Telecommunications Regulations of the People’s Republic of China

Dan Young Business Consultancy — www.danyoungcpa.com

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

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Telecommunications Market 2

Chapter III — Telecommunications Services 3

Chapter IV — Construction of Telecommunications Facilities 4

Chapter V — Telecommunications Security 4

Chapter VI — Penalty Provisions 5

Chapter VII — Supplementary Provisions 6

Table of Contents

- Chapter I — General Provisions
- Chapter II — Telecommunications Market
- Chapter III — Telecommunications Services
- Chapter IV — Construction of Telecommunications Facilities
- Chapter V — Telecommunications Security
- Chapter VI — Penalty Provisions
- Chapter VII — Supplementary Provisions

Chapter I — General Provisions

Article 1: These Regulations are formulated in accordance with relevant laws with a view to regulating the telecommunications market order, safeguarding the lawful rights and interests of telecommunications users and telecommunications business operators, ensuring the security of telecommunications networks and information, and promoting the sound development of the telecommunications industry.

Article 2: Any activity involving telecommunications within the territory of the People’s Republic of China, or any activity involving telecommunications that is governed by the laws of the People’s Republic of China, must comply with these Regulations. The term “telecommunications” as used in these Regulations refers to the activity of transmitting, emitting, or receiving sound, text, data, images, and other forms of information using wired or wireless electromagnetic systems, photoelectric systems, or other similar systems.

Article 3: The State Council’s department in charge of the information industry shall supervise and administer the telecommunications industry nationwide in accordance with the provisions of these Regulations. The

Source: https://www.danyoungcpa.com/telecommunications-regulations-prc-2016-revision-english-translation/

telecommunications administrative authorities of provinces, autonomous regions, and municipalities directly under the Central Government shall, under the leadership of the State Council's department in charge of the information industry, supervise and administer the telecommunications industry within their respective administrative areas in accordance with the provisions of these Regulations.

Article 4: The telecommunications industry shall be subject to the principles of separating government functions from enterprise management, breaking monopolies, encouraging competition, promoting development, and exercising both openness and regulation. Telecommunications business operators shall operate in accordance with the law, abide by commercial ethics, and accept lawful supervision and inspection.

Article 5: Telecommunications business operators shall provide telecommunications services to users in a prompt, accurate, safe, convenient manner, and at reasonable prices. Telecommunications business operators shall adopt effective measures to ensure the security of telecommunications networks and information.

Article 6: The telecommunications network and information security shall be protected by law. No organization or individual may use telecommunications networks to engage in activities that endanger national security, social public interests, or the lawful rights and interests of others.

Chapter II — Telecommunications Market

Article 7: The State applies a licensing system to telecommunications business operations. Telecommunications business operations shall be categorized as basic telecommunications services and value-added telecommunications services. Basic telecommunications services refer to services that provide public network infrastructure, public data transmission, and basic voice communication services. Value-added telecommunications services refer to telecommunications and information services provided through public network infrastructure.

Article 8: Operators of basic telecommunications services shall be subject to examination and approval by the State Council's department in charge of the information industry, which shall issue a Basic Telecommunications Service Operating License. Operators of value-added telecommunications services covering two or more provinces, autonomous regions, or municipalities directly under the Central Government shall be subject to examination and approval by the State Council's department in charge of the information industry, which shall issue a Cross-Regional Value-Added Telecommunications Service Operating License.

Article 9: To apply for a Basic Telecommunications Service Operating License, an applicant shall meet the following conditions: (1) the operator shall be a lawfully established company; (2) it shall have the necessary funds and professional technicians suitable for its business activities; (3) it shall have a feasible business plan and relevant technical solutions; (4) it shall have the credibility or capability to provide long-term services to users; and (5) other conditions prescribed by the State.

Article 10: To apply for a Value-Added Telecommunications Service Operating License, an applicant shall meet the following conditions: (1) the operator shall be a lawfully established company; (2) it shall have the funds and professional technicians suitable for its business activities; (3) it shall have the credibility or capability to provide long-term services to users; and (4) other conditions prescribed by the State.

Article 11: For an application for a Basic Telecommunications Service Operating License, the examining authority shall complete the examination and make a decision within 180 days from the date of receipt of the application, or within 90 days for a Value-Added Telecommunications Service Operating License. If approval is granted, the corresponding license shall be issued; if not, the applicant shall be notified in writing and the reasons explained.

Source: https://www.danyoungcpa.com/telecommunications-regulations-prc-2016-revision-english-translation/

Article 12: The term of validity of a Telecommunications Service Operating License shall be prescribed by the State Council's department in charge of the information industry based on the type of telecommunications service. An operator that wishes to continue operations upon expiration of its license shall file an application for renewal 90 days before expiration.

Article 13: No organization or individual may forge, alter, lease, lend, or transfer a Telecommunications Service Operating License. Telecommunications service operators shall display their license numbers in a prominent position at their business premises.

Article 14: With respect to charges for telecommunications services, the government-guided pricing system and the government-fixed pricing system shall apply to basic telecommunications services, while the market-regulated pricing system shall apply to value-added telecommunications services. The pricing of telecommunications services shall be based on production and operation costs, taking into account the development level of the telecommunications industry and the affordability of users.

Article 15: When providing telecommunications services, telecommunications business operators may not engage in the following conduct: (1) restricting telecommunications users from using their designated services by any means; (2) restricting telecommunications users from using services provided by other telecommunications business operators that have been lawfully put on the market; or (3) engaging in other forms of unfair competition that violate the principles of good faith or damage the interests of telecommunications users.

Article 16: Telecommunications business operators shall provide universal telecommunications services in accordance with State regulations. The State shall provide policy support or financial subsidies as appropriate to telecommunications business operators that provide universal telecommunications services.

Chapter III — Telecommunications Services

Article 17: The form and content of standard terms formulated by telecommunications business operators for their services shall comply with the provisions of relevant laws and regulations. Telecommunications business operators shall not, through standard terms, exclude or limit the rights of telecommunications users, reduce their own obligations, or increase the responsibilities of telecommunications users.

Article 18: Telecommunications business operators shall provide telecommunications users with information such as the types of services, coverage, charging standards, and service time limits. Telecommunications business operators shall promptly respond to inquiries raised by telecommunications users regarding charges and services.

Article 19: When providing telecommunications services, telecommunications business operators shall not engage in the following conduct: (1) providing services without a clear price indication; (2) charging fees not clearly indicated; (3) refusing, delaying, or suspending telecommunications services without justifiable reasons; (4) failing to perform service commitments made publicly; or (5) collecting fees in a fraudulent manner that is not transparent.

Article 20: Telecommunications users have the right to independently choose the types of telecommunications services, as well as telecommunications business operators that have been lawfully permitted to operate. Telecommunications business operators shall not restrict telecommunications users from exercising their right to choose in any manner.

Article 21: After signing a service agreement with a telecommunications user, the telecommunications business operator shall provide telecommunications services in accordance with the content, method, and time limit stipulated in the agreement. Without consent of telecommunications users, telecommunications business operators shall not modify the service agreement or add or reduce service functionalities without authorization.

Source: https://www.danyoungcpa.com/telecommunications-regulations-prc-2016-revision-english-translation/

Article 22: Telecommunications business operators shall keep records of telecommunications services, including call details, data usage logs, and billing information. Such records shall be kept for at least five months. Telecommunications users shall have the right to access their own telecommunications service records free of charge.

Article 23: In the event of a telecommunications service interruption due to force majeure, telecommunications business operators shall promptly restore services and shall not charge for the service during the period of interruption.

Article 24: Telecommunications business operators shall establish and improve their service quality management systems. Telecommunications business operators shall accept supervision by telecommunications users and shall establish complaint handling mechanisms, publishing methods for lodging complaints and accepting and handling them in accordance with the time limits and procedures prescribed by the State.

Article 25: Where telecommunications users have complaints against telecommunications services, they may lodge complaints with the telecommunications business operator. If the complaint is not resolved, the user may file a complaint with the telecommunications administrative authority, which shall handle the complaint within 30 days of receipt and provide a reply.

Chapter IV — Construction of Telecommunications Facilities

Article 26: The construction of telecommunications facilities shall be incorporated into urban and rural planning. Telecommunications business operators constructing telecommunications networks for basic telecommunications services shall obtain the corresponding construction project permits in accordance with the law.

Article 27: In the construction of urban and rural infrastructure, construction projects, and residential communities, supporting telecommunications facilities shall be designed, constructed, and accepted simultaneously. Telecommunications business operators shall have equal access to supporting telecommunications facilities within buildings.

Article 28: The installation of telecommunications pipelines, poles, and related equipment within public facilities such as roads, bridges, and tunnels shall comply with relevant State regulations and shall not affect the normal use and safety of such public facilities.

Article 29: When constructing telecommunications networks, telecommunications business operators shall comply with State regulations on environmental protection, radio management, and urban landscape management.

Article 30: Telecommunications business operators may, in accordance with the law, use poles, pipelines, and related equipment belonging to other telecommunications business operators for the construction or expansion of telecommunications networks. The parties concerned shall enter into agreements specifying matters such as the scope, method, and fees for use.

Chapter V — Telecommunications Security

Article 31: Telecommunications business operators shall, in accordance with State regulations on telecommunications security, establish and improve internal security management systems, implement security protection measures, and ensure the security of telecommunications networks.

Article 32: No organization or individual may use telecommunications networks to produce, reproduce, publish, or disseminate information containing content that: (1) opposes the fundamental principles established by the Constitution; (2) endangers national security, divulges State secrets, subverts State power, or undermines national unity; (3) harms the honor and interests of the State; (4) incites ethnic hatred

Source: https://www.danyoungcpa.com/telecommunications-regulations-prc-2016-revision-english-translation/

or ethnic discrimination and undermines ethnic unity; (5) violates State policies on religion; (6) spreads rumors, disrupts social order, or undermines social stability; (7) disseminates obscenity, pornography, gambling, violence, murder, terror, or incites the commission of crimes; (8) insults or slanders others; or (9) contains other content prohibited by laws or administrative regulations.

Article 33: Telecommunications business operators shall establish network and information security management systems, adopt technical measures to prevent network attacks, network intrusions, and other acts endangering network and information security. Telecommunications business operators shall monitor and record information on network operation status and network security incidents and keep relevant network logs for no less than six months.

Article 34: Telecommunications business operators shall adopt technical measures to effectively block the transmission of information prohibited by Article 32 of these Regulations. Upon discovering information prohibited by Article 32, telecommunications business operators shall immediately stop its transmission, keep relevant records, and report to the relevant State authorities.

Article 35: Telecommunications business operators shall provide technical interfaces, means of access, and other necessary assistance to public security organs, national security organs, and procuratorial organs in their lawful investigations into criminal activities and prevention of threats to national security.

Article 36: Telecommunications business operators shall establish emergency communication guarantee mechanisms for responding to major natural disasters and other emergencies and shall obey the direction and deployment of the State Council's department in charge of the information industry.

Article 37: No organization or individual may engage in the following conduct that endangers the security of telecommunications networks and information: (1) deleting or modifying functions of telecommunications networks or the data and application programs stored, processed, or transmitted therein; (2) intentionally creating or disseminating computer viruses or other destructive programs; (3) engaging in activities that interfere with or sabotage telecommunications network services; or (4) other conduct that endangers network and information security as prohibited by laws or administrative regulations.

Chapter VI — Penalty Provisions

Article 38: Where a telecommunications business operator violates Article 7 of these Regulations by operating telecommunications services without authorization, the relevant authority shall order it to cease operations, confiscate its illegal gains, and impose a fine of not less than three times but not more than five times the illegal gains; where there are no illegal gains or the illegal gains are less than 50,000 yuan, a fine of not less than 100,000 yuan but not more than 1,000,000 yuan shall be imposed.

Article 39: Where a telecommunications business operator violates Article 13 by forging, altering, leasing, lending, or transferring its Telecommunications Service Operating License, the relevant authority shall confiscate its illegal gains and impose a fine of not less than three times but not more than five times the illegal gains; where there are no illegal gains or the illegal gains are less than 10,000 yuan, a fine of not less than 10,000 yuan but not more than 500,000 yuan shall be imposed.

Article 40: Where a telecommunications business operator violates Articles 14 or 15 regarding the pricing of telecommunications services or engages in unfair competition, the price control authority and the industrial and commercial administrative authority shall impose penalties in accordance with the law.

Article 41: Where a telecommunications business operator violates Article 19 by committing any of the prohibited acts enumerated therein, the relevant authority shall order it to make corrections and impose a fine of not less than 10,000 yuan but not more than 500,000 yuan.

Article 42: Where a telecommunications business operator violates Article 24 or Article 25 by failing to establish complaint handling mechanisms or by failing to properly handle complaints, the

Source: https://www.danyoungcpa.com/telecommunications-regulations-prc-2016-revision-english-translation/

telecommunications administrative authority shall order it to make corrections and may impose a fine of not less than 5,000 yuan but not more than 30,000 yuan.

Article 43: Where a telecommunications business operator violates Article 32, Article 33, Article 34, or Article 35, the relevant authority shall order it to make corrections and may impose a fine of not less than 10,000 yuan but not more than 100,000 yuan; where the circumstances are serious, it may order a suspension of business for rectification or revoke its Telecommunications Service Operating License.

Article 44: Where an individual violates Article 37 by endangering the security of telecommunications networks and information, the public security organ shall impose penalties in accordance with the law; where the case constitutes a crime, criminal liability shall be pursued.

Article 45: Where telecommunications business operators violate these Regulations by damaging the lawful rights and interests of telecommunications users, they shall bear civil liability for compensation in accordance with the law.

Article 46: Any functionary of a telecommunications administrative authority who neglects his or her duties, abuses his or her powers, or engages in malpractices for personal gain shall be subject to administrative sanctions; where a crime is constituted, criminal liability shall be pursued.

Chapter VII — Supplementary Provisions

Article 47: The administration of special telecommunications services such as satellite communications, radio and television transmission, and military telecommunications shall be governed by separate State regulations.

Article 48: Matters concerning foreign investment in the telecommunications industry shall be handled in accordance with relevant laws and administrative regulations of the State. The provisions of these Regulations regarding the access administration of telecommunications services shall apply to foreign-invested telecommunications enterprises.

Article 49: These Regulations shall enter into force as of the date of promulgation.

Source: https://www.danyoungcpa.com/telecommunications-regulations-prc-2016-revision-english-translation/