



## PRC Telecoms, Media & Technology Law Newsflash 10 August 2009

### CHINA ADOPTS PLAN TO PROMOTE CULTURAL INDUSTRY

#### Introduction

As the clearest indication yet of further reforms to come, the Standing Committee of the State Council adopted the *Plan to Promote the Cultural Industry (Plan)* on 22 July 2009. The Plan comports with the view of Chinese policy-makers that the development of the cultural industry is significant in meeting the needs of the people, elevating China's global influence, expanding domestic demand and consumption, and promoting economic restructuring during the financial crisis.

The Plan joins other recently policies promulgated earlier this year, namely:

- *Guiding Opinions on Further Accelerating the Reform of the Press and Publication System* (issued on 6 April 2009 by the General Administration of Press and Publication, or **GAPP**),
- *Notice on Tax Issues to Support the Development of the Cultural Industries* (jointly issued on 26 March 2009 by the Ministry of Finance, State Administration of Taxation and General Administration of Customs), and
- *Notice on Tax Issues to Support the Development of Animation* (issued on 17 July 2009 by State Administration of Taxation).

Against this backdrop, there is growing anticipation that a major reform of the cultural industry could be imminent.

#### Key Principles

In determining the policies and strategies to be used in promoting China's cultural industry, the State Council has laid down broad principles in the Plan, namely:

1. the development of key sectors of the culture industry should be accelerated - in particular, "creative culture", film and television production, publishing and distribution, print, advertisements, performances and entertainment, cultural exhibitions, digital content and animations;
2. exemplary projects which can boost industrial growth by fully involving non-public sectors should be promoted;

3. the government is to foster consolidation and reorganization across regions and industries, in order to nurture and encourage the emergence of leading cultural enterprises;
4. overall planning will be carried out, incubators for exemplary projects will be set up, and industry clusters incorporating both regional and local features will be developed;
5. the government will respond to structural changes in the consumption of cultural products and services, as well as the "new aesthetic needs" of residents in rural and urban areas, by innovating and upgrading cultural services and products, so as to enlarge cultural consumption;
6. theatrical performance chains will be developed, and the trans-regional integration of cable networks, movie and digital movie chains will be promoted, in order to boost the cultural market in rural and urban areas;
7. new business models will also be promoted, such as mobile multimedia radio and television businesses, web radio and television services, and mobile phone radio and television services, in order to upgrade the cultural industry; and
8. the foreign trade of domestic cultural products will be expanded by implementing favorable export policies to encourage the export of cultural products and services.

According to the Plan, to facilitate the implementation of policies and reforms under the above principles, the State Council will lower market access thresholds for the cultural industry. This is intended to encourage private and foreign capital to enter into certain sectors and thereby allow them to participate in the shareholding reform of state-owned entities in those sectors. More government investment will also be introduced into the industry to support its development, together with additional favorable tax and financial policies, and improvements to the legal and market environment.

### **Analysis**

1. Although the Plan is still essentially only a collation of broad principles, it is worth noting that the sectors identified in it as "key" to the development of the cultural industry include both traditional and new media. This indicates that the government recognizes the significance of new media in the cultural industry - and therefore the need for the Plan to address it.
2. The clear statement of intent by the State Council to "lower market access thresholds to encourage private and foreign capital" is likely to be homed in on by foreign investors and foreign commentators. Nonetheless, the opening-up of the media sector to investment from abroad is not new. Since China's accession to the World Trade Organization, there has been a gradual progression in foreign investment policy. However, the cultural industry remains protected by a maze of legal and overlapping bureaucratic controls. Almost all traditional media platforms remain primarily state-run or -owned. Together, these factors present significant barriers against foreign investors participating fully in most sectors.

3. The Plan also places a fundamental emphasis on state-owned enterprises and assets playing a crucial role in the integration and consolidation of the cultural industry as part of the "shareholding reform" of such entities. Private and foreign investments are only a corollary to the reforms to the cultural industry, intended to facilitate the consolidation of state assets. This echoes the economic reforms of the late 1970s, which focused on maintaining state dominance and control over state assets. Select areas were then only gradually opened up to foreign investment. It is likely that the planned consolidation of state assets in the cultural industry will be followed by a slow, market-driven liberalization of certain sectors to allow further private and foreign investment.
4. At the local level, there are encouraging signs that the industry is slowly being deregulated. For example, on 29 July 2009, a week after the Plan was adopted, the government of Fujian Province issued its *Opinions on the Implementations of the State Council's Opinions on Supporting Fujian Province in the Establishment of Economic Zone on the Western Coast of the Taiwan Straits*. These opinions broaden and promote the participation by investors from Taiwan in certain creative cultural sectors, including animation and online games, if they have established entities in the Fujian Province Economic Zone.

## **Conclusion**

The Plan sets out general principles supporting earlier policies and legislation. Read together with the guiding opinions and notices mentioned above, the Plan lays out a rough roadmap of planned consolidation and reforms for China's cultural industry. Without clearer guidance from the State Council, however, it remains unclear how the Plan is to be implemented and whether that roadmap will indeed be followed (including with respect to private and foreign investment).

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