

The Allen Wang Team – Entertainment Laws Database

Introduction of Culture Sector Foreign Investment Opinions

关于文化领域引进外资的若干意见

Issuing Authority: Ministry of Culture, State Broadcasting, Film & TV Administration, General Administration of Press & Publication, State Development & Reform Commission, Ministry of Commerce
PRC Reference: No. 19 [2005] of the Ministry of Culture
Issue Date: July 6, 2005
Effective Date: July 6, 2005

The people's governments of all provinces, autonomous regions, and municipalities directly under the Central Government, all the ministries and commissions of the State Council and all the institutions directly under the State Council, and the departments of culture, bureaus of radio, film, and television, bureaus of press and publication, development, and reform commissions and administrative departments of commerce of all provinces, autonomous regions and municipalities directly under the Central Government:

Introduction of Culture Sector Foreign Investment Opinions as jointly formulated by the Ministry of Culture, State Administration of Radio, Film and Television, General Administration of Press and Publication, National Development and Reform Commission and the Ministry of Commerce, which have been approved by the State Council, are hereby printed and distributed to you for earnest implementation.

Ministry of Culture
State Administration of Radio, Film and Television
General Administration of Press and Publication
National Development and Reform Commission
Ministry of Commerce
July 6, 2005

Several Opinions on Introducing Foreign Investment into the Cultural Sector

In order to adapt to the modern circumstances after China's accession into the WTO, to further regulate the work of introducing foreign investment into the cultural sector, elevate the quality and efficiency of utilizing foreign investment, safeguard the national cultural security, and promote a sound and orderly development of the cultural sector, we hereby put forward the following opinions:

Article 1 Foreign investors shall be allowed to establish wholly

各省、自治区、直辖市人民政府，国务院各部委、各直属机构，各省、自治区、直辖市文化厅（局）、广电局（厅）、新闻出版局、发展改革委、商务主管部门：

经国务院同意，现将文化部、国家广播电影电视总局、国家新闻出版总署、国家发展和改革委员会、商务部联合制定的《关于文化领域引进外资的若干意见》印发给你们，请认真贯彻执行。

特此通知。

文化部
国家广播电影电视总局
新闻出版总署
国家发展和改革委员会
商务部

二〇〇五年七月六日

关于文化领域引进外资的若干意见

为适应我国加入世贸组织的新形势，进一步规范文化领域引进外资工作，提高利用外资的质量和水平，维护国家文化安全，促进文化产业健康有序发展，现提出如下意见：

第一条 允许外商以独资或合资、合

foreign-invested, joint venture or Sino-foreign cooperative enterprises specializing in packaging and decoration printing, distribution of books and periodicals, production of Compact Disc Recordable (CD-R) and management of fine arts business, and others. Where the Chinese party holds 51% of the equity or above or takes a dominant position, the foreign party shall be allowed to establish joint venture or Sino-foreign cooperative enterprises specializing in publication printing and duplication of Compact Disc Read-only Memory (CD-ROM). Provided that the right of the Chinese Government to censor the contents of audio-visual products is not prejudiced, foreign investors shall be allowed to establish Sino-foreign cooperative enterprises specializing in the distribution of audio-visual products other than movies where the Chinese party takes the dominant position.

Article 2 Provided that the China party holds 51% or more shares or where the Chinese party takes a dominant position, a foreign investor is allowed to establish an enterprise in either form of joint venture or contractual equity, which engages in the business operation of performance venues, cinemas, performance brokerage or film techniques or to participate in the stock reform of a state-owned enterprise that engages in the distribution of books, newspapers, journals, or the distribution of audio and video products.

Article 3 A service provider from Hong Kong or Macao is allowed to establish in the Mainland a joint venture, contractual equity or wholly foreign-funded enterprise that engages in the business operation of performance venues, a branch or sub-branch of a performance brokerage company, a joint venture or contractual performance brokerage institution, a Mainland-controlling network culture entity or business place where the Internet access service is provided, a joint venture or contractual equity that engages in the distribution of audio and video products where the foreign investor holds no more than 70% of equity, a cinema that is newly built or reconstructed by sole foreign capital or a wholly foreign-funded company for pilot distribution of home-made films in the Mainland.

Article 4 It is prohibited for a foreign investor to establish or engage in any press institution, radio office/station, television office/ station, radio and TV transmission covering network, production and broadcasting company of radio and television programs, film production company, network culture entity, or business place where the Internet access service is provided (except for an investor from Hong Kong or Macao), commercial artistic-cultural performance group, a company that engages in the import and distribution of films or a company that engages in the video projection. It is prohibitive for a foreign investor to engage in the business operation regarding the publication, general distribution, or import of books, newspapers, and

作的方式设立包装装潢印刷、书报刊分销、可录类光盘生产、艺术品经营等企业。在中方控股 51% 以上或中方占有主导地位的条件下，允许外商以合资、合作的方式设立出版物印刷和只读类光盘复制等企业。在不损害我国审查音像制品内容的权利的情况下，允许外商以合作且中方占有主导地位的方式设立除电影之外的音像制品分销企业。

第二条 在中方控股 51% 以上或中方占有主导地位的条件下，允许外商以合资、合作的方式设立和经营演出场所、电影院、演出经纪机构、电影技术等企业，参与国有书报刊音像制品发行企业股份制改造。

第三条 允许香港和澳门的服务提供者在内地设立合资、合作、独资经营的演出场所，设立演艺经纪公司分支机构，设立合资、合作经营的演出经纪机构，设立由内地控股的互联网文化经营机构和互联网上网服务营业场所，设立不超过 70% 股权的音像制品分销合资企业和不超过 70% 权益的音像制品分销合作企业，以独资形式新建、改建电影院，在内地试点设立发行国产影片的独资公司。

第四条 禁止外商投资设立和经营新闻机构、广播电台（站）、电视台（站）、广播电视传输覆盖网、广播电视节目制作及播放公司、电影制作公司、互联网文化经营机构和互联网上网服务营业场所（港澳除外）、文艺表演团体、电影进口和发行及录像放映公司。禁止外商投资从事书报刊的出版、总发行和进口业务，音像制品和电子出版物的出版、制作、总发行和进口业务，以及利用信息网络开

journals; nor in regards to the publication, production, general distribution, or import of audio and video products or electronic publications, or regarding the audio/video program services, news websites or Internet publication by means of the information network. A foreign investor shall not enter into any publicity sector such as channel, frequency, page layout, editing or publication in the disguise of business operation of distributing publications, printing, advertising or reconstructing cultural facilities.

Article 5 The administrative department of culture, press and publication, and radio, film, and television shall keep close watch on the access into the relevant sectors by carrying out a preliminary examination and approval of an application for the establishment of a wholly foreign-funded enterprise, joint venture, or contractual equity according to law in order to regulate the scope of utilizing foreign capital as well as the relevant equity proportion. Upon a preliminary examination and approval, the application shall be reported to the relevant department for examination and approval according to the competency and procedures as prescribed in the relevant provisions on foreign investment.

Article 6 When applying for the establishment of a wholly foreign-funded enterprise, joint venture or contractual enterprise, an investor shall have the relevant capital, professionals and business place compatible with its business scale and shall not have any unlawful, rule-breaking or unfavorable record within 3 consecutive years. The organ in charge of the administrative examination and approval shall, according to the statutory requirements and procedures, carry out an earnest examination on the application materials as submitted by applicants and shall put the focus on those friendly overseas cultural enterprises with strong capital strength, standardized management and advanced technologies for joint venture and contractual equity so as to ensure the sound qualification of foreign investment as canvassed.

Article 7 The introducing of any foreign investment into the distribution of audio and video products, artistic-cultural performance places, performance brokerage institutions, distribution of books, newspapers and journals, production of recordable discs, and replication of read-only discs as well as the attraction of any investment from Hong Kong or Macao into network culture entities and business places where the Internet access service is provided shall, after being subject to an examination conducted by the administrative department at the provincial level as well as to a preliminary examination and approval by the administrative department of the State Council, be reported to the relevant department for examination and approval according to the relevant provisions on foreign

展视听节目服务、新闻网站和互联网出版等业务。外商不得通过出版物分销、印刷、广告、文化设施改造等经营活动，变相进入频道、频率、版面、编辑和出版等宣传业务领域。

第五条 文化、新闻出版、广播电视行政部门负责把好行业准入关，对申请设立外商独资和合资、合作企业依法进行前置性审批，规范外资的使用范围和股权比例。前置性审批后，根据外商投资有关规定所确定的权限和程序，报相关部门审批。

第六条 申请设立外商独资和合资、合作企业，投资方须具有与经营规模相适应的资金、专业人员和经营场所，连续三年内没有违法违规和其他不良记录。行政审批的实施机关要根据法定条件和程序，对申请人提交的申请材料进行认真审查。要注重选择实力雄厚、管理规范、技术先进、对我友好的境外文化企业进行合资、合作，确保引进外资的资质可靠。

第七条 音像制品分销、文艺演出场所、演出经纪机构、书报刊分销、可录类光盘生产、只读类光盘复制等引进外资，以及互联网文化经营机构、互联网上网服务营业场所引进港澳地区资本，经省级行政主管部门审核报国务院行政主管部门前置性审批后，按照外商投资的有关规定，报相关部门审批。

investment.

Article 8 Any Sino-foreign cooperative production of films, TV plays, or animation shall be subject to the examination and approval of the State Administration of Radio, Film, and Television. Once the relevant administrative department of films at the provincial level grants an approval, any foreign investment in a cinema shall be reported to the relevant department for examination and approval according to the relevant provisions on foreign investment and shall be reported to the State Administration of Radio, Film, and Television and the Ministry of Culture.

Article 9 The introducing of foreign investment into the printing of publication as well as packing, decoration, and printing shall be reported to the relevant department for examination and approval or archival filing according to the relevant provisions on foreign investment after being subject to a preliminary examination and approval conducted by the administrative department of press and publication at the provincial level.

Article 10 In order to be in accord with China's WTO commitments in introducing foreign investment, a region or department may not unlawfully enlarge the scope of introducing the foreign investment or overstep their competency to formulate any regional or industrial open policy or to carry out the examination and approval of any relevant project. The introducing of foreign investment into an enterprise that engages in the advertising, distribution and printing of any of the Party's newspapers, journals, and radio and television stations as well as into any conglomerate that engages in distribution or films shall be reported to the relevant administrative departments of the State Council for approval, wherein the approval of the Publicity Department of CCCPC shall be solicited for. Where any department unlawfully introduced any foreign investment without an approval, which goes beyond China's WTO commitment and the relevant provisions, it shall be corrected in a timely manner and shall be subject to serious investigation and punishment.

Article 11 The relevant organs shall establish and improve a market exit mechanism, issue the relevant licenses in a strict manner and earnestly carry out an annual examination system. As to any rule-breaking foreign-funded enterprise, the relevant organs shall, based on the specific circumstance, give an administrative sanction, namely, warning, fine, or revocation of the license. As to any foreign-funded enterprise whose license has been revoked, the administrative department for industry and commerce shall order it to handle the formalities for write-off registration or alteration registration.

第八条 中外合作摄制电影、电视剧、动画片由国家广播电影电视总局审批。外商投资电影院，征得省级电影行政部门同意后，按照外商投资的有关规定，报相关部门审批，并报国家广播电影电视总局、文化部备案。

第九条 出版物印刷和包装装潢印刷引进外资，经省级新闻出版行政部门前置性审批后，按照外商投资的有关规定，报相关部门审批或备案。

第十条 按照我国加入世贸组织承诺做好引进外资工作。各地各部门不得擅自扩大引进外资范围，不得越权制定地区性、行业性开放政策和审批项目。党报党刊、电台电视台等重要新闻媒体的广告、发行、印刷等企业以及发行、电影集团公司引进外资，要报国务院有关行政部门批准，并征得中宣部同意。未经批准，擅自突破我国加入世贸组织承诺和有关规定引进外资，要及时纠正，严肃查处。

第十一条 建立健全市场退出机制，从严发放许可证，认真执行年度审核制度。对违规的外商投资企业，视不同情况，依法实行警告、罚款、吊销许可证等行政处罚。对吊销许可证的外商投资企业，工商行政管理部门要责令其办理注销登记或变更登记。



Article 12 The administrative departments in charge of culture, radio, film and television, and press and publication at all levels shall intensify their macro-level control on and daily supervision over the introducing of foreign investment and earnestly carry into effect the relevant provisions on the administration of foreign investment. The relevant departments should overcome their weak links, improve the administration means and advance the follow-up supervision. The relevant departments shall improve the comprehensive law enforcement and intensify their strength of cracking down on any unlawful or rule-breaking act.

Article 13 The Ministry of Culture, State Administration of Radio, Film and Television, and General Administration of Press and Publication shall, according to the present Opinions, formulate and improve the relevant detailed measures for implementation within their own sectors.

第十二条 各级文化、广播电影电视、新闻出版行政部门要加强引进外资的宏观调控和日常监管，认真落实引进外资管理工作的有关规定。克服薄弱环节，改进监管方式，完善后续监管。大力推进综合执法，加大对违法违规行为的打击力度。

第十三条 文化部、国家广播电影电视总局、国家新闻出版总署根据本意见，制定和完善本部门具体实施办法。



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