



**PRC Telecoms, Media & Technology Law Newsflash
30 November 2009**

**MINISTRY OF CULTURE TO STRENGTHEN ITS REGULATION
OF ONLINE GAME CONTENT**

Background

On 13 November 2009, the Ministry of Culture (**MOC**) issued its *Notice Regarding Improving and Strengthening the Administration of Online Game Content (Notice)*. The Notice is addressed to the provincial departments and counterparts of the MOC, as well as the cultural market enforcement teams in Beijing, Tianjin, Shanghai and Chongqing.

The Notice calls for increased investigations into various aspects of online game operators. The MOC hopes that this will not only provide a more systematic approach to regulating online game content, but will also further solidify its regulatory authority over China's online game industry.

Key Provisions

The key provisions of the Notice are as follows:

1. **Reform of Game Models**

The Notice calls for online game operators to improve and innovate their game models. Emphasis is placed specifically on the following:

- mitigating the pre-dominance of the "upgrade by monster fighting" model,
- imposing more severe restraints on the "player kill" model (i.e., where one player's character attempts to kill another player's character),
- restricting in-game marriages among game players, and
- improving the enforcement of the legal requirements for the registration of minors and game time-limits.

2. Self Censorship

The Notice also requires online game operators to set up committees to carry out the self-censorship of game content. The person responsible for such self-censorship must receive training from the MOC or its local department/counterpart. The MOC also intends to introduce a training and evaluation system for the persons in charge of R&D and operations at online game companies. This system is expected to be launched in two years' time.

3. Enhanced MOC Supervision

The Notice introduces various new requirements which are intended to improve the MOC's supervision over online game operators:

- (a) The provincial departments/counterparts of the MOC are required to conduct a comprehensive onsite investigation of each online game operator, in order to determine whether it holds a valid online culture permit. They are also required to ensure that game operators obtain any necessary product-specific approvals and implement their content self-censorship system.
- (b) The provincial authorities are required to strengthen their review of the qualifications of applicants wishing to conduct online game operations. Particular emphasis is placed on ensuring that these applicants comply with the provisions on registered capital and shareholder structures in the *Interim Rules for the Administration of Internet Culture* (promulgated by the MOC on 10 May 2003 and effective as of 1 July 2003).
- (c) The administrative departments for culture at the local level must inspect every functionality of an online game after the requisite approvals have been obtained by the game's operator. The Notice also urges all local MOC departments and cultural market enforcement teams to be especially vigilant regarding legal violations such as:
 - the operation of online game products that have vulgar, pornographic, gambling-related or violent content;
 - the operation of online games without approval;
 - offering virtual currency transaction to minors; and
 - the provision of imported online games without the MOC's approval.

4. Support of Domestic Games

According to the Notice, the MOC intends to formulate technical standards and norms for game development, in order to provide technological support for original domestic games. The development and operation of "thoughtful and educational" online games is also to be encouraged.

5. Game Associations

The MOC is planning to expedite the establishment of an online game industry association, to play a role in the self-regulation system.

Analysis

6. The majority of the Notice's content has already appeared in notices issued by the General Administration of Press and Publication (**GAPP**), which is also responsible for the regulation of the online game market. As discussed in our newsletter of 11 March 2009 (*New Administrative Framework for Online Games and Audiovisual Products—the First 6 Months*), the State Council issued several notices in July 2008 which appointed the MOC as the primary regulator of the online gaming industry. The GAPP has retained its original responsibility for pre-approving the publication of online games and the right to issue Internet publishing permits for them. However, this provision has been interpreted by the MOC as applying only to tangible publications that are ancillary to online games, such as CD-ROMs containing user client program and user manuals.

Since these notices were issued, the MOC has been attempting to assert its authority by issuing its own rules. The current Notice is one example, in particular with regard to (a) the MOC's stated intention of strengthening its administration of game censorship, and (b) its requirement that the provincial cultural departments thoroughly inspect online game operators.

7. The Notice stipulates that the cultural market enforcement teams' performance reviews will include an analysis of how well those teams enforce the regulations governing online games. The teams currently report to the local department/counterparts of the MOC, the State Administration of Radio Film and Television, and the GAPP simultaneously. By making them answerable to the MOC in respect of online game market supervision, the MOC is trying to assert itself as the sole authority responsible for directing the teams' activities in this area.
8. Notwithstanding the ongoing controversy between the MOC and the GAPP as to which agency should be responsible for approving online game imports, the Notice urges the local departments/counterparts of the MOC, along with the cultural market enforcement teams, to enhance their investigation of entities that

operate online games imported without MOC approval. This again demonstrates that the MOC is insisting on its previous interpretation of the State Council notices, namely, that the GAPP has no approval authority over online games.

Conclusion

It is clear that by issuing the Notice, the MOC is intending to further strengthen its power as a primary regulator of the online games market. However, it remains uncertain how the MOC will enforce the investigations introduced by the Notice, especially since its jurisdictional debate with the GAPP remains unsettled. It is also still unclear how these two agencies will coexist as regulators in practice. As such, it is wise for all participants in the online game market to stay alert and to operate in compliance with both the MOC and the GAPP's requirements for the time being.

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Uploaded on 30.11.2009

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