

Administrative Measures for Internet-based Information Services (Revised in 2011)

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Article 1 The Measures are formulated in order to regulate internet-based information services and promote the healthy and orderly development of internet-based information services.

Article 2 Any internet-based information service activities within the territory of the People's Republic of China must comply with the Measures.

For the purpose of the Measures, internet-based information services refer to the service activities of providing information through the internet to online subscribers.

Article 3 Internet-based information services are divided into commercial and non-commercial services. Commercial internet-based information services refer to the service activities of compensated provision to online subscribers through the internet of information or website production.

Non-commercial internet-based information services refer to the service activities of non-compensated provision to online subscribers through the internet of information that is in the public domain and openly accessible.

Article 4 The State subjects commercial internet-based information services to a permit system and non-commercial internet-based information services to a record-filing system.

No one may engage in the provision of internet-based information services without having obtained permission or carried out record-filing procedures.

Article 5 Where, according to the laws, administrative regulations or the relevant provisions of the State, engagement in the provision of internet-based information services in respect of news, publishing, education, medical treatment, health, pharmaceuticals or medical apparatus requires the examination and consent of the relevant competent authority, the consent of the relevant competent authority shall be

obtained in accordance with the law before applying for an operating permit or carrying out record-filing procedures.

Article 6 In addition to meeting the requirements of the Telecommunications Regulations of the People's Republic of China, the following conditions shall be met in order to engage in the provision of commercial internet-based information services:

1. have a business development plan and a relevant technical plan;
2. have in place sound measures to ensure network and information security, including measures to ensure website security, a system to manage the security and confidentiality of information and a system to manage the security of subscriber information; and
3. if the services to be provided fall under the services covered in Article 5 hereof, have obtained the written consent of the relevant competent authority.

Article 7 Anyone wishing to engage in the provision of commercial internet-based information services shall apply to the telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government or the State Council's department in charge of the information industry for an operating permit for value-added telecommunications services of internet-based information services (the "Operating Permit").

The telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government or the State Council's department in charge of the information industry shall complete its examination and render its decision to approve or reject the application within 60 days as of the date of receipt thereof. If it grants approval, it shall issue an Operating Permit; if it refuses to grant approval, it shall notify the applicant in writing with its reasons for rejecting the application. After obtaining the Operating Permit, the applicant shall go through registration procedures with the enterprise registration authority on the strength of such permit.

Article 8 Anyone wishing to engage in the provision of non-commercial internet-based information services shall carry out record-filing procedures with the telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government or the State Council's department in charge of the information industry. When the record-filing procedures are carried out, the following materials shall be submitted:

1. basic information on the entity providing the services and the persons responsible for the website;
2. the website's URL and the services to be provided; and
3. if the services to be provided fall under the services covered in Article 5 hereof, the document attesting to the consent of the relevant competent authority.

The telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government shall grant record-filing and assign a number to those that have submitted all the record-filing materials.

Article 9 Anyone wishing to engage in the provision of internet-based information services and intending to launch electronic bulletin board services shall submit a special application or carry out special record-filing procedures in accordance with the relevant provisions of the State when applying for permission to engage in the provision of commercial internet-based information services or when carrying out the procedures for record-filing of non-commercial internet-based information services.

Article 10 The telecommunications administration authorities of provinces, autonomous regions and municipalities directly under the Central Government and the State Council's department in charge of the information industry shall publish lists of those internet-based information service providers that have obtained Operating Permits or completed the record-filing procedures.

Article 11 Internet-based information service providers shall provide services in accordance with those items

for which they have obtained permission or which they have placed on the record. They may not provide services outside the scope of those items for which they have obtained permission or which they have placed on the record.

Providers of non-commercial internet-based information services may not engage in the provision of compensated services.

When an internet-based information service provider changes such matters as the services that it provides or the URL(s) of its website(s), it shall go through change procedures with its original examination, approval and permit issuing authority or record-filing authority 30 days in advance.

Article 12 Internet-based information service providers shall post their Operating Permit numbers or record-filing numbers in a prominent place on the homepage of their websites.

Article 13 Internet-based information service providers shall provide good services to online subscribers and ensure that the information that they provide is lawful.

Article 14 Internet-based information service providers that engage in the provision of such services as news, publishing or electronic bulletin board services shall keep a record of the information they provide, the times of dissemination and the URLs or domain names. Internet access service providers shall keep a record of such information as the times online subscribers are online, the subscribers' account numbers, the URLs or domain names, and the callers' telephone numbers.

Internet-based information service providers and internet access service providers shall keep copies of such records for 60 days and shall provide them to the relevant authorities of the State when the latter make inquiries in accordance with the law.

Article 15 Internet-based information service providers may not produce, reproduce, disseminate or broadcast information with content that:

1. opposes the fundamental principles determined in the Constitution;
2. compromises state security, divulges state secrets, subverts state power or damages national unity;
3. harms the dignity or interests of the State;
4. incites ethnic hatred or racial discrimination or damages inter-ethnic unity;
5. sabotages state religious policies or propagates heretical teachings or feudal superstitions;
6. disseminates rumors, disturbs social order or disrupts social stability;
7. propagates obscenity, pornography, gambling, violence, murder or fear or incites the commission of crimes;
8. insults or slanders a third party or infringes upon the lawful rights and interests of a third party; or
9. includes other content prohibited by laws or administrative regulations.

Article 16 If an internet-based information service provider discovers information transmitted through its website that clearly falls within the scope of the contents enumerated in Article 15 hereof, it shall immediately stop the transmission thereof, save the relevant records and make a report thereon to the relevant authority of the State.

Article 17 If a provider of commercial internet-based information services applies to be listed in China or abroad or to establish an equity or cooperative joint venture with a foreign investor, it shall first be examined by, and obtain the consent of, the State Council's department in charge of the information industry. The ratio of the foreign investment shall comply with the relevant laws and administrative regulations.

Article 18 The State Council's department in charge of the information industry and the telecommunications administration authorities of provinces, autonomous regions and municipalities directly under the Central Government shall supervise and administer internet-based information services in accordance with the law. Such relevant competent authorities as those in charge of press, publications, education, public health,

supervision and administration of pharmaceuticals, administration for industry and commerce, public security and state security shall supervise and administer the content of internet-based information within their respective scopes of duties in accordance with the law.

Article 19 If the Measures are violated by engaging in the provision of commercial internet-based information services without having obtained an Operating Permit, or by providing services beyond the scope of the items for which the permit has been obtained, the telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government shall order rectification within a limited period of time and, if there is illegal income, it shall confiscate such illegal income and impose a fine of not less than three times but not more than five times the illegal income; if there is no illegal income, or if the illegal income is less than CNY50,000, it shall impose a fine of not less than CNY100,000 but not more than CNY1 million. If the case is serious, it shall order the website to be shut down.

If the Measures are violated by engaging in the provision of non-commercial internet-based information services without having carried out record-filing procedures, or by providing services beyond the scope of the items placed on the record with the authorities, the telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government shall order rectification within a limited period of time; if the perpetrator refuses to do so, the telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government shall order it to shut down the website concerned.

Article 20 If information with any of the contents enumerated in Article 15 hereof is produced, reproduced, disseminated or broadcast, and such act constitutes a criminal offense, the criminal liability of the perpetrator shall be pursued in accordance with the law. If such act is insufficient to constitute a criminal offense, the public security authority or the state security authority shall punish the perpetrator in accordance with such relevant laws and administrative regulations as the Law of the People's Republic of China on Penalties for the Violation of Public Security Administration and the Administrative Measures for the Protection of International Networking Security of Computer Information Networks. If the perpetrator is a provider of commercial internet-based information services, its permit issuing authority shall also impose the punishment, viz. an order to suspend operations and undergo rectification or revocation of its Operating Permit, and notify the perpetrator's enterprise registration authority. If the perpetrator is a provider of non-commercial internet-based information services, its record-filing authority shall also impose the punishment, viz. an order to temporarily shut down its website or an order to shut down its website.

Article 21 In the event of failure to perform the obligations specified in Article 14 hereof, the telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government shall order rectification. If the case is serious, it shall order the perpetrator to suspend operations and undergo rectification or to temporarily shut down its website.

Article 22 If an internet-based information service provider violates the Measures by failing to post its Operating Permit number or record-filing number on the homepage of its website, the telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government shall order it to effect rectification and fine it not less than CNY5, 000 but not more than CNY50, 000.

Article 23 If the obligations specified in Article 16 hereof are violated, the telecommunications administration authority of the province, autonomous region or municipality directly under the Central Government shall order rectification. If the case is serious and the perpetrator is a provider of commercial internet-based information services, it shall additionally be subjected to revocation of its Operating Permit by its permit issuing authority. If the case is serious and the perpetrator is a provider of non-commercial internet-based information services, it shall additionally be ordered to shut down its website by its record-filing authority.

Article 24 If an internet-based information service provider violates other laws or regulations in the course of its business activities, such relevant competent authority as that in charge of press, publications, education, public health, supervision and administration of pharmaceuticals or administration for industry and commerce shall punish it in accordance with the relevant laws and regulations.

Article 25 If a telecommunications administration authority or any other competent authority or any employee thereof commits dereliction of its/his duties, abuses its/his authority, engages in malpractices for personal gain or is negligent in its/his supervision or administration of internet-based information services, resulting in serious consequences, and such act constitutes a criminal offense, the criminal liability of such authority or employee shall be pursued in accordance with the law. If such act is insufficient to constitute a criminal offense, the persons directly in charge and other persons directly liable shall be subjected to the administrative sanction of demotion, removal from office or dismissal.

Article 26 Anyone that commenced to engage in the provision of internet-based information services before the promulgation hereof shall retrospectively go through the relevant procedures in accordance herewith within 60 days as of the date of promulgation hereof.

Article 27 The Measures shall come into force as of the date of promulgation.