russia. Therefore, the adopted law on crowd investing regulates investment in the form of traditional assets, with crypto assets intentionally left aside.The new rules should work for a certain time, and then after summarizing the existing practice, it will become clear how to use this novelty correctly. In consideration of the aforesaid, it is worth noting that that legal basis for doing business via the Internet in the territory of Russia. It is not accidentally occurred that the argument against the adoption of the law on electronic commerce was the lack of expediency of introducing rules regulating the already regulated public relationships. The increasing complexity of the legislation in itself does not entail any advancement of digital commerce in the Russian Federation, but creates additional difficulties for the law enforcement branch because the Civil Code of the Russian Federation is composed in such a way that it includes universal basic provisions, while the complexity is solely in correct interpretation and application thereof.

Therefore, the root cause is not a lack of a legal framework (the current legislation does not establish prohibitions on business carried on in the digital environment), but the lack of practice in doing business via Internet. It appears that it is accumulation of experience (administrative, judicial, business) evolving into established practice of interpretation that will enable development of the digital economy, instead of increased complexity of the legislation. This approach will enable us to take into account all trends in the regulation of e-commerce at the level of international organizations and the best foreign experience in regulating this phenomenon.

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