Provisions on the Administration of Foreign-Invested Advertising Enterprises of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the Advertising Law of the People's Republic of China, the laws and administrative regulations on foreign investment, and other relevant laws and administrative regulations for the purposes of regulating the establishment and operation of foreign-invested advertising enterprises, promoting the healthy development of the advertising industry, and protecting the lawful rights and interests of consumers.

Article 2 — For the purposes of these Provisions, a foreign-invested advertising enterprise means a foreign-invested enterprise established within the territory of the PRC in accordance with the law and engaging in advertising business, including advertising design, production, agency, and publication.

Article 3 — These Provisions shall apply to the establishment of foreign-invested advertising enterprises within the territory of the PRC and their advertising business activities. Investors from the Hong Kong Special Administrative Region, the Macao Special Administrative Region, and the Taiwan region of China who invest in the establishment of advertising enterprises within the Mainland shall be handled with reference to these Provisions.

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Article 4 — The administrative department for industry and commerce shall be responsible for the supervision and administration of the advertising business activities of foreign-invested advertising enterprises in accordance with the law. The competent foreign trade and economic cooperation authority shall be responsible for the examination and approval of the establishment of foreign-invested advertising enterprises in accordance with the law.

Chapter II — Establishment Conditions and Procedures

Article 5 — The establishment of a foreign-invested advertising enterprise shall satisfy the following conditions:

(1) The foreign investor shall be an enterprise mainly engaged in advertising business;

(2) The enterprise has a clear business scope and a business development plan;

(3) There are professional personnel suitable for engaging in the advertising business;

(4) There is a fixed business premises and the necessary equipment; and

(5) Other conditions required by the laws and administrative regulations.

Article 6 — For the establishment of a foreign-invested advertising enterprise, the investors shall submit an application to the competent foreign trade and economic cooperation authority, and shall provide the following documents:

(1) The application form for the establishment of the enterprise;

(2) The feasibility study report;

(3) The joint venture contract and articles of association;

(4) The legal person certificates and creditworthiness certificates of the investors;

(5) The certificates of the foreign investor's advertising business qualifications and experience; and

(6) Other documents required by the examination and approval authority.

Article 7 — After the establishment of the enterprise is approved by the foreign trade and economic cooperation authority, the investors shall apply to the administrative department for industry and commerce for registration with the approval documents, and may engage in advertising business activities only after obtaining the business license.

Article 8 — Foreign-invested advertising enterprises may engage in the following advertising business:

(1) Designing, producing, publishing, and acting as agents for domestic advertising and foreign-related advertising;

(2) Providing advertising consulting, market research, and advertising planning services; and

(3) Other advertising business approved by the State.

Chapter III — Operation and Administration

Article 9 — Foreign-invested advertising enterprises shall comply with the provisions of the Advertising Law of the People's Republic of China and other relevant laws, administrative regulations, and rules, shall adhere to the principles of fairness, honesty, and credibility, and shall abide by advertising industry standards and professional ethics.

Article 10 — Foreign-invested advertising enterprises shall establish a sound advertising review system, and shall conduct reviews of advertising content in accordance with the law to ensure that the advertising content is truthful and lawful.

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Article 11 — Foreign-invested advertising enterprises shall, in accordance with the relevant State provisions, establish advertising business files, and shall retain advertising business contracts, advertising samples, advertising certification documents, and other materials.

Article 12 — Foreign-invested advertising enterprises shall not engage in unfair competition in advertising business activities, nor shall they damage the lawful rights and interests of other advertising operators and consumers.

Article 13 — Foreign-invested advertising enterprises shall, in accordance with the law, protect the lawful rights and interests of employees, sign labor contracts with employees, and purchase social insurance for employees in accordance with the relevant State provisions.

Chapter IV — Legal Liability

Article 14 — Where a foreign-invested advertising enterprise violates the provisions of the Advertising Law or other laws, administrative regulations, or rules, the administrative department for industry and commerce shall impose penalties in accordance with the law; where the circumstances are serious, the administrative department for industry and commerce shall notify the examination and approval authority to revoke the certificate of approval for the foreign-invested advertising enterprise.

Article 15 — Where an enterprise engages in advertising business activities without approval in violation of these Provisions, the administrative department for industry and commerce shall order it to cease the illegal activities and impose a fine in accordance with the law.

Article 16 — Where the staff members of the examination and approval authority and the administrative department for industry and commerce neglect their duties, abuse their powers, or engage in favoritism and irregularities in the administration of foreign-invested advertising enterprises, they shall be subject to administrative sanctions in accordance with the law; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter V — Supplementary Provisions

Article 17 — Where foreign investors intend to establish advertising enterprises in the central and western regions, the conditions may be appropriately relaxed. The specific measures shall be separately formulated by the relevant competent authorities under the State Council.

Article 18 — These Provisions shall be effective as of October 1, 2008. The Provisions on the Administration of Foreign-Invested Advertising Enterprises previously promulgated by the State Administration for Industry and Commerce and the Ministry of Foreign Trade and Economic Cooperation shall be repealed simultaneously.

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