

Legal Regulation of Online Advertising in E-Commerce

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Annotation: The article, for the first time, examines the concept and essence of the scientific doctrine of legal regulation of online advertising in e-commerce. In this context, advertising activity is considered a separate type of interaction between its participants on a digital platform, through which the manufacturer (entrepreneur) creates the image of their product (digital product) and legal relations arising between users to whom this advertising is directed and consumers in e-commerce. From this point of view, the issues of legal regulation of consumer relations associated with the purchase of goods, works, and services in demand on the market in advertising and e-commerce are systematically studied. Most importantly, the essence of internet advertising as a digital object of legal regulation, its status as one of the most dynamically developing areas of advertising activity, and a number of advantages that the use of digital technologies provides for effective and profitable advertising for all entities are scientifically and practically covered. Based on the analysis of scientific and legislative sources, the increasingly active development of internet advertising as a form of non-personalized presentation of information about goods and/or services on the internet is considered, which, in turn, necessitates increasing the effectiveness of legal regulation in this area. Based on the results of the study, the author's approaches and scientific conceptual points of view on problematic and targeted issues related to the legal regulation of internet advertising in e-commerce are substantiated.

Key words: e-commerce, internet advertising, advertising law, advertising activity, digital object, legal doctrine, internet marketing, citizens and legal entities, internet platform, entrepreneurial activity, digital civil turnover, advertising placement, advertising distribution.

In the context of the digital transformation of civil turnover, the legal regulation of online advertising in e-commerce has not only scientific but also practical significance. As we know, advertising is a special type of commercial activity that has accompanied humanity throughout its entire history. In the Muslim world, there are prohibitions in advertising, determined by the national and religious characteristics of Islamic countries. For example, any advertisement in Arab countries, including logos, must be mandatorily adapted to local cultural values and the Arabic language. Also, in Islam, the trade of alcoholic beverages, drugs, cigarettes, and similar things that intoxicate the mind and bring harm to a person is prohibited. The trade of musical instruments, dogs, pigs, and the meat of animals slaughtered not according to Sharia is also forbidden. The principle of trade in Islam is based on honesty and openness of information about the product or service. [1]

In Islamic law, there is an institution of **halal** (permissible) and **haram** (forbidden) in advertising. Modern advertising usually presents the desired as reality and reinforces certain stereotypes in public consciousness. Several points can be highlighted: there should not be the slightest lie in advertising. It is forbidden to over-praise a product by attributing qualities and properties that it does not possess and to make false promises. It is acceptable to describe the advantages of the product, but it is not permissible to exaggerate it by attributing non-existent qualities. Particularly unacceptable is a false oath. The hadith states that those who sell products through false oaths deprive all their property of blessings (**barakah**).

Only those products that are permitted for sale under Islamic norms may be advertised, and only those services that are not prohibited. Advertising of alcoholic products, narcotics and psychotropic

substances, tobacco products, intimate services, and the like is, of course, prohibited. Everything that is forbidden to sell is also forbidden to advertise. [2]

The word "advertising" originated from the Latin word *reclamare*, which means "to shout." As a term defining a specific type of activity, namely advertising activity, it appeared in the second half of the 18th century. It should be noted that the first definition belongs to the American Marketing Association: "Advertising is any paid form of non-personal presentation and promotion of ideas, goods, or services by an identified sponsor." This definition reflects the most important function of advertising — the ability to convey information from the advertiser to a specific target audience without establishing direct contact with the potential buyer, that is, advertising has a non-personal nature.

In this context, it should be noted that historically, for a long time, the concept of advertising implied everything related to the dissemination of information about goods (services) in society using all available means of communication at that time. Gradually, the evolutionary development of advertising led to the separation and independent development of such communication directions as public relations (PR), direct marketing, sales promotion, point-of-sale (POS) advertising, exhibition and fair activities, sponsorship, branding (creation of popular brands), packaging, and corporate identity. The entire set of communication directions related to informing and influencing potential consumers began to be called the Integrated Marketing Communications (IMC) system. [3]

As we know, advertising activity is a special type of interaction between its participants on a digital platform, through which the manufacturer (entrepreneur) creates the image of their product (digital product). Through advertising, public opinion is formed about a particular product or service among those targeted by this advertisement, that is, among consumers in e-commerce. In this context, advertising has a significant impact on the consciousness of consumers in e-commerce. It must be acknowledged that today, promotion on the commercial digital market on the Internet is unimaginable without advertising. Since the Internet is an integral part of each of our lives, online advertising is the most effective and popular way to promote goods, works, and services on the Internet.

Consequently, internet advertising, as a digital object of legal regulation, is one of the most dynamically developing areas of advertising. Due to its high-tech nature, online advertising has a number of advantages that are effective and beneficial for all subjects of advertising activity. As is known, the main focus for digital and creative business is the efficiency of investments, and in this regard, internet advertising can offer much more than other forms of advertising distribution (television, radio, media). Internet advertising (internet advertising) is a form of non-personal presentation of information about goods and (or) services on the Internet.

In the context of digital transformation, the main functions of advertising law in general, and digital (online) advertising in particular, are aimed at organizing and effectively regulating relations in the field of advertising (regulatory function); protecting against unfair competition in the field of advertising, preventing and suppressing improper advertising (protective function); and creating conditions for reasonable and effective solutions through advertising for economic, social, and socio-political tasks (educational and organizational functions).

It seems that internet marketing, as a digital postulate, represents a set of actions aimed at promoting goods, works, and services on the Internet. In this regard, the main goal of internet marketing is to turn website visitors into buyers and increase the resource owner's profits.

It should be noted that the legal regulation of marketing activities on the Internet is characterized by several advantages that distinguish internet marketing from traditional marketing. In particular, such advantages include web analytics, targeting, and interactivity.

Through web analytics, it is possible to determine which actions are the most effective and managed to attract more users to the website, who subsequently converted into purchases in e-commerce. Targeting as a category of advertising activity is a mechanism that allows one to select only the target audience from the entire public offer, ensuring that online advertising is shown only to interested users in the field of e-commerce.

The literature rightly notes that the concept of "internet marketing" refers to a set of e-commerce methods aimed at increasing the economic efficiency of websites. The concept of "internet marketing" covers online advertising, methods for creating a permanent audience for a network community or website, as well as methods for retaining users on the site (subscription to news feeds, convenient navigation, original design, unique and engaging content, etc.).[4]

Unlike traditional advertising, internet advertising is characterized by a number of features:

1. **Specific and unique approaches to placing advertisements on the Internet** (placement of online ads in search engines and banners). In this format, given the special digital technological role of modern search engines in finding the necessary service or product by the user, site announcement in such systems and search engine optimization (SEO) are key tasks for online store owners.
2. **Broad opportunities for targeted influence on the target public offer** through the placement of advertisements considering the user's current location and their individual preferences, determined by their search and purchase history on the Internet.
3. **Low financial costs for the production and adjustment of such online advertising content.** Printing advertising brochures and creating video clips take much more time and resources than creating, placing, and modifying electronic banners.
4. **Interactivity**, that is, the two-way nature of the connection between the advertiser and the consumer of online advertising (surveys, questionnaires). This two-way communication rationally and effectively ensures the possibility of obtaining real-time information about user actions and their attitudes towards the advertisement.
5. **High level of automation in ad placement and analysis**, achieved through modern digital software tools on the Internet. This ensures the timely possibility of the prompt activity of advertising organizations based on the results obtained in this field.

It should be noted that the characteristics of advertising are important for determining its legal regime. The first condition (the dissemination of advertising in any form and by any means) is quite obvious, especially considering the special provisions contained in the Law that establish the specifics of advertising dissemination using information and communication technologies. For electronic information posted on a website to be qualified as advertising, three essential conditions must be met:

1. **The purpose of the electronic information must be to generate interest in the advertised object and provide comprehensive support for it**, taking into account the objective needs of e-commerce entities.
2. **The electronic information must be accessible without any restrictions to an indefinite number of users in the digital market.**
3. **The content of the information must contain a specific advertised object on the digital trading platform.**

The recognition of information as advertising leads to higher quality requirements for such information. [5] In this regard, it is necessary to thoroughly study the types of internet advertising, taking into account the specifics of their legal regulation. [6]

The Law of the Republic of Uzbekistan dated June 7, 2022, No. ZRU-776 "On Advertising" [7] is of great importance for determining the legal regime of advertising as a special type of activity. Article 3 of this Law provides the definition of advertising: **advertising is special information disseminated using any advertising means, the content of which is addressed to advertising users located on the territory of the Republic of Uzbekistan and is intended to attract attention to the advertised object, to form or maintain interest in it, as well as to promote it in the market for the purpose of direct or indirect profit (income).**

From the definition, it follows that information disseminated on the Internet is also considered advertising, and, accordingly, the provisions of the Law on Advertising apply to it, regulating all issues under this law, provided that the advertising is disseminated within the territory of the Republic of Uzbekistan.

First of all, internet advertising is aimed at increasing the sales of goods and (or) services both through online sales on the Internet and offline sales using traditional sales channels. Analysis shows that the main goal of internet advertising is to achieve a set of interconnected results:

- Forming and increasing demand for goods and services among Internet users;
- Positioning goods and services for consumers—Internet users;
- Promoting the consumer properties of goods, works, and services in e-commerce on the Internet;
- Promoting brands on the Internet;
- Increasing presence in the digital market;
- Creating parallel sales channels (parallel to traditional sales channels);
- Enhancing the company's image on the Internet.

Advertising activities on the Internet are designed to persuade or inform, to influence consumer behavior and/or the opinions of the online audience. Internet advertising is one of the marketing tools that can be used in combination with other types of advertising, as well as with methods such as sales promotion, individual sales, or building business relationships.

It is appropriate to note here that the Law of the Republic of Uzbekistan "On Advertising" does not provide for special regulation of online advertising; however, all its provisions apply to it. The general requirements are contained in Article 5 of this Law, which states that **advertising must be truthful and fair**. Essentially, truthfulness and fairness are the fundamental postulates on which the provisions on advertising are based. Advertising must not contain information that does not correspond to reality, as specified in the Law, which also provides a list of what constitutes untruthfulness. The same applies to fairness; fairness, in general, is of great importance in civil law.

According to Article 9 of the Civil Code of Uzbekistan, citizens and legal entities independently dispose of their civil rights, including the right to their protection. The refusal of citizens and legal entities to exercise their rights does not terminate these rights, except in cases provided for by law. The exercise of civil rights should not violate the rights and protected interests of others. **Good faith, reasonableness, and fairness of the actions of participants in civil relations are presumed.** When exercising their rights, citizens and legal entities must respect the moral principles and ethical standards of society, and entrepreneurs must also observe the rules of business ethics. Actions of citizens and legal entities aimed at causing harm to another person, abusing rights in other forms, or exercising rights contrary to their purpose are not permitted. In case of non-compliance with the requirements provided for in the third, fourth, and fifth parts of this article, the court may refuse the person the protection of their right.

Additionally, according to Article 16 of the Law of Uzbekistan "On Advertising," the main requirements for advertising are provided. **Improper advertising is not allowed. Comparative advertising is permitted if the advertiser can present factual evidence of the accuracy of the advertised comparison, provided that the advertisement does not mislead the user, nor damage the business reputation of a competitor or its trademark (service mark), trade name, product, or activity.**

The following is prohibited in advertising:

- Discrimination based on gender, race, nationality, language, religion, social origin, beliefs, personal and social status, or other circumstances, as well as discrediting other persons' products;
- Calls for actions that may lead to violations of the law, cause or may cause harm to the life or health of citizens and the environment, as well as encourage neglect of safety measures;
- Imitation of the general solution, text, images, musical or sound effects used in the advertisement of another product or in video and cinema production, as well as in other works of science, literature, and art (copyright), performances, phonograms, and broadcasts of broadcasting or cable broadcasting organizations, unless otherwise provided by copyright and related rights legislation;
- Use of the name or image of an individual without their consent;
- Use of pornographic content;
- Use of foreign words and expressions that may distort the meaning of the information;
- Indicating that the product is approved by government bodies or their officials;
- Advertising a product under the guise of advertising another product, the trademark (service mark) of which is identical or confusingly similar to the trademark (service mark) of a product whose advertising is prohibited or is subject to restrictions or requirements;
- Use or imitation of state symbols, namely the image of the State Emblem of the Republic of Uzbekistan, the State Flag of the Republic of Uzbekistan, and the sound of the State Anthem of the Republic of Uzbekistan;
- Advertising of products in printed publications (textbooks, school diaries, school notebooks, and others) used in preschool education and upbringing, general secondary, secondary special, and vocational education;
- Indication of prices (tariffs) in foreign currency;
- Advertising of informational products without indicating the age classification in cases provided for by the legislation on protecting children from information harmful to their health;
- Concealing essential information about the product, its purchase or use conditions, and (or) displaying information that is difficult to read if it distorts the meaning of the information and misleads advertising users;
- Using forms, phrases, and images that contradict national and family traditions, as well as generally accepted norms of morality and ethics.

According to the Law, the following is prohibited in advertising:

- Goods whose production or sale is prohibited by law;
- Goods without appropriate certificates and licenses, certificates of mandatory certification, or special permits for their production and (or) sale;
- Narcotic drugs, psychotropic and (or) potent substances;

➤ Pornographic products.

For certain types of goods, advertising may be required to be accompanied by additional information and (or) warnings. It is not permitted to disseminate advertising if the advertiser and the distributor of the advertisement are simultaneously non-residents of the Republic of Uzbekistan.

According to Article 1 of the Law of the Republic of Kazakhstan dated July 10, 2023, No. 18-VIII ZRK "On Online Platforms and Online Advertising" [8], **online advertising** is advertising on online platforms that is produced and (or) placed, and (or) distributed, and (or) stored by users of online platforms and (or) the owners of online platforms in the form of targeted advertising, and (or) sponsored content, and (or) other information intended for an indefinite number of persons.

A **distributor of online advertising** is a user of the online platform who carries out the production and (or) placement, and (or) distribution of online advertising.

Targeted online advertising is online advertising intended for target groups determined based on profiling and aimed at increasing user reach and (or) enhancing its prioritization, including through the use of the recommendation system of the online platform.

In accordance with Article 19 of this Law, the requirements for online advertising include the following: **online advertising must be identifiable and labeled**. Online advertising is labeled in the manner determined by the authorized body. The placement and distribution of online advertising are carried out in accordance with the requirements of the Law of the Republic of Kazakhstan "On Advertising."

At the same time, Article 20 of this Law defines the **legal regime of targeted online advertising**. The online platform provides users with the ability to identify targeted online advertising using text and (or) graphic, and (or) other designations.

Targeted online advertising must:

- Contain text and (or) graphic, and (or) other designations indicating that the content is online advertising;
- Indicate the account of the user who posted the online advertisement.

Profiling based on data on racial or national origin, political views, biometric or personal data that allow the identification of an individual, as well as information about the user's health status, is **prohibited**.

Targeted online advertising **must not be distributed to users identified by the online platform as minors**.

Furthermore, Article 22 of the aforementioned Law of Kazakhstan defines the **identification and storage of online advertising**. In particular, online platforms must provide users with the technical ability to identify online advertising using text and (or) graphic, and (or) other designations.

The online platform must have a **secure storage** containing information about online advertising, including targeted online advertising. This information must be stored for **one year after the last placement or distribution of the online advertisement**.

The storage **must not contain personal data of users** among whom the online advertisement was or could have been distributed.

As previously noted, advertising activity is an object of civil law regulation in the context of digital reality. Thus, the Law of the Republic of Uzbekistan "On Advertising" applies to all advertising activities that fall under the scope of civil law regulation, particularly to relations arising in the process

of production, placement, and distribution of advertising in digital markets for goods, works, and services.

Civil legislation defines the legal status of participants in civil circulation, the grounds for the emergence and the procedure for exercising property rights, exclusive rights to the results of intellectual activity, regulates contractual and other obligations, as well as other property and related personal non-property relations based on the equality, autonomy of will, and property independence of the participants [9].

Currently, **advertising activity on the Internet is the main source of income generated on digital platforms**. Web design studios, online advertising agencies, portals, search engines, and a number of other electronic business entities are directly or indirectly involved in Internet advertising.

Despite the existence of a fairly extensive regulatory framework in the field of advertising, **advertising and advertising activities on the Internet have a pronounced specificity**. Therefore, the main question is whether it is necessary to legally define the **special legal status of Internet advertising** and the specifics of its legal regulation.

It should be noted that the specifics of relations in the field of internet advertising are determined by a number of legal issues that arise during the creation and distribution of advertising on the Internet:

- **Uncertainty of the legal status of advertising in e-commerce;**
- **Features of concluding service contracts for remuneration** performed by internet advertising entities;
- **Specifics of accounting and reporting for advertising entities on the Internet;**
- **Lack of technological mechanisms for control and liability for the creation and distribution of improper advertising on digital platforms;**
- **Problems arising with intellectual property objects in the field of internet advertising** (issues of copyright, patent law, and protection of means of individualization of business entities—trademarks, service marks, etc.).

In modern conditions, there is **no legislative definition of the civil-legal status of the Internet, the legal status of objects and subjects of digital platforms, or rules that would regulate the corresponding digital relations**.

Any advertisement related to e-commerce is generally the result of the interaction of the parties in these legal relations. Firstly, it involves a person representing their goods or services on the market (**the advertised object**) and needing its promotion (**the advertiser**), and secondly, a person directly carrying out the advertisement, that is, providing advertising services to the first (**the advertising producer or advertising distributor**).

From a civil law perspective, the most common type of contract in the advertising field can rightfully be considered **an electronic service contract for remuneration**. This type of contract includes a wide variety of agreements concluded in the field of online advertising:

- Contracts for the creation of advertising banners, videos, etc.;
- Contracts for conducting advertising campaigns (a comprehensive service including many components);
- Contracts for the creation of an internet presence, etc.

According to the **Civil Code of the Republic of Uzbekistan**, a contract can be concluded in any form provided for the execution of transactions, unless a specific form is established by law for contracts of

this type. Since **Chapter 39 of the Civil Code of the Republic of Uzbekistan**, which is dedicated to service contracts for remuneration, does not establish a specific form for this type of contract, according to the general rules on the form of transactions, this contract is subject to conclusion **in electronic form**.

Advertising is an integral part of the development of the creative business in the field of e-commerce. Therefore, the task of advertisers is to carefully familiarize themselves with the only law on advertising currently available. Considering the objective trend of internet advertising development, it is necessary to improve advertising legislation in the context of **digital civil turnover**.

We strongly believe that we are on the verge of a new codified act—the **Digital Code of the Republic of Uzbekistan**, as the circumstances demand it, and we hope that the new unified law will close all gaps and provide a clear understanding of liability for violations in the field of advertising, including on the Internet.

Thus, it can be concluded that **effective legal regulation of online advertising, taking into account the best practices of foreign countries, will give a powerful impetus to the development of e-commerce in the context of digital civil turnover**.

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системе; продакт-плейсмент в интернет-играх – интеграция рекламируемого продукта или бренда в игровой процесс; директ-реклама – рассылка пресс-релизов, e-mail, rss, новостные рассылки и др.

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