

Taiwan: New Anti-Fraud Regulations for Online Advertising Platforms

In brief

In response to the persistent issue of fraud, the Fraud Crime Hazard Prevention Act (FCHPA) was passed by the Legislative Yuan and came into force on 31 July 2024. The FCHPA requires financial institutions, virtual asset service providers, telecom enterprises, online advertising platform operators, third-party payment service providers, e-commerce and online gaming companies to respectively take certain fraud prevention measures.

In September 2024, the Ministry of Digital Affairs (MODA) published the criteria of the online advertising platforms that would be subject to the FCHPA, designated four foreign online advertising platform operators that meet the criteria, and asking them to report their legal representative (can be a law firm) in Taiwan by 31 October 2024.

MODA subsequently published a set of proposed regulations under the FCHPA, specifying the requirements for online advertising platforms for 30-day public comments. The new regulations mandate swift action for removing fraudulent ads, establish information disclosure and identity verification requirements for advertisers and sponsors, and introduce fraud prevention plan and transparency report obligations, with penalties for non-compliance. These measures seek to prevent the spread of fraudulent advertisements and increase accountability of advertising platforms in Taiwan.

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Key Points of the Proposed Regulations

1. Proposed Regulations Expected to Take Effect by End of 2024

MODA has proposed three regulations, including "Time Limit for Online Advertising Platform Operators to Remove, Restrict Access to, or Stop Broadcasting Fraudulent Advertisements Upon Notification," "Regulations Governing the Disclosure of Information and Operational Procedures for Online Advertisement," and "Identity Verification Technologies and the Format of Fraud Prevention Plans and Transparency Reports for Online Advertising Platform Operators" ("**Proposed Regulations**"), which are expected to come into effect by the end of 2024.

2. Mandatory 24-Hour Removal of Fraudulent Ads

Under the draft "Time Limit for Online Advertising Platform Operators to Remove, Restrict Access to, or Stop Broadcasting Fraudulent Advertisements Upon Notification," online advertising platforms must remove, restrict access to, stop broadcasting fraudulent ads or take other necessary measures within 24 hours upon notification from judicial police or relevant authorities.

According to Article 39 of the FCHPA, failure to comply within the specified timeframe may lead to fines ranging from NTD 500,000 (approx. USD 16,000) to NTD 10 million (approx. USD 320,000), with penalties up to NTD 100 million (approx. USD 3,200,000) for severe breaches. Non-compliant platform operators may also face additional traffic management measures, access restrictions or domain-blocking measures to prevent ongoing harm.



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In addition, Accordingly Article 32 of the FCHPA, non-compliant platform operators shall bear joint responsibility for damages together with the advertisers and sponsors of the advertisements for any harm caused to individuals who were misled by the content of the advertisements.

3. Enhanced Information Disclosure

Under Article 31 of FCHPA, when publishing or broadcasting advertisements on the platforms, online advertisement platform operators shall disclose the following information in the advertisements:

1. A label indicating it as an advertisement.
2. Information related to advertisers and sponsors.
3. The license number of the advertisement that are legally required to have one.
4. Whether the advertisement uses deep fake technologies or AI-generated individual images.

To ensure transparency, MODA has proposed the draft "Regulations Governing the Disclosure of Information and Operational Procedures for Online Advertisement," which allows the information of advertisers and sponsors to be provided via a link in the advertisement if the space is limited. For individual advertisers and sponsors, the disclosure shall include their residential area and name on ID. For legal entity advertisers and sponsors, the business name and registered area must be provided. Platforms must verify the information in the advertisements at least 4 times per year and retain verification records for three years, allowing regulatory inspection if needed.

4. Adoption of Identity Verification Technologies or Methods

According to Article 30 of the FCHPA and the draft "Identity Verification Technologies and the Format of Fraud Prevention Plans and Transparency Reports for Online Advertising Platform Operators," online advertising platforms are required to implement robust identity verification technologies or methods, such as digital signatures, Fast IDentity Online (FIDO), or other encryption mechanisms (including Mobile ID, OTP), to authenticate advertisers and sponsors' identities.

5. Fraud Prevention Plan and Transparency Report Requirements

Under Article 30 of the FCHPA, online advertising platforms are required to establish and implement a fraud prevention plan to ensure consistency in fraud prevention practices, and to further publish an annual fraud prevention transparency report.

MODA has also proposed the draft "Identity Verification Technologies and the Format of Fraud Prevention Plans and Transparency Reports for Online Advertising Platform Operators" to specify the information to be included in the fraud prevention plan (such as policy on online ad management, fraud risk assessment mechanism, fraud prevention personnel and resources allocated, fraud prevention awareness promotion and training) and the transparency report (such as the number and type of fraudulent ads removed, response times, and monthly active Taiwan user statistics). The transparency report aims to provide public visibility into the platform's actions against fraudulent ads, fostering transparency and trust within the digital advertising environment.

Impact

The FCHPA and the Proposed Regulations represent a significant change to the legal landscape for Taiwan's online advertising space. By imposing stringent ad removal timelines, requiring information disclosure and identity verification for advertisers and sponsors, and mandating a fraud prevention plan and annual transparency report, the FCHPA and the Proposed Regulations impose important new obligations on online advertising platforms operating in Taiwan. Given the potential penalties for noncompliance, online advertising platforms are advised to immediately review and adjust their current policies and operations for compliance with these regulations. If you have any questions, please feel free to contact us.