

Will China's New App Registration Rule Shutout Foreign Apps?

CHINA REGULATION WATCH¹

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On July 21, 2023, the Ministry of Industry and Information Technology (工业和信息化部) (“MIIT”) launched the Notice on Conducting Registration for Mobile Internet Applications (关于开展移动互联网应用程序备案工作的通知) (the “App Registration Rules”), pursuant to which the providers of applications (also referred to as app(s)) that engage in internet information services within the territory of the People’s Republic of China (“China” or “PRC”) must register those apps with MIIT.

This article explains the relationship between the new app registration rule and the long existing ICP registration rule (defined below), and how this new rule might lead to the disappearance of many foreign apps from the China market.

I. ICP Registration for Mobile Applications

MIIT issued the App Registration Rules to implement the registration requirements set forth in the Administrative Measures for Internet Information Services (互联网信息服务管理办法) (the “ICP Measures”)² with respect to all apps that provide internet information services in China.

The ICP Measures are one of the key regulations that govern internet-based businesses in China. According to the ICP Measures, “internet information services” refer to all the services that provide information through the internet.³ In practice, internet information services include all services provided to the public through websites or mobile apps.

Under the ICP Measures, if a company provides internet information services on a non-commercial basis in China, then the company needs to complete a registration with MIIT, also known as an internet content provider registration (“ICP Registration”); and if a company provides internet information services on a commercial basis in China, then the company needs to obtain a value-added telecommunications license (增值电信业务经营许可证) from MIIT,

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² The Administrative Measures for Internet Information Services (互联网信息服务管理办法) was issued by the State Council on September 25, 2000, and then amended in January 2011 (the “ICP Measures”).

³ See Article 2 of the ICP Measures.



also known as an internet content provider license (“ICP License”). However, not all companies can complete an ICP Registration or obtain an ICP License. Only companies registered in China can complete an ICP Registration; and due to foreign investment restrictions,⁴ only a domestic company or a foreign-invested company with less than 50% foreign ownership can apply for an ICP License.⁵

Technically, if a company provides internet information services in China, irrespective of whether this is done through a website or a mobile application, whether on a commercial basis or not, MIIT wants the relevant company’s information registered within its system.

In the past, most internet information services were provided through websites. Any company that hosts a website in China must have an ICP Registration number or an ICP License number displayed on their website. During the past decade, however, mobile applications became the dominant channel for delivering internet-based services. The new App Registration Rules are designed to formally extend the ICP Registration requirement to cover mobile apps. MIIT’s goal is to ensure that it has the registration information not only for all websites hosted in China, but also for all mobile apps that are distributed in China.

II. New Gatekeepers for App Registration

A. Enforcement of ICP Registration

Before the issuance of the App Registration Rules, internet access service providers (网络接入服务提供者) (“ISPs”) were the primary gatekeepers for ICP Registration. If your website was hosted on a server located in China, the ISP that connects your website to the internet would require you to complete an ICP Registration or obtain an ICP License before they would provide you with their services.⁶ If your website is hosted on a server located outside of China and thus connected to the internet through a non-China ISP, then in practice the ICP Registration requirement would not be enforced even if the website is accessible inside China. A website hosted outside of China might, however, be blocked by China’s “great firewall” internet content censorship system or become very slow for China based users to access.

Cloud service providers, such as Ali Cloud, Tencent Cloud, Ksyun and Huawei Cloud are also ISPs. They generally provide a full package of services, including cloud servers, domain name services, and internet access services. These companies normally also require their clients

⁴ According to the Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021 Edition) (外商投资准入特别管理措施(负面清单) (2021 年版)), the foreign ownership percent interest of a company that provides value-added telecommunications services in China shall not exceed 50%, except for e-commerce services, domestic multi-party communication services, message storing and forwarding services, and call center services, none of which currently require an ICP license.

⁵ In this article, “domestic company” refers to a company established under the laws of China with only PRC citizens or other domestic companies as shareholders; and “foreign-invested company” refers to a company established under the laws of China with at least some non-PRC citizens or foreign companies as shareholders; “foreign company” refers to a company established under the laws of a jurisdiction other than China.

⁶ Cloud service providers and ISPs are usually domestic companies or foreign-invested company. Foreign companies are not permitted to provide cloud computing services or internet access services in China.



to complete an ICP Registration or obtain an ICP License before they are willing to provide their services.

In the past, some Android mobile app stores in China also required app developers and publishers to complete an ICP Registration or obtain an ICP License before launching a mobile app through their platforms.⁷ Before the issuance of the App Registration Rules, however, the app stores were not required to confirm compliance with the ICP requirements before distributing an app through their platforms.

B. Enforcement of APP Registration

Under the new App Registration Rules, not only ISPs, but also the application distribution platforms (应用分发平台), including mobile app stores and mini-program distribution channels such as WeChat and DouYin (the “Distribution Platforms”), are required to enforce the registration requirement and verify the identity of app providers.⁸

The term “application” in the App Registration Rules refers not only to mobile apps distributed through various app stores, but also to mini-programs distributed within WeChat or DouYin (TikTok China) and “fast apps” distributed through certain Android platforms that users can access without downloading an app onto their phone. Our recent market checks suggest that most mobile apps distributed through app stores work with ISPs to complete their app registration; while fast apps work directly with the app stores,⁹ and mini-programs work directly with their respective distribution channels.¹⁰

Under the App Registration Rules, however, all Distribution Platforms are required to ensure that the apps distributed through their platforms display a registration number in a prominent location.¹¹ As a result, even though mobile app providers are not completing their app registration with assistance from the app stores, those app stores are now nonetheless obligated to confirm that an app has been registered with MIIT before they distributed the app through their platforms. Our recent market checks indicate that most app stores in China now provide clear requirements regarding app registration on their official websites or in their app developer centers.¹²

III. Is This the End of Foreign Apps in China?

China’s mobile app store market is split between the Apple app store and, due to the absence of Google Play, many local Android app stores. Those Android app stores include mobile phone manufacturer app stores, such as Vivo app store, Xiaomi app store, and Huawei

⁷ Before the App Registration Rules, some Android app stores, such as those operated by Vivo, Baidu (百度), and Xiaomi (小米) only require software copyright registration certificate for publishing applications on their platforms.

⁸ See Article 2.6 of the App Registration Rules.

⁹ See fast app registration instructions provided by Vivo app store [here](#).

¹⁰ See mini-program registration instructions provided by WeChat [here](#), and by DouYin [here](#).

¹¹ See Article 2.8 of the App Registration Rules.

¹² App stores including but not limited to Huawei, Xiaomi, Yingyongbao(应用宝), Oppo, Vivo and Apple China, have provided written instructions and/or requirement for app registration.



app store, along with third-party app stores, such as Yingyongbao (应用宝), 360, and Baidu (百度).

As noted above, prior to the new APP Registration Rules, some local Android app stores, such as Yingyongbao, Huawei app store, Oppo app store, already required apps they distributed to comply with the ICP rules. For those app stores the new app registration requirement will not have a material impact. For other Android app stores and for the Apple app store, however, the new registration requirement will likely have a significant impact on foreign apps.

In the past, the Apple China app store did not enforce the ICP rules. Many foreign apps that were hosted on servers outside of China and received internet access services from a non-China ISPs, can simply check the mainland China region box when launching their app on the Apple app store globally. On September 30, 2023, however, the Apple Developer official website updated its requirements with respect to the distribution of apps in mainland China. Apple now requires apps to provide an ICP Registration number or an ICP License number as a condition to distribution through the China Apple app store.¹³ As noted above however, only companies registered in China that use cloud servers, internet access services, and domain name services provided by a vendor in China can complete an ICP Registration or app registration with MIIT. As a result, the new rules basically shutout all foreign apps without a local presence or publisher in China.

According to the App Registration Rules, starting from September 1, 2023, new applications must complete the app registration before launch. So far, however, it appears that Apple China has not yet fully implemented the new rules as we continue to see new foreign apps distributed through the Apple China app store without displaying an ICP Registration number.

March 31, 2024 is the deadline for existing applications to complete registration with MIIT. After that date, MIIT will start confirming implementation of the new registration requirement.¹⁴ As a result, we may see another wave¹⁵ of foreign app takedowns from China's app stores soon.

¹³ See requirement here: <https://developer.apple.com/cn/help/app-store-connect/reference/app-information/>

¹⁴ See Section 3.2 and 3.3 of the App Registration Rules.

¹⁵ Please find our [China Regulation Watch - Apple to Enforce Game Approval Rules in China](#) about Apple taking down a large number of mobile games without game approval from its China App Store in 2020.