

Medical ads clampdown

Russian law is becoming stricter in relation to the advertising of drugs and medical services



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As of 1 January, amendments to Part 8 of Art.24 of Federal Law No.38-FZ 'On advertising' (the Advertising Law) dated 13 March 2006 have been in effect. Part 8 provides that the advertising of drugs in forms and doses dispensed on prescriptions, medical services and medical products that require special training is prohibited other than:

- in places where medical or pharmaceutical exhibitions, seminars, conferences or other similar events are held; and
- in special print media published for medical or pharmaceutical workers.

These bans apply solely to the medical services determined by the 'Nomenclature of medical services approved by Order No.1664n of the Ministry of Health Care and Social Development of the Russian Federation' dated 27 December 2011 (the 'Nomenclature of medical services').

Therefore, if an advertised medical service is specified in the Nomenclature of medical services, dissemination of such advertising is possible only in places provided by the Advertising Law. This is confirmed by Clarifications No.AK/1193/14 'On amending Federal Law "On advertising"' of the Federal Antitrust service, dated 20 January 2014.

The amendments sparked criticism from pharmaceutical industry experts and in response the ministry put forward an initiative to develop amendments to the law, referring to the fact that the bans could decrease the availability of information about medical services for the public and affect the interests of commercial clinics.

Evidently, the consequences of restrictions in the Advertising Law were not properly thought through and it is possible that the norm will be revised.

Advertising biologically active additives and methods of treatment

Federal Law No.200-FZ 'On amending Federal Law "On advertising" and Article 14.3 of the Administrative Offences Code of the Russian Federation' dated 23 July 2013 has been adopted.

This law is aimed at increasing the liability of mass media for the inappropriate advertising of biologically active additives (BAAs) for the purposes of protecting public health. In particular, the advertising of BAAs must be accompanied by a warning that the advertised item is not a drug. Furthermore, the law establishes increased liability for violations in the advertising of drugs and BAAs. The minimum fine has been raised from RUB100,000 (£1,661) to RUB200,000. The maximum fine is RUB500,000. The liability for violating the requirements for BAAs is imposed, among others, on advertisement distributors.

Federal Law No.317-FZ 'On amending certain legislative acts of the Russian Federation and repealing certain provisions of legislative acts of the Russian Federation regarding issues of health protection of the public in the Russian Federation' dated 25 November 2013 has also been adopted.

This law establishes that the advertising of folk medicine methods must comply with Clauses 2-5 and 7 of Part 1 Art.24 of the Advertising Law.

The advertisement of folk medicine methods must not:

- contain references to specific cases of recovery from diseases or improvements in a person's health as a result of using the advertised item;
- contain expressions of thanks to individuals in relation to the advertised item;
- create a notion of the advantages of the advertised item by means of reference to the fact of research obligatory for the state registration of the advertised item;
- contain assertions or presumptions that consumers of advertising have any diseases or health problems; or
- create an impression there is no need to visit a doctor.

Advertising on television

This year the Federal Antitrust Service (FAS) is planning to implement an electronic monitoring system of violations of the legislation on television advertising.

The FAS believes that recording increases in the amount of advertising with regard to the length of time determined by the legislation and monitoring the change in sound volume during advertising playback would be easy with the help of electronic devices and software. There is also the possibility of monitoring violations by codewords related to the advertising of alcohol, tobacco and drugs that are not subject to advertising on television.

The implementation of such a system would allow mass monitoring of all the main television channels – something individual officers of the antitrust authority cannot provide.

Following the results of the monitoring the FAS will receive printouts concerning violations and impose fines and other sanctions.