



**PRC Telecoms, Media & Technology Law Newsflash**  
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**NEW POLICY ON E-BOOKS NARROWS WINDOW OF OPPORTUNITY  
FOR FOREIGN PLAYERS**

On 9 October 2010, the General Administration of Press and Publications (**GAPP**) issued its *Opinions on the Development of the Electronic Book Industry (E-Book Opinions)*. This policy document confirms the GAPP's intention to regulate the rapidly expanding e-book sector as part of the GAPP's ongoing efforts to restructure and revitalize the publishing industry as a whole. It also illustrates a regulatory trend that is not encouraging for foreign investors. Following up on the issuance of the E-Book Opinions, on 5 November 2010 the GAPP issued various e-book related permits to 21 entities.

Key Provisions

*Definitions*

"E-books" are defined in the E-Book Opinions to include both content and hardware. The context of the opinions suggests that the GAPP will specifically regulate content delivered to, or preloaded on, a reading device.

The "e-book industry" is defined to cover nearly every step in the creation of content and hardware devices, as well as their marketing, sales and import, and other related activities.

*Origin and Intent of the Opinions*

In the E-Book Opinions, the GAPP acknowledges that the Chinese e-book industry is growing rapidly but faces myriad challenges, ranging from a lack of original content and low editorial quality to general market disorder and a regulatory vacuum.

The GAPP vows to use e-books in the service of "uplifting [China's] ability to create original content and enhancing the dissemination and international competitiveness of Chinese culture". This grandiose, soft-culture objective has become ubiquitous in Chinese publishing policies of late. The E-Book Opinions also espouse the GAPP's usual approach to industry regulation: hands-on government involvement in the

development of both market and industry, in order to create "leading [domestic] companies and reputable [domestic] brand names".

### *Role of the GAPP*

The E-Book Opinions identify a number of important tasks for the GAPP. These include supporting state-owned publishing houses, encouraging manufacturers to improve their R&D and develop self-owned technologies, propelling industry consolidation and establishing an e-book market entry system.

The nature of these duties again indicates strong GAPP support for domestic players. In particular, the establishment of a "market entry system" will have profound implications for any foreign company hoping to operate in the e-book sector in China.

### Analysis

#### *Preventing the Erosion of Government Publishing Controls*

Traditionally, only state-owned publishing houses were permitted to operate publishing businesses, making government control over content quite straightforward. However, the Internet has undermined such control. The E-book Opinions demonstrate that the GAPP hopes to prevent the advent of e-books from undermining it further.

#### *Ambiguous Internet Publishing Rules*

Without an Internet Publishing Permit (**IPP**), no entity may legally generate or publish online content, or operate an online content delivery platform in China. To date, the GAPP has not issued an IPP to any foreign-invested applicant.

#### *Business Model Implications*

The E-Book Opinions divide the e-book sector into various categories, each with a different status under the *Catalogue for the Guidance of Foreign Investment Industries*.<sup>1</sup> The integrated e-book distribution model prevalent in other countries – where an e-book manufacturer also manages a content store and provides ancillary services – cuts across several of these categories, including some that are prohibited or restricted for foreign investors. As such, foreign entities hoping to use an integrated model will either have to change their approach when entering China, or engage in very intense lobbying with the local authorities.

### Newly Issued E-book Permits

The GAPP's issuance on 5 November 2010 of various e-book related permits provides additional insight into its policy priorities:

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<sup>1</sup> Jointly promulgated by the Ministry of Commerce and the National Development and Reform Commission, and last updated as of 1 December 2007.

- E-book specific Publishing Permits were issued to just 4 entities, all state-owned publishing houses. Many other publishing houses possess a generic Electronic Publication Publishing Permit, which also enables them to publish e-books. However, they are again all state-owned entities. There is no sign of either permit being issued to non-state owned entities in the near future.
- Replication Permits, covering the technical conversion and embedding of content, were issued to 13 entities. These included major private industry players such as Shanda, Founder and Hanwang, and various domestic device makers.
- E-book-specific Distribution Permits were issued to 8 domestic entities. The GAPP's policy on such permits is vague, but it appears that the GAPP is attempting to distinguish between the distribution of pre-loaded content (for which a distribution license is sufficient) and the distribution of content to e-book devices, which requires an IPP.

Importantly, the import of e-books, which requires an e-book-specific Publication Import License, is defined in the E-Book Opinions to include both e-book readers with preloaded content and readers that can download content from an overseas database. It is unclear how the GAPP will interpret and implement this requirement. In any event, licensing only a handful of state-owned entities to conduct importing activities will likely be impractical in the longer term.

## Conclusion

Although more detailed regulations will be required to create a comprehensive legal framework for the e-book industry, the E-Book Opinions are illuminating as a road-map to the GAPP's intended regulation of this sector.

In this context, the focus on promoting domestic players is apparent. Foreign investors will have to adjust their business models, actively lobby the authorities and/or involve local partners. If this regulatory trend continues, then, as the recent issuance of licenses indicates, the window of opportunity for foreign investors in the Chinese e-book sector will certainly narrow.

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