



China stakes its claim on regulating Internet Advertising – Draft rules issued

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On July 1, 2015, China issued Interim Measures for Internet Advertising Supervision and Management, with a deadline of July 30 for public comment.

The Interim Measures follow China's relatively new Advertising Code. In combination with laws on strengthening network information protection, protecting consumer rights and other measures important to an ever-expanding web-based economy, the Interim Measures appear as reasonable steps to ensure fairness in internet advertising and to combat fraud and piracy through web-based advertisements. For example, Article 15 of the Draft Measures is not unlike regulations in North America, Europe and elsewhere that aim to prevent a website from unfairly competing with other sites by blocking or intercepting the advertisements of others.

By definition any website is global and can be visible to Chinese persons (disregarding the Chinese Government's efforts to block certain websites from ready view within China). For this reason, websites designed for primary purposes outside of China may be caught in unintended violations of what are ultimately China's final Measures about internet advertising.

Take one example. An American movie star endorses a product and receives compensation from the provider. The website advertises globally, using the celebrity to promote its products, but fails to disclose that the celebrity is being compensated to do this. That would violate the "soft advertisements" provision of the Interim Measures, and in theory the movie star and the website operator could be subject to liability within China for the violation.

What is obvious from the Interim Measures is that the Chinese draft provisions are not a copy of EU or American methods of regulating internet advertising. What is needed over time is a global set of standards for internet advertising. A global web should ultimately

have uniform or at least harmonized rules. Otherwise, website operators and global companies will be subject to a maze of different and sometimes conflicting rules for how to market their products and services. This can be a greater barrier over time to the flow of trade than tariff barriers and shipping costs. As one of the world's largest markets, China has staked its claim on what the rules should be. Global companies should review the Interim Measures, which should become final later in 2015.

For detailed comments on the Interim Measures, see [Jun He Bulletin, July 15, 2015](#). Frost Brown Todd LLC and Jun He are members of MULTILAW, one of the world's leading networks of independent law firms.

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