

Annotation. Over the last years, the technology industry has been actively developing in our country, including in the telecommunication field. Moreover, in connection with the COVID-19 pandemic and the employee transition to a distant work mode, the need to provide high-quality Internet to the population of Kazakhstan has increased.

Currently, we are aware of two foreign companies, SpaceX and OneWeb, that are considering the possibility of launching satellite Internet in the Republic of Kazakhstan. Therefore, in this article, we decided to describe the legal issues associated with the launch of satellite Internet in the Republic of Kazakhstan.

1. Satellite Internet features

Satellite Internet is understood as a way to provide consumers with Internet access using satellite communication technologies. Satellite communication can be one-way and two-way. The main difference between these two communication methods is that in the first case, data is received via satellite, and transmission via an alternative channel. Two-way satellite communication provides reception and transmission via satellite.

The signal is transmitted via two-way satellite communication over two main radio frequency bands - Ku and Ka. The Ku band extends from 10.7 to 18 GHz of the electromagnetic spectrum, and the Ka band extends from 26.5 to 40 GHz of the electromagnetic spectrum respectively. Both Starlink and OneWeb use the Ku and Ka radio frequency bands as part of their activities.

Starlink is one of SpaceX's projects, the purpose of which is to provide broadband Internet access almost anywhere in the world using a global satellite system. To use Starlink, the consumer needs to order a so-called "Starlink Kit". This kit includes the Starlink itself, a wi-fi router and the necessary cables for connection. An obvious convenience is that the modem to which the Internet is transmitted via satellite can be installed anywhere at the discretion of the consumer, including in a car, airplane, and so on.

OneWeb LLC (formerly known as WorldVu Satellites) is a British telecommunications company established to provide users with broadband Internet access using mobile satellite communication technologies. As we understand, the OneWeb project is a global satellite Internet system consisting of low-orbit satellites, as well as ground-based base stations to provide Internet access at almost any point of the earth. By 2027, OneWeb intends to provide full coverage of the earth with satellite Internet by launching about 900 satellites into low orbit. Additionally, we would like to note that OneWeb operates according to the b2b model, providing its services to existing telecommunications organizations, which subsequently distribute the Internet to their users.

In general, the approach of the above companies differs in that SpaceX focuses on the individual consumer, and OneWeb, in turn, focuses on private businesses, government organizations and communication providers.

Based on the above, we understand that the provision of communication services, including by foreign companies, falls under the legislative regulation of the Republic of Kazakhstan, which we describe in more detail below.

2. Legal requirements applicable to the provision of communication services

General requirements

In general, communication services in the Republic of Kazakhstan are carried out in accordance with the *Law of the Republic of Kazakhstan dated 5 July 2004 On Communication* (hereinafter – the “**Law on communications**”). The provision of communication services is understood as the activities of telecom operators, consisting of the provision of communication services by users, given in the general classifier of products of types of economic activities¹. We note, that satellite communication services are included in the aforementioned classifier².

A telecom operator means an individual or legal entity registered in the territory of the Republic of Kazakhstan, providing communication services and (or) operating communication networks³.

Under the legislation, telecom operators and (or) owners of communication networks operating in the territory of the Republic of Kazakhstan must fulfill a number of obligations, including providing the bodies carrying out operational-search, counterintelligence activities on communication networks, organizational and technical capabilities for conducting operational-search, counterintelligence activities.

Also, it should be noted, that the provision of communication services in the territory of the Republic of Kazakhstan is carried out exclusively by residents of the Republic of Kazakhstan⁴.

Personal data

In Kazakhstan, the collection, processing and storage of personal data are subject to strict legal regulation, in particular, in accordance with the *Law of the Republic of Kazakhstan dated 21 May 2013 On personal data and their protection* (hereinafter - the “**Law on personal data**”). Moreover, telecom operators are subject to the requirements stipulated by the Decree of the Government of the Republic of Kazakhstan dated 30 March 2010 No. 246 On approval of the Rules for the collection

¹ Subclause. 16) Art. 2 of the Law on communications

² Subclause 61.3. Cl. 7 GK RK 04-2008 Classifier of products by type of economic activity

³ Subclause. 18) Art. 2 of the Law on communications

⁴ Cl. 1 Art. 39-2 of the Law on communications

and storage of service information about subscribers by telecom operators (hereinafter - the "**Rules**").

Thus, personal data, according to the Law on personal data, is information related to a certain or determined on their basis the subject of personal data, recorded on an electronic, paper and (or) other material media. The Law on personal data establishes a requirement for the storage of personal data of users in a database located on the territory of the Republic of Kazakhstan⁵.

Service information about subscribers includes information intended solely for the purpose of carrying out counterintelligence activities and operational-search measures on communication networks and including: (i) information about subscriber numbers, (ii) information about identification codes of subscriber devices of cellular communication, (iii) billing information (information about the services received by the subscriber), (iv) the location of the subscriber device in the network in accordance with the requirements of technical regulations, (v) addresses in the data transmission network, (vi) addresses of access to Internet resources in the data transmission network, (vii) Internet resource identifiers, (viii) data network protocols⁶.

Moreover, the storage of service information about subscribers is carried out exclusively on the territory of the Republic of Kazakhstan. It is prohibited to transfer service information about subscribers outside the Republic of Kazakhstan, with the exception of cases of rendering communication services to subscribers of the Republic of Kazakhstan located abroad⁷.

License

The Law of the Republic of Kazakhstan dated 16 May 2014 No. 202-V On Permits and Notifications (hereinafter - the "**Law on permits and notifications**") establishes that the activities in the field of informatization and communications are subject to licensing in the Republic of Kazakhstan.

In the field of providing communication services, the following activities are subject to licensing⁸:

- Long-distance telephone communication;
- International telephone communication;
- Satellite mobile communications;
- Cellular.

Additionally, the provision of communication services using spacecraft (radio frequency channels) is carried out only if the spacecraft belongs to residents of the Republic of Kazakhstan and (or) foreign legal entities that provide their services

⁵ Cl. 2 Art. 12 of the Law on personal data

⁶ Cl.2 of the Rules

⁷ Cl. 6-1 of the Rules

⁸ Cl.12 of Appendix 1 of the Law on permits and notifications

through branches and (or) representative offices of foreign legal entities registered in the Republic of Kazakhstan⁹.

3. Conclusion

Taking into account the above, it follows that when carrying out activities on the territory of the Republic of Kazakhstan, satellite Internet providers may face a number of conditions provided for by the legislation. Thus, in order to carry out activities in Kazakhstan, a satellite Internet provider company needs a legal presence in the Republic of Kazakhstan. Moreover, as we mentioned earlier, communication services are subject to licensing.

Among other things, foreign satellite Internet providers, in order to carry out their activities in Kazakhstan, undertake to comply with the requirements of the legislation, in particular, in the field of protection of personal and official data, as well as other applicable legislation.

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⁹ Cl.2 Art. 39-2 of the Law on communications