

ISSUES OF LEGAL REGULATION OF ONLINE ADVERTISING

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Abstract

This article analyzes the pressing problems of legal regulation of online advertising. The study examines the legislative framework in the field of advertising in the Republic of Uzbekistan and foreign countries, reviews current trends in regulating online advertising activities, and develops practical proposals and recommendations for improving the national legal system. The theoretical and practical aspects of regulating legal relations in the field of internet advertising within the digital economy are explored.

Keywords: Online advertising, internet marketing, legal regulation, advertising legislation, digital economy, consumer rights, deceptive advertising, targeted advertising.

Introduction

As a result of the rapid development of digital technologies, relations in the field of online advertising are becoming increasingly complex. Today, the share of internet advertising in the global market is growing year by year — in 2023, it accounted for more than 65% of the world advertising market.^[1]

In Uzbekistan, as part of the digital economy development strategy, activities in the field of e-commerce and internet advertising are also expanding. At the same time, the legal regulation mechanisms in this area often lag behind technological development, giving rise to a number of legal gaps and disputes. In particular, issues such as deceptive advertising, dissemination of false information, unauthorized use of user data, and circumvention of blocking rules are becoming increasingly acute. According to a 2022 United Nations report, the number of legal disputes in the field of online advertising worldwide has tripled over the past five years.^[2]

This article provides a comprehensive study of the theoretical foundations of legal regulation of online advertising, an analysis of current legislation, foreign experience, and directions for improvement.



Legal Characteristics and Types of Online Advertising. Online advertising is information distributed via the internet or other digital platforms aimed at presenting goods, services, ideas, or organizations to the public. It differs from traditional advertising in several key features: interactivity, targeting, the ability to measure results in real time, and the absence of geographic restrictions. From a legal perspective, the following types of online advertising may be distinguished: banner advertising, contextual advertising, social media advertising (SMM), influencer advertising, programmatic advertising, and e-mail advertising. Each type gives rise to its own specific legal regulation issues.^[3]

The main legal characteristics of online advertising include: first, its commercial nature; second, its public orientation; third, its targeting of a specific audience; and fourth, its use of electronic communication means. These features are of significant importance in identifying the object of legal regulation.

Legal Issues of Targeted Advertising. Targeted advertising is one of the most important tools of modern internet marketing. It involves analyzing users' demographic data, interests, geographic location, and online behavior to display personalized advertisements. The European Union's General Data Protection Regulation (GDPR) of 2016 strictly regulated the collection and processing of data in the field of targeted advertising, establishing a requirement for explicit user consent.^[4]

In the Republic of Uzbekistan, personal data protection legislation does not fully cover matters of data collection and processing for online advertising purposes. Special regulatory mechanisms must be developed to address this gap.

Legal Framework for Advertising in the Republic of Uzbekistan. The primary regulatory legal instrument governing advertising in the Republic of Uzbekistan is the Law "On Advertising" adopted on June 7, 2022. This law establishes general requirements for advertising, prohibited types of advertising, advertising oversight, and liability issues.^[5]

An analysis of current legislation shows that the Law "On Advertising" is primarily designed for traditional mass media — television, radio, and print advertising. Relations in the field of online advertising are mainly governed by general norms, which creates a number of practical problems. In particular, the following issues are insufficiently regulated by the law: influencer marketing activities and their qualification as advertising; distribution of liability in programmatic advertising systems; limits on the use of user data for advertising purposes; cross-border online advertising activities; and legal relations related to ad-blocking software (adblockers).

Current Mechanisms of Oversight and Coordination. At present, oversight functions in the advertising sector in Uzbekistan are distributed among several state bodies. The Antimonopoly Committee oversees unfair competition and monopolistic practices in advertising, while the Consumer Rights Protection Agency monitors deceptive advertising and misleading information. However, the absence of clear jurisdictional boundaries in the field of online advertising reduces oversight effectiveness.^[6] Furthermore, standards regulating information



technologies in the advertising sector are also established by the Ministry of Information Technologies and Communications Development. This fragmentation of tasks and powers impedes systematic oversight.

Foreign Experience: Comparative Legal Analysis. Foreign countries' experience shows that two main approaches are applied in regulating online advertising: first — adopting special legislation (the sectoral approach); second — adapting existing general laws to the digital environment (the functional approach). The European Union is a prime example of the sectoral approach. The Digital Services Act (DSA), which entered into force in 2022, significantly strengthened transparency requirements for online advertising. In particular, large platforms are now required to disclose to users who commissioned the advertisements they display, which audience they are directed at, and for what purpose they are shown.^[7]

In the United States, the Federal Trade Commission (FTC) operates as the primary regulatory body in the field of online advertising. In 2023, the FTC adopted new guidelines on influencer marketing, making it mandatory to clearly identify advertising content and disclose the relationship with the advertiser.

In the People's Republic of China, the new Advertising Law that entered into force in 2021 strengthened the liability of online advertising platforms. In particular, platforms are required not to distribute advertising content that violates the law, to verify users' age, and to hold a license for advertising in certain categories.

Experience of Post-Soviet States. The Republic of Kazakhstan introduced specific norms in the field of online advertising through amendments to its Law "On Advertising" in 2020. In the Russian Federation, a law adopted in 2022 made mandatory the state registration of online advertising systems and established a requirement to submit information on advertising expenditures to the state. This experience is also of relevant significance for Uzbekistan.^[8]

Key Legal Problems in the Field of Online Advertising

The Problem of Deceptive and False Advertising. Deceptive advertising in the online environment has greater opportunities compared to traditional advertising. The use of deepfake technologies to employ the images and voices of well-known individuals in fraudulent advertisements, the application of psychological influence techniques, covert advertising, and native advertising methods are increasing the risk of misleading consumers.

In legal practice, proving and penalizing deceptive online advertising is considerably more complex than for traditional advertising. This problem is related to several factors: the rapid changing of advertising content, cross-border jurisdiction issues, and the difficulty of identifying violating platforms.

Influencer Marketing and Covert Advertising. In recent years, advertising through "influencers" on social media has become widespread. However, the legal status of this activity often remains unclear: the question of liability remains open both when an influencer promotes



something unknowingly and when they promote a product without concluding a formal contract with the advertiser.

Due to insufficient legal regulation, consumers often perceive influencer messages not as advertising but as independent opinion, exposing them to the risk of being misled.

Data Protection and Privacy. Targeted advertising requires the collection and analysis of a wide range of user data (location, age and gender, interests, purchase history, health status, etc.). This process may pose a serious threat to users' right to privacy.

Personal data legislation in Uzbekistan cannot fully regulate relations involving the collection and processing of data for advertising purposes. It is necessary to establish a requirement for explicit user consent, limit the scope of data collection, and strengthen liability for violations.

Proposals and Recommendations for Improvement

The following comprehensive measures are recommended to improve the system of legal regulation of online advertising:

1. Introduce a separate chapter into the Law "On Advertising" specifically regulating online advertising activities. This chapter should establish the types of online advertising, the procedure for their distribution, the obligations and liability of advertising platforms, and oversight mechanisms.
2. Legally regulate influencer marketing activities. It should be mandatory to clearly identify advertising content and disclose the relationship with the advertiser. Both the advertiser and the influencer should be held liable for violations of these requirements.
3. Clearly define the procedure for collecting and processing user data for targeted advertising purposes. Prior explicit user consent should be made mandatory; the use of children's and minors' data for advertising purposes should be prohibited.
4. Designate a single state oversight body in the field of online advertising, or clearly distribute powers among existing bodies. An inter-agency cooperation mechanism in this field must be developed.
5. Introduce a mechanism for state registration of online advertising platforms. Large platforms should be required to submit reports to the state on the advertisements distributed through their systems.
6. Strengthen international cooperation on cross-border online advertising disputes. Bilateral and multilateral agreements on harmonizing norms in the field of online advertising with CIS states should be concluded.
7. Separately regulate advertising activities carried out using artificial intelligence. AI-generated advertising content must be disclosed; the use of deepfake technology should be prohibited or strictly limited.
8. Enhance consumer literacy. Public awareness activities on consumer rights in the field of online advertising and ways to protect them should be incorporated into state programs.



Conclusion

The issue of legal regulation of online advertising is becoming increasingly relevant for Uzbekistan. With the development of the digital economy and the growing role of internet advertising in the economy, the legal relations in this field are also becoming more complex.

The analysis carried out shows that current Uzbek legislation is not capable of fully regulating relations in the field of online advertising. New areas such as influencer marketing, targeted advertising, AI-assisted advertising, and cross-border online advertising require specific legal regulation.

The experience of foreign countries, particularly the European Union's approach under the DSA and GDPR, may serve as a useful model for Uzbekistan. However, any regulatory reform must take into account the distinctive features of the national legal system, the level of economic development, and its impact on the business environment.

The proposed legislative changes must, on the one hand, ensure the effective protection of consumer rights, and on the other, not hinder the development of the advertising market. As a balanced approach, it is advisable to adopt a regulatory model based on the principles of transparency, accountability, and an innovation-friendly environment.

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