

China's New Internet Video Regulations

China has once again issued tougher regulations for the provision of online audiovisual services.

On December 20, 2007, the State Administration of Radio, Film and Television ("SARFT") and the Ministry of Information Industry ("MII") jointly issued the Provisions on the Administration of Internet Audiovisual Programming Services (the "Provisions"). These Provisions appeared to be merely supplementing the Measures for the Administration of the Dissemination of Audiovisual Programs via the Internet and Other Information Networks (the "Measures") issued by SARFT in July 2004, but in fact contain tough restrictions representing China's tightened policy for Internet audiovisual broadcasts.

The Provisions, which came into effect on January 31, 2008, define Internet audiovisual programming services as the production, editing, integration and delivery of audiovisual programs to the public via the Internet and mobile networks and the uploading of audiovisual content for third parties. PRC online video sharing sites that upload user-generated content now fall under the ambit of the Provisions.

While the Provisions reiterate the licensing requirement for online audiovisual service providers, the pre-requisite that a licensee must either be a State-owned or State-controlled entity is a new addition and was not stipulated in the Measures. Such State ownership requirement has aroused great concern in the PRC Internet industry as the majority of the Chinese online video sites and portals are privately-owned and some have been funded by foreign venture capital. However, the moratorium prohibiting the granting of licenses to private online video providers was first stipulated by the State Council in 2005 and codified by SARFT in one of its regulations issued in September 2005. In fact, the Provisions have relaxed the blanket prohibition and permitted a certain degree of private investment in online audiovisual providers. Thus, one likely remedy for these private websites may be to partner with State-owned media companies.

The Provisions have also put forth other new requirements in terms of content restrictions. Inducing minors to commit offenses or inciting violence have been added to the litany of prohibited content. All content broadcast online must be kept available for sixty days. In addition, the "principal investors" and "operators" of online audiovisual services are to be held accountable for content broadcast and uploaded on their sites and such "principal investors" and "operators", with no specific definition for either term, may be barred from investing or engaging in online audiovisual services for a period of five years if they are found to be in major violation of the Provisions.

It seems unlikely that the government will enforce the Provisions strictly as to lead to an industry-wide clampdown. However, the issuance of the Provisions reflects the government's desire to rein in the explosive growth of the online video sector and the "cleansing" of the content on the Internet. Thus, a consolidation among the operators of the online video market and censure of sites with objectionable content by the government will likely occur.

Written by: Jeanette Chan, partner
Bianca Ip, senior paralegal
Paul, Weiss, Rifkind, Wharton & Garrison

* * *

This article is not intended to provide legal advice with respect to any particular situation and no legal or business decision should be based solely on its content. Questions concerning issues addressed in this article should be directed to any member of the Paul Weiss China Practice Group, including:

Jeanette K. Chan	jchan@paulweiss.com	(852) 2846-0388/ (8610) 5828-6388
Jack Lange	jlange@paulweiss.com	(852) 2846-0333
Greg Liu	gliu@paulweiss.com	(8610) 5828-6302
Hans-Günther Herrmann	hherrmann@paulweiss.com	(852) 2846-0331
Corinna Yu	cyu@paulweiss.com	(852) 2846-0383

2008 Paul, Weiss, Rifkind, Wharton & Garrison LLP

1285 Avenue of the Americas
New York, New York 10019-6064
(212) 373-3000

Fukoku Seimei Building 2nd Floor
2-2, Uchisawaicho 2-chome
Chiyoda-ku, Tokyo 100-001, Japan
(81-3) 3597-8101

1615 L Street, NW
Washington, DC 20036-5694
(202) 223-7300

Unit 3601, Fortune Plaza Office Tower A
No. 7 Dong Sanhuan Zhonglu
Chao Yang District, Beijing 100020
People's Republic of China
(86-10) 5828-6300

Alder Castle, 10 Noble Street
London EC2V 7JU England
(44-20) 7367 1600

12th FL., Hong Kong Club Building
3A Chater Road, Central
Hong Kong
(852) 2536-9933