



**PRC Telecoms, Media & Technology Law Newsflash
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**MINISTRY OF CULTURE RELEASES NEW REGULATIONS
ON ONLINE GAMES**

Introduction

On 22 June 2010, the Ministry of Culture (**MOC**) issued the *Interim Measures for Online Game Administration (Measures)*, effective on 1 August 2010), the first ever ministry-level regulation specifically addressing the online game sector. The Measures incorporate many of the MOC's current rules, and most importantly, introduce a more comprehensive and predictable regulatory framework for the industry.

Key Provisions

The Measures have the following key features:

Scope

- They apply to the research and development, production and operation of online games, and the issuance and trading of virtual currency.
- "Online games" are defined as game products and services composed of software programs and information databases, provided via the Internet, mobile networks, or other information networks.
- "Online game operation" is defined under the Measures as the provision of game products and services to the public through an information network by utilizing a user system or billing system.

Applications for an Internet Culture Operation Permit (Internet Culture Permit)

- Existing law provides that the national-level MOC has the final approval authority over Internet Culture Permits. In the Measures, the MOC delegates this authority to its provincial-level branches.

Content Review/Filing Requirement

- The Measures reiterate that the MOC has the power to review the content of all online games except online game publications that have been pre-approved by the General Administration of Press and Publication (**GAPP**). This vague provision indicates that the jurisdictional dispute between the MOC and the GAPP has not been conclusively settled, since the two agencies have different interpretations of what constitutes an "online game publication".¹
- All domestic online games must be filed with the MOC, while imported online games are subject to a content review prior to their launch. The Measures do not set forth any specific procedures for such filing or content review.
- If a substantial change (for example, any prominent modification to a game's storyline, language, tasks, or trading system) is made to the content of an imported online game, it will be subject to a new content review. Changes to a domestic game must simply be filed with the MOC within 30 days.

Protection of Minors

- The Measures lay out detailed requirements for online game companies to protect minors. For example, technical measures must be taken to protect minors from inappropriate games, to limit time spent playing games, and to prevent game addiction.

Regulating Business Activities of Market Players

- Online game operators are obligated under the Measures to require users to register their real name and a valid ID number. Such information must also be saved by the operators.
- Service agreements between online game operators and users must contain, and comply with, a set of mandatory clauses to be formulated by the MOC.
- The termination of online game operations or a change of the operator of an online game must be announced by the operator in question 60 days in advance, by means of a public notice.
- User consent is required under the Measures for any mandatory combat gameplay.
- The Measures' provisions with respect to virtual currency substantially reiterate current law, although they also impose a prohibition on trading services for unapproved or unfiled online games. Providing virtual currency trading services to minors is prohibited.

¹ Please refer to our previous newsletters of [11 March 2009](#), [18 May 2009](#), and [24 July 2009](#) for a discussion of the jurisdictional dispute between the GAPP and the MOC.

Legal Liabilities

- Liabilities for illegal activity by online game operators can include an official rectification order, the confiscation of any illicit gains, monetary penalties, the suspension of the operator's business pending rectification, revocation of the corresponding Internet Culture Permit, or criminal penalties.

Conclusion

The Measures are expected to provide a strong basis for the MOC to regulate the online game industry. Although MOC officials stated at a recent press conference that the GAPP was consulted prior to their promulgation, it is unclear how the GAPP will react to the Measures. It is also premature to conclude that the Measures will resolve the MOC/GAPP turf war once and for all. Many unanswered questions also remain in terms of the practical implementation of the Measures, including how the Internet Culture Permit application process will work, how the username registration mechanism will operate, and how the Measures will be applied to mobile games or social network service games.

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