

China Carries Out E-Commerce Regulations

Individual owners of PRC online businesses will be affected by an e-commerce regulation which will take effect on August 1st, 2008. The Beijing Administration of Industry and Commerce (BAIC) has promulgated the new regulation, namely “Opinions on Fully Enforcing the ‘Beijing Informatisation Advancement Regulations’ and Strengthening the Supervision and Administration of Electronic Commerce” (“Opinion”), to control online transactions in China with the aim of boosting consumer confidence. Individual investors wishing to establish an e-commerce operation in China need to consider the legal issues.

The Opinion is a new set of rules governing Internet commerce. It stipulates that all corporate sellers and individuals engaging in profitable online business activities must register for a business licence with the BAIC. All e-commerce operators are also required to establish a hyperlink at the bottom of their business website homepages. The link will lead to a webpage that discloses required information such as service guidelines and must be regularly updated.

If the Opinion is not respected, the BAIC has the power to enforce penalties ranging from confiscation of illegal profits to fines of up to RMB 1 million. Personal liability and criminal liability can be imposed only in serious cases.

The Opinion applies only to e-commerce operation carried out in Beijing. Many online store operators claim that the Opinion is unfair since it limits the development of e-commerce activities. Most individual online sellers have opened online stores to save costs, but applying for a business licence is costly and time-consuming. Further, declaration of taxes on e-commerce activities will be stricter in the near future. Some individual online sellers have refused to implement the rules and risk closing their online business. Larger online businesses, however, have showed cooperation and support the actions to regulate the e-commerce environment. The BAIC continues to develop technical measures to supervise online businesses that are out of line and is prepared to strictly enforce the Opinion.

The two largest e-commerce platforms in China, “Taobao” and “EachNet” both showed their concerns to the Opinion. EachNet has declared to cooperate with BAIC and will follow the Opinion. Taobao is still in discussion with the BAIC to negotiate a feasible solution to supervise online sellers. The implementation of the Opinion is at its first stages and still has a long way to go to fully regulate and strengthen the Chinese e-commerce market.