

Decree No. 333 of the State Council of the People's Republic of China

The Provisions on the Administration of Foreign-Invested Telecommunications Enterprises have been adopted at the 49th regular meeting of the State Council on December 5, 2001. It is hereby promulgated and shall be implemented as of January 1, 2001.

Zhu Rongji, Prime Minister
December 11, 2001

**Provisions on the Administration of Foreign-Invested
Telecommunications Enterprises**

Article 1. These Provisions are formulated in accordance with the relevant laws and administrative regulations governing foreign investment and the Telecommunications Regulations of the People's Republic of China (the "**Telecommunications Regulations**") in order to meet the needs of opening the telecommunications industry to the outside world and promote the development of the telecommunications industry.

Article 2. Foreign-invested telecommunications enterprises refer to enterprises that operate telecommunication businesses jointly established in accordance with law by foreign and Chinese investors in the People's Republic of China in the form of Chinese-foreign equity joint ventures.

Article 3. Foreign-invested telecommunications enterprises that engage in the operation of telecommunications businesses shall, in addition to these Provisions, comply with the provisions of the Telecommunications Regulations and other relevant laws and administrative regulations.

Article 4. Foreign-invested enterprises may engage in basic telecommunications businesses and value-added telecommunication businesses. The

specific distinction between the categories of telecommunications businesses set out in the Telecommunications Regulations shall apply.

The geographic scope in which foreign-invested telecommunications enterprises may operate shall be determined by the supervisory department for the information industry under 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 amount of the registered capital of a foreign-invested telecommunications enterprise operating a telecommunications business nationwide or in several provinces, autonomous regions or municipalities directly under the central government shall be RMB2 billion in the case of a basic telecommunications business or RMB 10 million in the case of a value-added telecommunications business.

(2) The minimum amount of the registered capital of a foreign-invested telecommunications enterprise which operates a telecommunications business within one province, autonomous region or municipality directly under the central government shall be RMB200 million in the case of a basic telecommunications business or RMB 1 million in the case of a value-added telecommunications business.

Article 6. The capital contribution ratio of the foreign investor in a foreign-invested telecommunications enterprise operating a basic telecommunications business (other than wireless paging business) shall ultimately not exceed 49%.

The capital contribution ratio of the foreign investor in a foreign-invested telecommunications enterprise operating a value-added telecommunications

business (including the basic telecommunications business of wireless paging) shall ultimately not exceed 50%.

The capital contribution ratio between the Chinese and the foreign investor of a foreign-invested telecommunications enterprise in different periods shall be determined by the supervisory department for the information industry under the State Council in accordance with the relevant provisions.

Article 7. To operate a telecommunications business, foreign-invested telecommunications enterprises shall satisfy the conditions for the operation of basic telecommunications businesses or value-added telecommunications businesses set forth in the Telecommunications Regulations in addition to the conditions set forth in Articles 4, 5 and 6 of these Provisions.

Article 8. The principal Chinese investor of a foreign-invested telecommunications enterprise operating a basic telecommunications business shall satisfy the following conditions:

- (1) be a company established in accordance with law;
- (2) have appropriate funds and specialized staff for operating activities;
- (3) meet the prudential and industry-specific requirements stipulated by the supervisory department for the information industry under the State Council.

The principal Chinese investor of a foreign-invested telecommunications enterprise referred to in the preceding paragraph means the investor who makes the largest amount of capital contribution among all Chinese investors and whose capital contribution accounts for over 30% of the total amount of capital contributions of all Chinese investors.

Article 9. The principal foreign investor of a foreign-invested telecommunications enterprise operating a basic telecommunications business shall satisfy the following conditions:

- (1) have enterprise legal person status;
- (2) have obtained an operating permit for basic telecommunications businesses in its country or territory of incorporation;
- (3) have appropriate funds and specialized staff for operating activities;
- (4) have a good record and operating experience in basic telecommunications businesses.

The principal foreign investor of a foreign-invested telecommunications enterprise referred to in the preceding paragraph means the investor who makes the largest amount of capital contribution among all foreign investors and whose capital contribution accounts for over 30% of the total amount of capital contributions of all foreign investors.

Article 10. The principal foreign investor of a foreign-invested telecommunications enterprise operating a value-added telecommunications business shall have a good record and operating experience in value-added telecommunications business.

Article 11. For the establishment of a foreign-invested telecommunications enterprise operating a basic telecommunications business or operating a value-added telecommunications business in several provinces, autonomous regions or municipalities directly under the central government, the principal Chinese investor shall submit an application and the following documents to the supervisory department for the information industry under the State Council:

- (1) a project proposal;
- (2) a feasibility study report;
- (3) qualification documents or relevant confirmation documents of the investors of the joint venture as set forth in Articles 8, 9 and 10 hereof; and
- (4) supporting documents or confirmation documents regarding other conditions necessary for operating basic or value-added telecommunications businesses as set forth in the Telecommunications Regulations.

The supervisory department for the information industry under the State Council shall examine the above documents from the date of its receipt of the application. If the application is for operating a basic telecommunications business, it shall within 180 days complete the examination and decide to grant or refuse approval. If the application is for operating a value-added telecommunications business, it shall complete the examination within 90 days and decide to grant or refuse approval. Where approval is granted, an Examination and Approval Opinion For the Operation of Telecommunications Business With Foreign Investment will be issued; where approval is refused, the applicant shall be notified and reasons specified in writing.

Article 12. For the establishment of a foreign-invested telecommunications enterprise operating a basic telecommunications business or operating a value-added telecommunications business in several provinces, autonomous regions or municipalities directly under the central government, when its principal Chinese investor submits an application in accordance with Article 11 hereof, it may, based on the actual situation, first submit documents other than the feasibility study report, and submit the feasibility study report after the examination, acceptance and written notification by the supervisory department for the information

industry under the State Council. However, the interval between the date on which the notice of examination and acceptance is issued and the date on which the feasibility study report is submitted shall not exceed one year and such period will not be included in the stipulated time limit for examination and approval.

Article 13. For the establishment of a foreign-invested telecommunications enterprise operating a value-added telecommunications business within one province, autonomous region or municipality directly under the central government, its principal Chinese investor shall submit an application and the following documents to the telecommunications administration authority of the province, autonomous region or municipality directly under the central government:

- (1) a feasibility study report;
- (2) qualification documents or relevant confirmation documents as set forth in Article 10 hereof; and
- (3) supporting documents or confirmation documents regarding other conditions necessary for operating value-added telecommunications businesses as set forth in the Telecommunications Regulations.

The telecommunications administration authority of the province, autonomous region or municipality directly under the central government shall sign its opinion within 60 days from the date of its receipt of the application. If it consents to the application, it shall forward the application to the supervisory department for the information industry under the State Council. If it does not consent to the application, it shall notify the applicant and specify reasons in writing.

The supervisory department for the information industry under the State Council shall complete the examination within 30 days from the date of its receipt of the application documents with the signature for consent by the

telecommunications administration authority of the province, autonomous region or municipality directly under the central government and decide to grant or refuse approval. Where approval is granted, an Examination and Approval Opinion For the Operation of Telecommunications Business With Foreign Investment will be issued; where approval is refused, the applicant shall be notified and reasons specified in writing.

Article 14. The main content of the project proposal for a foreign-invested telecommunications enterprise shall include: names and basic condition of the parties to the joint venture, the total amount of investment, registered capital, investment ratios each party, categories of businesses for which the application is made and joint venture term of the proposed enterprise.

The main content of the feasibility study report of a foreign-invested telecommunications enterprise shall include: the basic condition, service items, business projections and development plans, analysis of investment returns and anticipated business hours of the proposed enterprise.

Article 15. If, in accordance with the relevant provisions of the State, the investment project to establish a foreign-invested telecommunications enterprise must be examined and approved by the department in charge of planning under the State Council or the department for general administration of the economy under the State Council, the supervisory department for the information industry under the State Council shall forward the application documents to the department in charge of planning under the State Council or the department for general administration of the economy under the State Council for examination and approval before issuing the Examination and Approval Opinion For the Operation of Telecommunications Business With Foreign Investment. With respect to investment

projects forwarded to the department in charge of planning under the State Council or the department for general administration of the economy under the State Council for examination and approval, the period for examination and approval may be extended by 30 days.

Article 16. For the establishment of a foreign-invested telecommunications enterprise, in the case of a foreign-invested telecommunications enterprise operating a basic telecommunications business or operating a value-added telecommunications businesses in several provinces, autonomous regions and municipalities directly under the central government, the principal Chinese investor shall submit the contract and the articles of association for the proposed foreign-invested telecommunications enterprise to the department in charge of foreign economic relations and trade under the State Council on the strength of the Examination and Approval Opinion For the Operation of Telecommunications Business With Foreign Investment; in the case of a foreign-invested telecommunications enterprise operating a value-added telecommunication business within one province, autonomous region or municipality directly under the central government, the principal Chinese investor shall submit the contract and the articles of association for the proposed foreign-invested telecommunications enterprise to the department in charge of foreign economic relations and trade of the people's government of the province, autonomous region or municipality directly under the central government on the strength of the Examination and Approval Opinion for the Operation of Telecommunications Business with Foreign Investment.

The department in charge of foreign economic relations and trade under the State Council and the departments in charge of foreign economic relations and trade of the people's governments of the provinces, autonomous regions and

municipalities directly under the central government shall complete the examination and approval within 90 days from the date of receipt of the contract and the articles of association for the proposed foreign-invested telecommunications enterprise and decide to grant or refuse approval. Where approval is granted, a Foreign-Invested Enterprise Approval Certificate will be issued; where approval is refused, the applicant shall be notified and reasons specified in writing.

Article 17. The principal Chinese investor of the foreign-invested telecommunications enterprise shall handle the procedure for the Operating Permit for Telecommunications Business with the supervisory department for the information industry under the State Council on the strength of the Foreign-Invested Enterprise Approval Certificate.

The principal Chinese investor of the foreign-invested telecommunications enterprise shall handle the procedure for registration of the foreign-invested telecommunications enterprise with the administrative department of industry and commerce on the strength of the Foreign-Invested Enterprise Approval Certificate and the Operating Permit for Telecommunications Business.

Article 18. To operate an international telecommunications business, a foreign-invested telecommunications enterprise must be approved by the supervisory department for the information industry under the State Council and operate through the International Telecommunications Exit and Access Bureau established with the approval of the supervisory department for the information industry under the State Council.

Article 19. If a foreign-invested telecommunications enterprise violates the provisions of Article 6, the supervisory department for the information industry under the State Council shall order it to correct the situation within a

prescribed time limit and impose a fine between RMB 100,000 and RMB 500,000. If the correction is not made within the prescribed time limit, its Operating Permit for Telecommunications Business shall be revoked by the supervisory department for the information industry under the State Council, and its Foreign-Invested Enterprise Approval Certificate shall be cancelled by the supervisory department for foreign economic relations and trade which originally issued the same.

Article 20. If a foreign-invested telecommunications enterprise violates the provisions of Article 18, the supervisory department for the information industry under the State Council shall order it to correct the situation within a prescribed time limit and impose a fine of between RMB 200,000 and RMB 1,000,000. If the correction is not made within the prescribed time limit, its Operating Permit for Telecommunications Business shall be revoked by the supervisory department for the information industry under the State Council, and its Foreign-Invested Enterprise Approval Certificate shall be cancelled by the supervisory department for foreign economic relations and trade which originally issued the same.

Article 21. If approval of an application to establish a foreign-invested telecommunications enterprise is fraudulently obtained by submitting false or forged qualification certificates or confirmation documents, the approval shall be void, a fine between RMB 200,000 and RMB 1,000,000 shall be imposed and the Operating Permit for Telecommunication Business shall be revoked by the supervisory department for the information industry under the State Council, and the Foreign-Invested Enterprise Approval Certificate shall be cancelled by the supervisory department for foreign economic relations and trade which originally issued the same.

Article 22. If a foreign-invested telecommunications enterprise violates the Telecommunications Regulations and other relevant laws and administrative regulations in the operation of telecommunications businesses, it shall be punished by the relevant authorities according to law.

Article 23. Overseas listings by domestic telecommunications enterprises must be examined and agreed by the supervisory department for the information industry under the State Council and approved in accordance with the relevant provisions of the State.

Article 24. These Provisions shall apply by reference to companies and enterprises of the Hong Kong Special Administrative Region, Macau Special Administrative Region and Taiwan Area investing in telecommunications businesses in mainland China.

Article 25. These Provisions shall be implemented as of January 1, 2002.