

## China Telecommunications Regulations, 2000

The following is a TRP summary of some key points from a draft of the regulations that has been widely circulated in recent weeks. *This is NOT an official document but a precis of the circulated draft.* It should be noted that reference to the Telecom Regulator by the State Council does not explicitly name the Ministry of Information Industries (MII), nor is reference made in the available draft to the separation of regulatory powers. Note also that Class One licences are to be restricted to state-controlled enterprises, although this does not rule out minority equity stakes.

**A. Telecoms Services:** are divided into the following categories

1. Domestic long distance and local services
2. International facilities and services
3. Mobile voice and data services
4. Satellite and satellite mobile communications services
5. Internet and multimedia network services
6. Public data transmission services
7. Leasing and sales of circuits and other network elements
8. Other services stipulated by the State Council's telecom authority

**B. Telecom Services over non-proprietary networks:** are divided into the following categories:

1. Reselling *Class One* telecom services (approval of the nature and scope of *Class One* to be determined and licensed by the State Council)
2. Value-added telecom services provided via the telephone networks
3. Information services and other relevant services provided via the Internet and multimedia networks
4. Wireless paging services
5. Innovative telecom and information services
6. Other services stipulated by the State Council's telecom authority

**C. Licences:**

1. Class One licences to be issued by the Telecom Authority of the State Council.
2. Class Two licences for service providers operating within a single province/autonomous region/central government-supervised municipality to be issued by the local telecom authority and registered with the State Council's telecom authority.
3. Class Two licences for service providers operating in more than one province/autonomous region/central government-supervised municipality to be issued by the State Council's telecom authority.
4. Pilot projects will require prior temporary licences from the telecom regulator.
5. Licences will be issued through approval procedures, through bidding, and/or through other procedures.

6. Any telecom licensed service provider should present the licence issued by the Telecom Regulator to the relevant industrial or commercial administration for registry.

**C.1 Class One telecom service licenses** should meet the following criteria:

1. The applicant must be a legally established telecom enterprise in which the state is the controlling shareholder;
2. The applicant must possess a complete, reasonable and feasible business development plan;
3. The applicant must have sufficient capital and professional staff to carry out operations;
4. The applicant must possess the venue, equipment and other resources to carry out operations;
5. The applicant must have the capability to offer services over the long term;
6. The applicant must meet other requirements stipulated by the State Council's telecom authority.
7. Licence approval should be processed within 180 days of receiving the application. Rejections should be explained in writing.

**C.2 Class Two telecom service licenses** should meet the following criteria:

1. The applicant must be a legally established enterprise;
2. The applicant must possess a feasible business development plan;
3. The applicant must have sufficient capital and professional staff to carry out operations;
4. The applicant must have the capabilities of offering long term services;
5. The applicant must meet other requirements stipulated by the State Council's telecom authority.
6. Licence approval should be processed within 90 days of receiving the application. Rejections should be explained in writing.

**D. Overseas investment**, including from Macau, Hong Kong and Taiwan

1. Foreign investment in the telecom industry and telecom joint ventures requires prior approval from the State Council's Telecom Regulator.
2. Listing on domestic or overseas stock exchanges, and the conduct of equity transfers after a listing, requires prior approval from the State Council's Telecom Regulator.
3. Termination of a telecoms business before the expiry of the licence requires 90 prior notification and the submission of a written application.
4. Proprietary networks wishing to establish a public service in the localities where they are based must first establish an independent enterprise and apply for a licence.

**E. Interconnection:**

1. Public networks should interconnect based upon the principles of technical feasibility and economic profitability.
2. Interconnection between private and public networks should follow the same principles.
3. Interconnection billing charges should comply with the regulations of the Telecoms Regulator and unauthorized surcharges are forbidden.

4. Interconnection agreements should be negotiated between the parties concerned in accordance with the regulations of the Telecoms Regulator. In the event of failure to agree, within 60 days either party can apply for mediation by the relevant telecoms regulator, who should openly seek expert advice and within 45 days an administrative order should be issued.
5. Refusal to interconnect is not allowed without State Council approval.
6. Interconnect technical breakdowns should be resolved without delay.

#### **F. Telecom Regulator**

1. Responsible for planning, centralized management and a 'rational' allocation of national telecom resources.
2. Telecom resources will be allocated on a 'payment-based development policy' with payment processing and billing rates determined by the Telecom Regulator.
3. The Telecom Regulator will take into consideration the service capabilities and proposed use of resources by licence applicants.
4. Auctioning will be more widely utilized in allocating commercial telecom resources where there are more than two applicants.
5. Regarding telecom resources acquired by auction, entities that plan to transfer the resources or dedicate resources for other purposes before the expiry date should seek consent from Telecom Regulators.
6. Enterprises allowed to use telecom resources should comply with the state's relevant regulations, employ the allocated resources within the specified period, and reach the stipulated minimal scale of utilization.
7. The State Council's telecom authority is entitled to retrieve and redistribute telecom resources if the resources are not used after the expiry date, if the stipulated minimal scale of utilization can not be achieved, or if terminated services still occupy telecom resources.
8. Relevant telecom enterprises should comply with the Telecom Regulator's decisions on allocating resources, including telecom numbering.

**G. Type Approval for Telecoms Equipment:** (Note: China has committed itself to signing *the Information Technology Agreement (ITA)* on accession to the WTO, and under the terms of the *APEC Mutual Recognition Agreement (MRA)* type approval procedures should short-circuit the unnecessary expense and duplication of procedures.)

1. Telecom equipment that accesses public telecom networks should comply with national/industry standards, the state's industrial policies, and relevant regulations.
2. A type approval and certification system is in effect for products that access public telecom networks, including subscriber terminal devices, radio equipment and telecom network equipment relevant to internetworking standards. The State Council's telecom authority is responsible for compiling and releasing a catalog for all telecom devices subject to a review by the type approval and certification system.
3. Any entity that proceeds with the type approval and certification process should submit a written application to the State Council's telecom authority. As well, the entity should allow

inspections of this equipment, to be conducted by organizations that are approved by national quality/technology supervising agencies.

4. The State Council's telecom authority should review all type approval and certification applications within 60 days upon the receipt of the relevant inspection report and issue the model verification certificate and verification logo for the qualified equipment.
5. The State Council's telecom authority should release a catalog of telecom equipment describing which model verification certificates have been granted.
6. It is forbidden to forge, usurp and/or transfer any model verification certificate and/or verification logo.
7. No telecom enterprise is permitted to force subscribers to purchase its designated telecom terminal devices or hinder the use of subscribers' telecom terminal devices that bear the type approval and certification logo.
8. It is forbidden to use, sell, or import telecom equipment that requires type approval and certification but lacks the type approval and certification certificate and verification logo.
9. Any enterprise that has been granted a type approval and certification certificate should not offer substandard products.
10. The Telecom Regulators, together with technical supervision agencies, should track and monitor the performance of telecom equipment to which the type approval and certification certificate has been granted, and release inspection findings.