



July 5, 2012

Minister Miao Wei
Ministry of Industry and Information Technology
Beijing
People's Republic of China

Dear Minister Miao:

On behalf of the National Foreign Trade Council and the Software & Information Industry Association, U.S.-based business associations representing hundreds of companies engaged in global commerce, we write to express concern regarding the draft amendments to the "Internet Information Service Management Rules" published on June 7 by the Chinese State Council Information Office (SCIO) and the Ministry of Industry and Information Technology (MIIT). As drafted, we believe the proposed regulations would limit innovation, impair the ability of business and individuals to engage productively over the internet and could serve as a barrier to electronic commerce and trade in physical goods.

This proposal would impose an enhanced regulatory regime without adequate safeguards to ensure the fair application and administration of rules. For example, the regulations do not provide a transparent, accessible, or regular process for appealing government decisions regarding content and filtering. Transparent procedures and appeals processes are essential to ensure that internet policies are applied evenly to domestic and foreign entities and do not unfairly limit online channels for trade or marketing or otherwise discriminate against commercial activities by global providers. As drafted, access to foreign websites could be summarily limited, slowed or blocked entirely without transparent redress procedures.

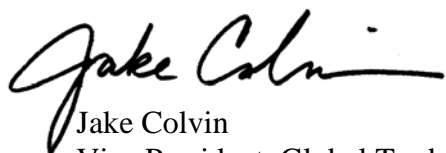
In this context, the broad definition of illegal activity in the regulations is particularly concerning. The definition includes publishing information damaging the honor or interests of the State and spreading rumors, pornography or "other content prohibited by laws and administrative regulations." This last blanket provision is especially problematic. The uncertainty surrounding the definition and enforcement of illegal activities is likely to discourage foreign companies from competing in the Chinese marketplace and chill local economic development, innovation and creativity in China.

Overall, the proposed regulations run counter to an open, rules-based framework for international e-commerce and trade, and threaten to impede innovation and commercial interactions. The filtering regime, real identity system and associated policies contained in this proposal would impose new national barriers to digital communications, deter foreign participation in the Chinese digital marketplace, and invite imitation and retaliation from China's trading partners.

These regulations would also limit innovation, creativity and economic growth in China. A recent survey from the Boston Consulting Group found that Chinese small and medium sized businesses that used the internet intensively grew their sales by an average of 25 percent, compared to 9 percent growth for firms that used the internet less intensively or not at all. The effect of these regulations would be to limit the growth and use of the internet in China, thereby discouraging local innovation, business productivity, and economic development.

For all of these reasons, we urge the reconsideration of the proposed revisions to the Internet Information Service Management Rules. Future internet policies should be predicated on transparent, fair, and predictable treatment of individuals and entities, and should encourage local innovation and creativity while ensuring the equitable treatment of global businesses. Thank you for your consideration of these comments.

Sincerely,



Jake Colvin
Vice President, Global Trade Issues
National Foreign Trade Council



Mark MacCarthy
Vice President, Public Policy
Software & Information Industry Association