

THE GOVERNMENT

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

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Hanoi, August 23, 2001

DECREE

ON THE MANAGEMENT, PROVISION AND USE OF INTERNET SERVICES

THE GOVERNMENT

*Pursuant to the Law on Organization of the Government of September 30, 1992;
At the proposal of the General Director of Post and Telecommunications,*

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.-

1. This Decree regulates the management, provision and use of Internet services in Vietnam. All domestic and foreign organizations and individuals operating in the field of Internet in Vietnam shall have to comply with this Decree.
2. In cases where the Internet-related international agreements, which Vietnam has signed or acceded to, contain provisions different from the provisions of this Decree, the provisions of such international agreements shall apply.

Article 2.-

1. Internet is a system of information connected with one another by Internet protocols (IP), using a global unified address system to provide various services and applications to users.
2. In Vietnam, Internet constitutes an important part of the national information infrastructure, is protected by Vietnamese laws and must not be infringed upon by anybody. To ensure safety and security for equipment systems and information on Internet is the responsibility of the State agencies, all organizations and individuals.

Article 3.- The development of Internet in Vietnam shall comply with the following principles:

1. The managerial capability must keep pace with development requirements and at the same time there must be synchronous measures to prevent acts of taking advantage of Internet to affect the national security or breach the ethics, customs and fine traditions.
2. To develop Internet with all high-quality services and reasonable charges so as to meet the requirements of the cause of national industrialization and modernization.

Article 4.- To give priority to arranging investment capital and adopt financial support mechanism for the provision and use of Internet services for agencies and organizations engaged in scientific research, education, training, healthcare, software industry development as well as the Party's and State's agencies.

Article 5.- To adopt policies to encourage the loading of more information in Vietnamese language, especially information on the Party's undertakings and policies and the State's laws, on Internet. To create favorable conditions for organizations and individuals to introduce their products and services on Internet.

Article 6.-

1. Information stored, transmitted and received on Internet must comply with the corresponding provisions of the Press Law, Publication Law, Ordinance on the Protection of the State's Secrets and other law provisions on intellectual property and Internet information management.
2. Organizations and individuals providing and/or using Internet services must be responsible for the contents of their information stored and/or transmitted on Internet.

Article 7.-

1. The State management agencies, units and enterprises providing Internet services shall have to enhance the work of propagating, educating and guiding Internet service users in the exploitation and use of information on Internet strictly according to law, and at the same time prevent prohibited acts prescribed in Article 11 of this Decree.
2. Organizations and individuals using Internet shall have to observe the legislation on Internet so as to exploit and use it in an efficient and healthy manner.

Article 8.- The confidentiality of organizations' and individuals' private information on Internet shall be ensured according to the Constitution and laws. The control of Internet information must be taken by the competent State agencies under law provisions.

Article 9.- No one is allowed to hinder the legitimate right to use Internet services. Units and enterprises providing Internet services may refuse to provide services if organizations or individuals using them violate the legislation on Internet.

Article 10.- The encoding and decoding of Internet information must comply with the law provisions on cipher.

Article 11.- The following acts are strictly prohibited:

1. Disrupting, destroying equipment systems and obstructing the provision and use of Internet services.
2. Stealing and illegally using organizations' and individuals' passwords, key words and private information on Internet.
3. Taking advantage of Internet to oppose the State of the Socialist Republic of Vietnam; disrupting security and order; breaching ethics, customs and fine traditions, and committing other law violations.

Chapter II

ESTABLISHMENT OF EQUIPMENT SYSTEMS, PROVISION AND USE OF INTERNET SERVICES

Article 12.- Internet services include Internet access service, Internet connection service and Internet application service.

1. Internet access service is a service, which provides users with the capability to access Internet.

2. Internet connection service is a service, which provides the Internet service-providing units and enterprises with the capability to connect with one another and with international Internet.

3. Internet application service is a service, which uses Internet to provide its users with various applications or services, covering: post, telecommunications, information, culture, trade, banking, finance, healthcare, education, training, technical support and other services on Internet.

Internet information service is one kind of Internet application services, including services on press distribution (radio broadcasting, video broadcasting and electronic press), publication distribution on Internet and the service of providing assorted electronic information on Internet.

Article 13.- Enterprises providing Internet services include:

1. Internet service providers (ISP) mean enterprises of all economic sectors, which are granted permits for Internet access service provision by the General Department of Post and Telecommunications. The ISPs shall have to comply with the provisions of this Decree and the regulations on Internet access service management, issued by the General Department of Post and Telecommunications.

2. Internet exchange service providers (IXP) mean State enterprises or joint-stock companies where the State holds dominant equities or special equities, which are granted permits for Internet connection service provision by the General Department of Post and Telecommunications. The IXPs shall have to comply with the provisions of this Decree and the regulations on Internet connection service management, issued by the General Department of Post and Telecommunications.

3. Online service providers (OSP) mean enterprises that use Internet to provide Internet application services for their users. The OSPs shall, besides observing the provisions of this Decree, have to comply with law provisions on the specialized State management.

Article 14.- Internet content providers (ICP) mean agencies, organizations and enterprises, which are granted permits for Internet information service provision by the Ministry of Culture and Information. The ICPs shall have to comply with the provisions of this Decree, the regulations on the press and publication distribution on Internet and the regulations on the establishment and supply of different kinds of electronic news on Internet, issued by the Ministry of Culture and Information.

Article 15.- Private-use Internet service providers (private-use ISP) mean agencies, organizations and enterprises, which are granted permits for private -use Internet access service provision by the General Department of Post and Telecommunications under the following conditions:

1. They provide Internet access services not for business purposes.

2. The Internet service users are members of two or many agencies, organizations or enterprises, which have the same operation characteristics or purposes, are bound together by their operation charters or documents that prescribe the common organizational structure or forms of association and common operations of the members.

3. They comply with the provisions of this Decree and regulations on Internet access and connection service management, issued by the General Department of Post and Telecommunications.

Article 16.- Foreign-invested enterprises that wish to provide Internet services in Vietnam shall, besides observing the provisions of this Decree, have to comply with the provisions of international agreements which Vietnam has signed or acceded to as well as the provisions of the legislation on foreign investment in Vietnam.

Article 17.- Based on the strategy and planning for Internet development in Vietnam, the General Department of Post and Telecommunications shall prescribe procedures and conditions for the granting of permits for Internet access and connection service provision; the Ministry of Culture and Information shall prescribe procedures and conditions for the granting of permits for Internet information service provision; the ministries and branches shall, according to the fields under their specialized State management, prescribe conditions for the provision of other Internet application services.

Article 18.- When permitted to provide Internet services according to law provisions, the Internet service providing enterprises shall:

1. Be entitled to establish equipment systems at their establishments and public servicing places in order to provide all Internet services for users inside and outside Vietnam strictly according to their permits or business and operation conditions, except the services on the list of Internet services banned or not yet allowed to be provided under law provisions. The provision of Internet services for overseas service users must comply with Vietnamese laws and the laws of foreign countries where services are provided.
2. Be entitled to let agencies, organizations and enterprises hire their equipment systems for the provision of Internet application and information services and let the service users hire their equipment systems to load electronic news of different types on Internet according to the regulations on Internet service and information management.
3. Have to apply and create conditions for the State management agencies to take technical and professional measures to ensure safety and security for Internet equipment systems and information.

Article 19.-

1. Press agencies and publishing houses having operation permits as prescribed shall be entitled to establish equipment systems at their establishments to directly organize the press or publication distribution on Internet or authorize the ICPs to do so.
2. When distributing press or publications on Internet, besides the regulations on management, provision and use of Internet services, the press agencies, publishing houses and ICPs shall have to abide by the provisions of the legislation on press and publication management.

Article 20.-

1. Internet agents mean organizations and individuals in Vietnam that, in the name of ISPs or OSPs, provide Internet access and application services for users through agency contracts and enjoy remuneration therefrom.
2. Internet agents shall have the responsibility to:
 - a/ Provide services for service users strictly according to the terms on the service types, quality, prices and charges already agreed upon in the agency contracts signed with Internet service providing enterprises.

b/ Observe the regulations on Internet service management, issued by the State management agencies.

Article 21.-

1. Internet service users mean organizations and individuals in Vietnam that use Internet services through the signing of contracts with Internet service providing units or enterprises.
2. The contracts may be made in written or oral form or specific acts as prescribed by law. With regard to contracts on the provision and use of Internet services, which must be made in writing under law provisions, such provisions must be complied with. The contractual contents must accord with the provisions of the legislation on contracts.

Article 22.- Internet service users:

1. May use mobile Internet-accessing equipment or install by themselves equipment systems at places which they have the full right to use according to law provisions in order to access domestic ISPs by the mode of direct connection through transmission channels or dial-up via the telecommunications network, but must not access overseas ISPs by dialing direct international telephone numbers.
2. May use all Internet application services provided by domestic and overseas OSPs, except for services banned or not yet permitted for use.
3. May formulate different types of electronic news based on their own equipment systems or equipment systems of domestic and overseas ISPs, in order to make introduction and advertisement on their respective agencies, organizations, individuals, products and services according to the regulations on the management of electronic news on Internet and take self-responsibility before law for such information.
4. Have to protect their passwords, key words and equipment systems.
5. Must not provide Internet services for business purposes.

Article 23.- Internet resources include systems of appellations and numerals used for Internet, which are defined uniformly on the global scale. In Vietnam, Internet resources constitute part of the national information resources, which should be managed, planned and used fruitfully.

Article 24.- The State shall adopt appropriate management policies in order to create conditions for ISPs and IXPs to gradually reduce Internet access and connection service prices and charges to the level equal to or below the average levels of the regional countries, thereby quickly popularizing Internet in Vietnam and raising the competitiveness of Vietnamese enterprises in the world economic integration.

Article 25.- Organizations and individuals producing and/or importing equipment systems, providing Internet services and using Internet resources shall have to pay taxes, charges and fees according to the provisions of law. The tax preferences shall be effected according to the State's current regulations.

Article 26.- To ensure the service users' interests, Internet service providing enterprises shall have the responsibility to:

1. Register and announce their service quality standards according to the State's regulations on service quality management.

2. Provide services for users strictly according to registered and announced standards.
3. Report to the State management agencies on their service quality and submit to examination and inspection by the latter under law provisions.

Article 27.- The Internet connection is effected on the following principles:

1. The establishment and use of telecommunications transmission lines connecting equipment systems of Internet service providing units and/or enterprises with one another and with the public telecommunications network must comply with the regulations on telecommunications.
2. The IXPs may connect with one another and with international Internet.
3. The ISPs may connect with one another and with the IXPs.
4. The private-use ISPs may connect with the ISPs and IXPs but must not connect directly with one another.
5. The OSPs and ICPs may connect with the ISPs and IXPs.
6. The Internet agents may connect with Internet service-providing enterprises that have concluded the agency contracts with them.

Chapter III

STATE MANAGEMENT OVER INTERNET

Article 28.- The contents of State management over Internet include:

1. Elaborating policies, strategies and plannings for Internet development.
2. Elaborating and promulgating legal documents on the management and establishment of equipment systems, the provision and use of Internet services.
3. Managing the granting of permits in Internet activities.
4. Managing technical standards and quality of Internet services.
5. Managing Internet service prices and charges.
6. Managing sciences and technologies in Internet activities.
7. Managing information on Internet.
8. Managing safety and security in Internet activities.
9. Managing the encoding and decoding of information on Internet.
10. Managing Internet resources.
11. Examining, inspecting, settling disputes and handling violations in Internet activities.
12. Effecting international cooperation in Internet activities.

Article 29.-

1. The Government shall exercise the unified State management over Internet throughout the country. The ministries, ministerial-level agencies, agencies attached to the Government and the People's Committees of the provinces and centrally-run cities shall perform the task of State management over Internet according to the Government's assignment prescribed in this Decree.

2. The Government assigns the General Department of Post and Telecommunications to perform the function of regulating and coordinating the work of State management over Internet of the ministries, ministerial-level agencies, agencies attached to the Government and People's Committees of the provinces and centrally-run cities, and act as the main body in the Internet-related international activities.

Article 30.- The General Department of Post and Telecommunications shall exercise the State management over the establishment of equipment systems, the provision and use of Internet access and connection services, including:

1. Elaborating policies, strategies and plannings for Internet development.
2. Promulgating and guiding the implementation of regulations on the licensing and management of Internet access and connection services.
3. Planning, managing and distributing Internet resources.
4. Assuming the prime responsibility for and coordinating with the Government Cipher Commission in managing the authentication system on Internet.

Article 31.- The Ministry of Science, Technology and Environment shall exercise the State management over the research, application and development of advanced technologies in Internet activities.

Article 32.- The Ministry of Culture and Information shall exercise the State management over Internet information, including:

1. Promulgating and guiding the implementation of the regulations on Internet information management.
2. Promulgating and guiding the implementation of regulations on licensing and management of press and publication distribution on Internet; as well as regulations on the establishment and provision of assorted electronic news on Internet.

Article 33.- The Ministry of Public Security shall exercise the State management over the ensuring of security in Internet activities, including:

1. Applying professional measures to ensure the national security regarding the Internet activities.
2. Working out and organizing the application of technical measures for the management of Internet information security according to law provisions, on the basis of ensuring the Internet service quality.

Article 34.- The Ministry of Finance shall have to assume the prime responsibility and coordinate with the concerned ministries and branches in adopting and submitting to the Prime Minister for decision a financial support mechanism for the provision and use of Internet access and connection services for priority subjects defined in Article 4 of this Decree.

Article 35.- The Government Cipher Commission shall exercise the State management over the encoding and decoding of Internet information, including:

1. Organizing the study and elaboration of policies and standards on national ciphers used on Internet.

2. Issuing and guiding the implementation of regulations on the provision and use of information encoding and decoding on Internet.

Article 36.- The ministries, ministerial-level agencies and agencies attached to the Government shall exercise the State management over Internet application services in the fields under their respective management, including:

1. Promulgating and guiding the implementation of regulations on the management of the provision and use of Internet application services.
2. Making and announcing list of Internet application services which are banned or not yet permitted for provision and use on Internet.

Article 37.- The People's Committees of the provinces and centrally-run cities shall coordinate with the ministries, ministerial-level agencies and agencies attached to the Government in managing Internet activities in their respective provinces and cities according to the provisions of this Decree.

Chapter IV

COMPLAINT, EXAMINATION, INSPECTION AND HANDLING OF VIOLATIONS

Article 38.- The complaint about administrative decisions and administrative acts regarding Internet activities; and the denunciation to the competent State agencies about violations related to Internet activities shall comply with the provisions of the December 2, 1998 Law on Complaints and Denunciations.

Article 39.- The complaint and settlement of complaints about the provision and use of Internet services shall comply with the regulations of the State agencies in charge of Internet, mentioned in Chapter III of this Decree.

Article 40.-

1. Based on the State management contents prescribed in Chapter III of this Decree, the State management agencies shall have to organize and direct examination and inspection activities in order to promptly rectify, prevent and handle violations in Internet activities.
2. The Internet service providing enterprises, the private-use ISPs, ICPs, Internet agents and service users shall be subject to examination and inspection by the competent State agencies as prescribed by law.

Article 41.- Internet-related violations, forms and levels of administrative sanction therefor are stipulated as follows:

1. A warning or fine of between VND 50,000 and VND 200,000 shall be imposed for act of failing to declare and fill in procedures for the re-granting of Internet service provision permit, in case such a permit is lost or damaged.
2. A fine of between VND 200,000 and VND 1,000,000 shall be imposed for one of the following acts:
 - a/ Using others' passwords, key words or private information to illegally access or use Internet services.
 - b/ Using software devices to illegally access or use Internet services.

3. A fine of between VND 1,000,000 and VND 5,000,000 shall be imposed for one of the following acts:

- a/ Breaching the State's regulations on standards and quality in the use of Internet services.
- b/ Breaching the State's regulations on prices and charges in the use of Internet services.
- c/ Breaching the State's regulations on the management of Internet resources in the use of Internet services.
- d/ Breaching the State's regulations on Internet access and connection management in the use of Internet services.
- e/ Breaching the State's regulations on encoding and decoding of Internet information in the use of Internet services.
- f/ Breaching the State's regulations on Internet information safety and security in the use of Internet services.

4. A fine of between VND 5,000,000 and VND 10,000,000 shall be imposed for one of the following acts:

- a/ Terminating or ceasing the Internet service provision without notifying the Internet service users thereof in advance, except for force majeure circumstances.
- b/ Modifying or erasing, thus altering the contents of Internet service provision permits.
- c/ Using the expired permits for Internet service provision.

5. A fine of between VND 10,000,000 and VND 20,000,000 shall be imposed for one of the following acts:

- a/ Breaching the State's regulations on Internet service standards and quality in the provision of Internet services.
- b/ Breaching the State's regulations on Internet service prices and charges in the provision of Internet services.
- c/ Breaching the State's regulations on Internet resource management in the provision of Internet services.
- d/ Breaching the State regulations on Internet access and connection management in the provision of Internet services.
- e/ Breaching the State's regulations on encoding and decoding of Internet information in the provision of Internet services.
- f/ Breaching the State's regulations on Internet information safety and security in the provision of Internet services.
- g/ Using Internet for the purpose of intimidating or harassing other persons or harming their honor and dignity, but not to the extent of being examined for penal liability.
- h/ Loading on Internet or taking advantage of Internet to disseminate debauching information or images or other information in contravention of law provisions on the contents of information on Internet, but not to the extent of being examined for penal liability.

i/ Stealing passwords, key words or private information of organizations and individuals and give them to others for use.

j/ Breaching the regulations on operation, exploitation and use of computers, thus disrupting, blockading, deforming or destroying data on Internet, but not to the extent of being examined for penal liability.

6. A fine of between VND 20,000,000 to VND 50,000,000 shall be imposed for one of the following acts:

a/ Establishing equipment systems and providing Internet services in contravention of the regulations inscribed in permits.

b/ Creating and deliberately spreading virus programs on Internet, but not to the extent of being examined for penal liability.

7. A fine of between VND 50,000,000 and VND 70,000,000 shall be imposed for act of establishing equipment systems and providing Internet services without permits.

8. In addition to the forms of principal sanction, depending on the nature and seriousness of their violations, organizations or individuals may also be subject to one or many forms of additional sanction or measures to overcome the violations' consequences as follows:

a/ Suspension or termination of Internet service provision and use, for the violations mentioned at Point a , Clause 2; Point b, Clause 2; Clauses 3 and 5, and Point b, Clause 6 of Article 41.

b/ Revocation of the right to use permits for a definite or indefinite period of time, for violations stipulated at Point b, Clause 4 and Point a, Clause 6, of Article 41.

c/ Confiscation of material evidences and means used to commit administrative violations, for violations stipulated at Point b, Clause 4; Point a, Clause 6 and Clause 7, of Article 41.

d/ Forcible restoration of the initial state that has been altered due to administrative violations, for violations stipulated at Point j, Clause 5 and Point b, Clause 6, of Article 41.

Article 42.- The specialized inspectorate and People's Committees of all levels shall administratively sanction administrative violations in Internet activities according to their State management functions and sanctioning competence prescribed in the Ordinance on the Handling of Administrative Violations.

Article 43.- The principles, time limits and procedures for sanctioning administrative violations; the extenuating and aggravating circumstances; the statute of limitations for sanctioning and time limits during which the Internet-related administrative violations are considered as having not been sanctioned shall comply with the provisions of the Ordinance on the Handling of Administrative Violations.

Article 44.- Organizations and individuals that cause damage to other organizations and individuals in the provision and use of Internet services shall have to pay compensation therefor according to law provisions.

Article 45.- Acts of taking advantage of Internet to oppose the State of the Socialist Republic of Vietnam and disrupt security and order; and other serious violations showing criminal signs shall be examined for penal liability according the provisions of law.

Chapter V

IMPLEMENTATION PROVISIONS

Article 46.- This Decree takes effect 15 days after its signing and replaces the Government's Decree No.21/CP of March 5, 1997 promulgating the provisional Regulation on the management, establishment and use of Internet in Vietnam. To annul Point c, Clause 3 and Point c, Clause 4, Article 11 of the Government's Decree No.79/CP of June 19, 1997 on sanctioning administrative violations in the field of State management over post, telecommunications and radio frequencies.

Article 47.- The General Department of Post and Telecommunications shall assume the prime responsibility and coordinate with the ministries, ministerial-level agencies, agencies attached to the Government and People's Committees of the provinces and centrally-run cities in guiding and inspecting the implementation of this Decree.

Article 48.- The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Phan Van Khai