



- BC “Nurly Tau”
Al-Farabi ave. 19, block
1b, office 204
050059 Almaty
Republic of Kazakhstan
+7 (727) 344 92 92
info@unicaselaw.com
www.unicaselaw.com

- BC “Diplomat”
Kunayev st. 29/1
Nur-Sultan 010000
Republic of Kazakhstan
- Said Baraka st. 18/22
Office 22
Tashkent 100060
Republic of Uzbekistan

Background facts

A company that delivers a variety of products, including alcohol and pharmaceutical products through a mobile application, is a client of Unicase. In the course of his activities, the Client faced the following practical issues:

- Are permits (licenses) required for the delivery of alcohol products and pharmaceutical products in accordance with the legislation of the Republic of Kazakhstan?
- Will the listing of these products in the application be considered as a violation of the law?

Practical aspects

1. License

In the course of analyzing the legislation and judicial practice in the Republic of Kazakhstan, Unicase lawyers came to the conclusion that in order to obtain a license it is necessary to act as a distributor of alcohol products, and as for the pharmaceutical products, it is necessary to have a warehouse in which the distributor will also store medicines both for retail sales, and for wholesale. Since couriers are not salesmen of these products, and in accordance with the Law of the Republic of Kazakhstan “On Permits and Notifications”, a license for the delivery of alcoholic products and a license for the delivery of medicines are not stipulated, therefore, a license is not required to carry out these types of activities. However, it is worth mentioning that the delivery company should conclude contracts for the retail sale of pharmaceutical products with pharmacies that have the appropriate licenses.

2. Listing of the products in the mobile application

When placing the list of goods in the application, it is important that this list is not considered by the state authority as advertising. Since, according to the Law of the Republic of Kazakhstan “On Advertising,” advertising of alcoholic beverages is prohibited. As for placing the list of medicines in the application, there is also a risk of considering it as an advertisement. It is worth noting that advertising of pharmaceutical products is permitted if the organization acts as the distributor of these products (pharmacy) and has a license for their wholesale or retail sale. At the same time, in accordance with the “Rules for the Advertising of Medicinal Products and Medical Devices” (as amended on 04/22/2019), trade catalogs, price lists, and reference materials for advertising of medicines are not subject of advertising. In this connection, the Client is entitled to place a list of pharmaceutical products in the application as a catalog or price list. This requirement applies to both prescription and non-prescription drugs.

Possible solutions

To mitigate risks, Unicase offers the following solutions:

- a) send to the client a list of alcohol products only after they have confirmed their age (21+). Age verification may be carried out in the form of a pop-up window, and only after confirmation, the list of alcohol products offered will be sent to the Client in a personal account or by mail. The ability to send the product list directly to the client will not be considered as advertising, since it will be addressed to a specific person; or
- b) place an appropriate disclaimer that the information posted in the application is for informational purposes, is not an advertisement and is provided by the partner (store / pharmacy).