**WHAT LEGAL ACTIONS SHOULD ENTERPRISES TAKE IF MISINFORMATION IS POSTED**

**ON FACEBOOK?**

Nowadays, in Vietnam, social network gradually becomes popular, especially facebook with millions of users. Facebook is also a media channel often used by the enterprises to introduce, advertise their products and build up their brands. Also, individuals, enterprises usually create fanpages and participate in associations, groups, with a number of members reaching tens of thousands, where they have the same interests or buy/exchange goods, information. A fact happens that an individual posts a complaint, a distortion, or badly said about the quality of the goods, services of business on forums, or shares information on the member groups. With a post, not only a number of followers corresponds to the number of members, there are also a number of "likes", "comments" sent to this post although the information has not been verified. After that, many enterprise’s customers contact the enterprise to ask for the information, express their concerns about the enterprise's product/services quality, many customers request for a contract cancellation and refunding their deposit. Reputation and business opportunity has been enormously affected. With this issue, what can enterprises do to protect their legitimate rights and interests?

**The enterprises can consider to proceed some following tasks:**

***Step 1: Evidence gathering***

When an enterprise discovers that any individual or organization have posted the distored articles and images smearing its reputation and violating its legitimate business activities, the first action that the enterprise can do is to gather evidences of the post. This act can help the enterprise to hold the lawful base and evidences adapting the settlement of this case in accordance with the law, even when the articles and images were deleted by individuals, organizations after they had reached the purpose of "debasing” enterprise.

To ensure that evidences still keep legal value, the enterprise should contact and request a Bailiff office to make a certified written minute of the posting article and image mentioned above. According to law, such written minute certified by the bailiff is considered as an evidence source that the court can base on it to handle the case.

***Step 2: Legal action***

Depending on the extent of the violations, motivation and damage, the enterprise may decide legal solutions for the settlement of the case.

1. ***Requesting to remove the post***

For the enterprise, it is important to remove the slandered articles and images as soon as possible to minimize damage and loss, so the enterprise should contact soon and ask those individuals or organizations to remove and correct the information.

In addition, the enterprise can invite the individuals, organizations acting as mentioned above to participate in a meeting for issue clarification, reasons of posting misinformation and then find out solutions based on the spirit of goodwill and peace.

1. ***Initiating civil lawsuits***

According to Clause 3 and Clause 5, Article 34 of Civil Code 2015, the enterprise has the right to initiate lawsuits before the court to request the individuals or organizations to remove their misinformation, apologize and publicly correct the misinformation and request for a damage compensation.

1. ***Requesting for sanctioning of administrative violations***

According to Clause 3, Article 16 of Law on Cybersecurity 2018: "*3. The information on the network space has the content of shaming, slander including:*

*a) Serious insult to honor, reputation and dignity of another person;*

*b) Disinformation violating to honor, reputation and dignity or causing damage to legitimate right and interests of other agency, organization and individual.”*

 According to Clause 9 Article 16 of Law on Cybersecurity 2018, individual drafting, posting, spreading the misinformation violating to the honor, reputation or causing damage to the right and interests of other agency, organization, has to remove such information.

Pursuant to Point a Clause 1 Article 101 of Decree 15/2020/ND-CP dated February 3, 2020, stipulating the sanction of administrative violations in the fields of post, telecommunications, and radio frequencies, information technology and electronic transactions, *individuals providing or sharing misinformation, distortion, slander, insult to the reputation of agencies or organizations* shall be fined from VND 10,000,000 to VND 20,000,000, and forced to remove the information which is untrue, misleading and violates the law.

Accordingly, the enterprise may request competent authorities to settle the administrative violations to ensure a social order as well as this enterprise’s legitimate production and business activities.

1. ***Denunciating to the competent investigation agency***

If the act of posting has sign of crime, the enterprise can denounce the violation to the competent investigation agency to request the investigation to clarify the violation corresponding to the crimes stipulated in Criminal Code. *For example, slander – according to Article 156 Criminal Code, a person who fabricates or spreads misinformation to suffer other person's reputation or cause damage to other person's lawful rights and interests shall be in probation to 02 years or in imprisonment from 03 months to 01 year, and can be fined from VND 10,000,000 to VND 50,000,000, banned certain positions assuming, occupation or work practicing from 01 to 05 years.*

In conclusion, when facing with misinformation, untrue, causing damage to the reputation, business activities, the enterprise need to keep calm to avoid affect its customers and reputation, then the enterprise need to assess the issue and has settle the case in an immediate, civilized and professional manner based on relevant legal basis to protect its legitimate rights and interests.

|  |  |
| --- | --- |
| D:\DATA\ADK LAWYERS\DATA - Documents\BUSINESS DEVELOPMENT\Signature\Signature_EnVersion\Ms. Tram_ Signature_E.png | D:\DATA\ADK LAWYERS\DATA - Documents\BUSINESS DEVELOPMENT\Signature\Signature_EnVersion\Ms.Trieu_ Signature_EN.png |