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**Decision of the State Council on Amending the Provisions on Administration of  
Foreign-invested Telecommunications Enterprises**

(Promulgated by Decree No. 534 of the State Council of the People's Republic of China on  
September 10, 2008, and effective as of the date of promulgation)

To meet the need for the opening-up to the outside world of the telecommunications industry in China and promote the development of the telecommunications industry in China, the State Council decides to amend the Provisions on Administration of Foreign-invested Telecommunications Enterprises as follows:

1. The phrase "the competent information industry department of the State Council" in Articles 4, 6, 8, 11, 13, 15, 17 through 21 is amended as "the competent industry and information technology department of the State Council".

2. Article 5 is amended to read: "The registered capital of a foreign-invested telecommunications enterprise shall comply with the following provisions:

"(1) the minimum registered capital shall be RMB one billion yuan for providing basic telecommunications services throughout the country or across different provinces, autonomous regions, and municipalities directly under the Central Government, or shall be RMB 10 million yuan for providing value-added telecommunications services;

"(2) the minimum registered capital shall be RMB 100 million yuan for providing basic telecommunications services within a province, an autonomous region, or a municipality directly under the Central Government, or shall be RMB 1 million yuan for providing value-added telecommunications services."

3. The phrase "the project proposal" in Articles 11 and 14 is amended as "the project application report", and the phrase "the feasibility study report" in Articles 11 and 13 is deleted.

4. Article 12 is deleted.

5. The second paragraph of Article 14 is deleted.

6. The phrase "the examination and approval by the competent planning

department or the comprehensive economic administration department of the State Council” in Article 15 is amended as “the approval by the development and reform department of the State Council.”

7. The phrase “the competent foreign trade and economic cooperation department” in Articles 16, 19, 20 and 21 is amended as “the competent commerce department.”

8. Article 23 is deleted.

In accordance with the preceding amendments, the order of articles is adjusted correspondingly.

This Decision shall be effective as of the date of promulgation.

The Provisions on Administration of Foreign-invested Telecommunications Enterprises shall be amended correspondingly in accordance with this Decision and be promulgated anew.

#### **Provisions on Administration of Foreign-invested Telecommunications Enterprises**

(Promulgated by Decree No. 333 of the State Council of the People’s Republic of China on  
December 11, 2001, and revised in accordance with the Decision of the State Council on  
Amending the Provisions on Administration of Foreign-invested Telecommunications Enterprises  
on September 10, 2008)

**Article 1** These Provisions are formulated in accordance with laws and administrative regulations on foreign investment and the Regulations of the People’s Republic of China on Telecommunications (hereinafter referred to as the Regulations on Telecommunications) to meet the need for the opening up to the outside world of the telecommunications industry and promote the development of the telecommunications industry.

**Article 2** Foreign-invested telecommunications enterprises mean the enterprises providing telecommunications services which are established according to

law with joint investment and in the form of Chinese-foreign joint ventures by foreign and Chinese investors within the territory of the People's Republic of China.

**Article 3** In addition to abiding by these Provisions, foreign-invested telecommunications enterprises providing telecommunications services shall abide by the Regulations on Telecommunications and other relevant laws and administrative regulations.

**Article 4** Foreign-invested telecommunications enterprises may operate the basic telecommunications services and value-added telecommunications services. The service categorization shall be governed by the Regulations on Telecommunications.

The geographical coverage of business of the foreign-invested telecommunications enterprises shall be determined by the competent industry and information technology department of the State Council in accordance with the relevant provisions.

**Article 5** The registered capital of a foreign-invested telecommunications enterprise shall comply with the following provisions:

(1) the minimum registered capital shall be RMB one billion yuan for providing basic telecommunications services throughout the country or across different provinces, autonomous regions, and municipalities directly under the Central Government, or shall be RMB 10 million yuan for providing value-added telecommunications services;

(2) the minimum registered capital shall be RMB 100 million yuan for providing basic telecommunications services within a province, an autonomous region, or a municipality directly under the Central Government, or shall be RMB 1 million yuan for providing value-added telecommunications services.

**Article 6** The proportion of foreign investment in a foreign-invested telecommunications enterprise providing basic telecommunications services (excluding radio paging) shall not exceed 49% in the end.

The proportion of foreign investment in a foreign-invested telecommunications enterprise providing value-added telecommunications services (including radio paging in basic telecommunications services) shall not exceed 50% in the end.

The proportion of the investment made by Chinese and foreign investors to a foreign-invested telecommunications enterprise in different phases shall be determined by the competent industry and information technology department of the State Council in accordance with the relevant provisions.

**Article 7** In addition to the conditions specified in Articles 4, 5 and 6 of these Provisions, a foreign-invested telecommunications enterprise providing telecommunications services shall also comply with the conditions specified in the Regulations on Telecommunications on the provision of basic or value-added telecommunications services.

**Article 8** The major Chinese investor of a foreign-invested telecommunications enterprise providing basic telecommunications services shall meet the following conditions:

- (1) being a legally established company;
  - (2) having the funds and professionals commensurate with its business operation;
- and
- (3) complying with due diligence and the requirements for special industries provided for by the competent industry and information technology department of the State Council.

The major Chinese investor of a foreign-invested telecommunications enterprise referred to in the preceding paragraph means the investor whose investment is the largest among all the Chinese investors and constitutes 30% or more of the total investment made by all the Chinese investors.

**Article 9** The major foreign investor of a foreign-invested telecommunications enterprise providing basic telecommunications services shall meet the following conditions:

- (1) being qualified as an enterprise legal person;
  - (2) having obtained the license for providing basic telecommunications services from the country or region of registration;
  - (3) having the funds and professionals commensurate with its business operation;
- and

(4) having a good performance record and experiences in providing basic telecommunications services.

The major foreign investor of a foreign-invested telecommunications enterprise referred to in the preceding paragraph means the investor whose investment is the largest among all the foreign investors and constitutes 30% or more of the total investment made by all the foreign investors.

**Article 10** The major foreign investor of a foreign-invested telecommunications enterprise providing value-added telecommunications services shall have a good performance record and experiences in providing value-added telecommunications services.

**Article 11** To establish a foreign-invested telecommunications enterprise providing basic telecommunications services or providing value-added telecommunications services across different provinces, autonomous regions, and municipalities directly under the Central Government, the major Chinese investor shall make an application to the competent industry and information technology department of the State Council and submit the following documents:

- (1) the project application report;
- (2) the certificates or relevant confirmation documents certifying the qualifications of the investors from each party to the joint venture as provided for in Articles 8, 9 and 10 of these Provisions; and
- (3) the certificates or confirmation documents certifying the satisfaction of other conditions specified in the Regulations on Telecommunications on the provision of basic or value-added telecommunications services.

The competent industry and information technology department of the State Council shall examine the documents provided for in the preceding paragraph from the date of receipt of the application. The examination of the application for the provision of basic telecommunications services shall be completed within 180 days and a decision of approval or disapproval be made; the examination of the application for the provision of value-added telecommunications services shall be completed within 90 days and a decision of approval or disapproval be made; if the application is

approved, the Examination Opinions on Foreign Investment in Telecommunications Services Provision shall be issued; if the application is not approved, the applicant shall be notified in writing with the reasons therefor stated.

**Article 12** To establish a foreign-invested telecommunications enterprise providing value-added telecommunications services within a province, an autonomous region, or a municipality directly under the Central Government, the major Chinese investor shall make an application to the local telecommunications administration department of the province, autonomous region, or municipality directly under the Central Government and submit the following documents:

(1) the certificates or relevant confirmation documents certifying the qualifications as provided for in Article 10 of these Provisions; and

(2) the certificates or confirmation documents certifying the satisfaction of other conditions specified in the Regulations on Telecommunications on the provision of value-added telecommunications services.

The telecommunications administration department of the province, autonomous region, or municipality directly under the Central Government shall sign its opinions within 60 days from the date of receipt of the application. If the department gives its assent, the application shall be forwarded to the competent industry and information technology department of the State Council; if the department does not assent to the application, the applicant shall be notified in writing with the reasons therefor stated.

The competent industry and information technology department of the State Council shall complete examination within 30 days from the date of receipt of application documents with opinions signed by the telecommunications administration department of the province, autonomous region, or municipality directly under the Central Government, and make a decision of approval or disapproval; if the application is approved, the Examination Opinions on Foreign Investment in Telecommunications Services Provision shall be issued; if the application is not approved, the applicant shall be notified in writing with the reasons therefor stated.

**Article 13** The main contents of the project application report on a

foreign-invested telecommunications enterprise shall include: the names and basic situations of the parties to the joint venture, the total investment to the enterprise to be established, the registered capital, the proportions of investment contributions by the parties, the types of services to be applied for and the period for the joint venture.

**Article 14** Where the investment project for the establishment of a foreign-invested telecommunications enterprise requires the approval by the development and reform department of the State Council according to the relevant provisions of the State, the competent industry and information technology department of the State Council shall transfer the application materials to the development and reform department of the State Council for approval before issuing the Examination Opinions on Foreign Investment in Telecommunications Services Provision. Where the application is transferred to the development and reform department of the State Council for approval, the examination period specified in Articles 11 and 12 may be extended for 30 days.

**Article 15** To establish a foreign-invested telecommunications enterprise providing basic telecommunications services or providing value-added telecommunications services across different provinces, autonomous regions, and municipalities directly under the Central Government, the major Chinese investor shall submit the contract and articles of association of the enterprise to be established to the competent commerce department of the State Council on the strength of the Examination Opinions on Foreign Investment in Telecommunications Services Provision; to establish a foreign-invested telecommunications enterprise providing value-added telecommunications services within a province, an autonomous region, or a municipality directly under the Central Government, the major Chinese investor shall submit the contract and articles of association of the enterprise to be established to the competent commerce department of the people's government of the province, autonomous region, or municipality directly under the Central Government on the strength of the Examination Opinions on Foreign Investment in Telecommunications Services Provision.

The competent commerce department of the State Council or the competent



commerce department of the people's government of the province, autonomous region, or municipality directly under the Central Government shall complete examination within 90 days from the date of receipt of the contract and articles of association of the foreign-invested telecommunications enterprise to be established and make a decision of approval or disapproval. If the application is approved, the Approval Certificate for Foreign-invested Enterprise shall be issued; if the application is not approved, the applicant shall be notified in writing with the reasons therefor stated.

**Article 16** The major Chinese investor of a foreign-invested telecommunications enterprise shall undertake the formalities with regard to the License for Telecommunications Services Provision at the competent industry and information technology department of the State Council on the strength of the Approval Certificate for Foreign-invested Enterprise.

The major Chinese investor of a foreign-invested telecommunications enterprise shall, on the strength of the Approval Certificate for Foreign-invested Enterprise and the License for Telecommunications Services Provision, undertake the formalities for registration of the enterprise at the administrative department for industry and commerce.

**Article 17** To provide trans-boundary telecommunications services, the foreign-invested telecommunications enterprise must obtain approval from the competent industry and information technology department of the State Council and provide the services through the international entry and exit gateway agency which is established with approval by the competent industry and information technology department of the State Council.

**Article 18** In the case of violation of Article 6 of these Provisions, the competent industry and information technology department of the State Council shall order the violator to make corrections within the specified time limit and concurrently impose a fine of not less than 100,000 yuan but not more than 500,000 yuan; if no corrections are made within the specified time limit, the License for Telecommunications Services Provision shall be revoked by the competent industry

and information technology department of the State Council and the Approval Certificate for Foreign-invested Enterprise shall be withdrawn by the competent commerce department which has issued the Certificate.

**Article 19** In the case of violation of Article 17 of these Provisions, the competent industry and information technology department of the State Council shall order the violator to make corrections within the specified time limit and concurrently impose a fine of not less than 200,000 yuan but not more than 1,000,000 yuan; if no corrections are made within the specified time limit, the License for Telecommunications Services Provision shall be revoked by the competent industry and information technology department of the State Council and the Approval Certificate for Foreign-invested Enterprise shall be withdrawn by the competent commerce department which has issued the Certificate.

**Article 20** Where false or forged certificates or confirmation documents certifying the qualifications are provided to obtain approval of an application for the establishment a foreign-invested telecommunications enterprise, the approval shall be invalid, and the competent industry and information technology department of the State Council shall impose a fine of not less than 200,000 yuan but not more than 1,000,000 yuan, and revoke the License for Telecommunications Services Provision, and the competent commerce department which has issued the Approval Certificate for Foreign-invested Enterprise shall withdraw the Certificate.

**Article 21** Where a foreign-invested telecommunications enterprise violates the Regulations on Telecommunications or other relevant laws and administrative regulations in providing telecommunications services, it shall be punished by the relevant organs according to law.

**Article 22** These Provisions shall apply *mutatis mutandis* to the investment into and provision of telecommunications services in Chinese mainland by the companies and enterprises from the Hong Kong Special Administrative Region, the Macao Special Administrative Region and Taiwan region.

**Article 23** These Provisions shall be effective as of January 1, 2002.

本译本仅供参考，若有歧义，请以中文版本为准。

**The English version is for reference only. In case of any discrepancy or ambiguity of meaning between this English translation and the Chinese version, the latter shall prevail.**