

Regulations on the Administration of Business Venues of Internet Access Services

State Council decree No. 363

The Regulations on the Administration of Business Venues of Internet Access Services, which were approved by the Sixty-Second Executive Meeting of the State Council on August 14, 2002, are now being promulgated and shall go into effect as of November 15, 2002.

September 29, 2002

Chapter 1. General provisions

Article 1. These regulations are formulated in order to strengthen the administration of business venues for Internet access services, to standardize the business activities of the operators, to protect the lawful rights and interests of the general public and the operators, to ensure the healthy development of Internet access service business activities, and to promote the building of the socialist spiritual civilization.

Article 2. For the purposes of these regulations, the term “business venues for Internet access services” refers to places of business such as Internet bars and computer lounges that provide Internet access services to the general public by means of computers and other equipment.

Venues that are attached to and within schools and libraries for the purpose of providing certain recipients with Internet access services for obtaining materials and information are not governed by these regulations, and shall comply with the relevant laws and regulations.

Article 3. Operating entities that operate Internet access service business venues shall comply with the provisions of relevant laws and regulations, strengthen vocational self-discipline, consciously accept the supervision and management conducted according to law by the relevant government departments, and provide good services for online consumers.

The online consumers at Internet access service business venues shall comply with provisions of relevant laws and regulations, abide by the public ethics of society, and engage in civilized and healthy Internet activities.

Article 4. Culture administration departments of people’s governments at and above the county level shall be responsible for the review and approval of the setting up of operating entities that operate Internet access service business venues, and shall be responsible for

supervision and management of the operating entities that operate Internet access service business venues. Public security organs shall be responsible for the security and safety of information and networks and for the supervision and management of public security and fire prevention at the operating entities' Internet access service business venues. Industrial and commercial administrative authorities shall be responsible for the registration of the operating entities of Internet access service business venues, for the management of their business licenses, and for investigating and dealing with unlicensed business activities according to law. Telecommunications administrations and other relevant authorities shall, each within their respective areas of responsibility, exercise the relevant supervision and management over the operating entities of Internet access service venues in accordance with the provisions of these regulations and the relevant laws and administrative regulations.

Article 5. Culture administrative authorities, public security organs, industrial and commercial administration departments, and other relevant department and their working personnel may not engage in or covertly engage in Internet access service business activities, nor may they take part in, or covertly take part in, the business activities of the operating entities of Internet access service business venues.

Article 6. The state encourages supervision by citizens, legal persons, and other organizations over the business activities of the operating entities of Internet access service business venues and shall reward and commend those that make outstanding contributions in this respect.

Chapter 2. Establishment

Article 7. The state implements a permissions system for the activities of operating entities of Internet access service business venues. Without permission, no organization or individual may set up an Internet access service business venue, nor may it engage in Internet access service business activities.

Article 8. An operating entity that sets up an Internet access service business venue shall adopt the organizational form of an enterprise, and shall meet the following conditions:

1. it shall have a business name, a domicile, and the organizational structure and articles of association of an enterprise;
2. have funds commensurate with its business activities;
3. have a business venue that is commensurate with its business activities and that complies with fire-prevention conditions set by the state;
4. have a sound and perfected information and network security management system and technical measures for security;
5. have a permanent network address as well as computers, other equipment, and auxiliary facilities commensurate with its business activities;
6. have security management personnel, business management personnel, and professional and technical personnel who are commensurate with its business activities and have obtained the qualifications for practicing their vocations; and
7. other conditions stipulated by laws and administrative regulations and by the relevant departments under the State Council.

The standards for the minimum operating spaces of Internet service business venues, the quantities of equipment such as computers and ancillary equipment, and the space required for individual pieces of equipment shall be formulated by the State Council's cultural administration department.

In addition to complying with the conditions stipulated in the first and second paragraphs of this article, reviews and approvals of the establishment of operating entities of Internet access service business venues shall also require compliance with the total number and the distribution of operating entities of Internet access service business venues stipulated by the State Council's cultural administration department and the cultural administrative agencies of provinces, autonomous regions, and municipalities directly administered by the central government.

Article 9. No Internet access service business venues may be established within a distance of 200 meters from the campuses of secondary and elementary schools or inside the buildings (courtyards) of residential areas.

Article 10. An operating entity that intends to set up an Internet access service business venue shall file an application with the cultural administrative agency of the province, autonomous region, or municipality directly administered by the central government and submit the following documents:

1. a preapproved notification regarding its name plus its articles of association;
2. materials certifying the identity of its legal representative or its principal responsible person;
3. its certificate of financial credit;
4. proof of ownership of the business venue or a letter of intent for leasing the venue; and
5. other documents to be submitted in accordance with the law.

Article 11. Cultural administration departments shall make a decision within twenty working days after the date of receipt of an application. If review indicates that the application complies with the conditions, a document of approval consenting to establishment shall be issued.

After completing preparations for establishing the business venue, the applicant shall proceed with the document of approval to a public security organ at the same level to apply for review and verification of the safety of the information network and of fire-prevention security. The public security organ shall make a decision within twenty working days after the date of receipt of the application. If onsite examination and verification indicate that standards have been met, it shall issue a document of approval.

The applicant shall then proceed to the cultural administration authority with the public security organ's document of approval to apply for a final review. The cultural administration authority shall make a decision within fifteen working days after the date of receipt of the application in accordance with the provisions of Article 8 of these regulations. If onsite inspection and verification indicate that standards have been met, it shall issue an Internet Cultural Operations License to the applicant.

If examinations by the cultural administration authority indicates that the applicant's application does not meet standards, or examination by the public security organ shows noncompliance with standards, they shall respectively notify the applicant in writing and explain the reasons.

The applicant shall then proceed with the Internet Cultural Operations License to an industrial and commercial administrative agency to apply for registration, and shall obtain a business license according to law before it may go into business.

Article 12. The operator of an Internet access service business venue may not alter, lease, lend out, or otherwise transfer an Internet Cultural Operations License.

Article 13. If an operator of an Internet access service business venue changes the location of its business venue, conducts renovations or expansions, or makes changes to the quantity of its computers or other important changes, it shall secure the consent of the original examining authority.

If the operator of an Internet access service business venue changes its name, domicile, legal representative, or principal person in charge, registered capital, or network address, or terminates its business activities, it shall apply to the industry and commerce administrative authority for a change or cancellation of registration and proceed to the cultural administration authority and public security organ to fulfill the relevant procedures or file for the record.

Chapter 3. Business operations

Article 14. The operators of Internet access service business venues or Internet service consumers may not use the Internet access service business venues to produce, download, copy, search for, publish, transmit, or otherwise make use of information with the contents listed as follows:

1. content opposed to the basic principles established in the constitution;
2. content that endangers the nation's unity, sovereignty, and territorial integrity;
3. content that leaks state secrets, endangers state security, or harms the nation's honor and interests;
4. content that incites ethnic hatred and ethnic discrimination, undermines ethnic unity, or infringes on ethnic customs and habits;
5. content that undermines national religious policies and promotes religious cults and superstitions;
6. content that spreads rumors, disturbs social order, and disrupts social stability;
7. content that promotes obscenity, gambling, and violence and instigates criminal behavior;
8. content that defames or slanders others and encroaches on other people's lawful rights and interests;
9. content that harms social morality or the nation's excellent cultural traditions; and
10. other content that is banned by laws and administrative rules and regulations.

Article 15. The operators of Internet access service business venues and Internet service consumers may not engage in activities that endanger the security of information and networks as set forth below:

1. deliberate creation or dissemination of computer viruses and other destructive programs;
2. unlawful intrusion into computer information systems or disruption of the functions, data, and applications of computer information systems; and

3. other activities that are prohibited by laws and administrative regulations.

Article 16. The operators of Internet access service business venues shall access the Internet via Internet access service providers that have obtained business permits according to law; they shall not access the Internet by other means.

The computers provided by operators of Internet access service providers to Internet service consumers must be connected to the Internet by way of local area networks and may not be linked directly with the Internet.

Article 17. The operators of Internet access service business venues may not operate nonnetwork games.

Article 18. The operators of Internet access service business venues and Internet service consumers may not use network games or other means to engage in gambling or covert gambling activities.

Article 19. The operators of Internet access service business venues shall implement technical measures and set up onsite monitoring systems, and on discovering Internet service consumers engaging in the activities listed in Article 14, Article 15, and Article 18 of these regulations or in other illegal activities shall immediately halt them and report them to the cultural administration agencies and public security organs.

Article 20. The operators of Internet access service business venues shall display their Internet Cultural Operations License and business license in prominent locations of the business venues.

Article 21. The operators of Internet access service business venues shall not admit minors into their business venues.

The operators of Internet access service business venues shall hang signs in prominent locations at the entrances of their business venues barring minors from entry.

Article 22. The daily business hours of Internet access service business venues are restricted to between 8 a.m. and 12 p.m.

Article 23. The operators of Internet access service business venues shall check and register the identity documents and other valid certifications of Internet service consumers, and record their relevant access data. The registration contents and backup records shall be preserved for a period of no less than sixty days, and shall be made available when cultural administration agencies and public security organs conduct inquiries according to law. No alterations or deletions may be made to the registration contents and backup records during the preservation period.

Article 24. The operators of Internet access service business venues shall perform according to law their responsibilities in regard to information and network security, public security, and fire-prevention safety, and shall comply with the following regulations, which:

1. prohibit using an open flame for illumination and smoking and require the display of no-smoking signs;
2. ban any flammable or explosive materials from being brought in or stored;
3. forbid the installation of fixed barriers or grilles at doors or windows;
4. prohibit doors, windows, safety evacuation routes, and emergency exits from being obstructed or locked during business hours; and
5. forbid any unauthorized termination of safety technologies or measures.

Chapter 4. Penalty provisions

Article 25. If cultural administration agencies, public security organs, industrial and commercial administration departments, or other relevant departments and their working personnel take advantage of their positions to accept properties or other benefits from others in order to unlawfully approve the establishment of operators of Internet access service business venues that do not meet the statutory conditions for establishment, or fail to perform their supervisory duties according to law, or do not investigate or deal with unlawful activities that have been discovered and thereby violate the Criminal Law, the directly responsible persons in charge and other directly responsible persons shall be prosecuted for criminal liability in accordance with the provisions of the Criminal Law in regard to the crimes of bribery, abuse of powers, and neglect of duties or other crimes. If their actions are not serious enough to merit criminal punishments, the administrative sanctions of demotions, dismissals, or expulsions shall be meted out according to law.

Article 26. If the working personnel of cultural administration agencies, public security organs, industrial and commercial administrative departments, or other relevant departments engage in or covertly engage in Internet access service business activities, or if they take part in or covertly take part in the business activities of operators of Internet access service business venues, they shall be subject to the administrative sanctions of demotions, dismissals, or expulsions according to law.

If the actions set forth in the foregoing paragraph take place in cultural administration agencies, public security organs, industrial and commercial administration departments, or other relevant departments, the directly responsible persons in charge and other directly responsible persons shall be subject to administrative sanctions according to law and in accordance with the provisions in the preceding paragraph.

Article 27. If, in violation of the provisions of these regulations, an Internet access service business venue was set up without authorization, or Internet access service business activities are conducted without authorization, industrial and commercial administrative agencies, or industrial and commercial administrative agencies in conjunction with public security organs, shall ban such actions, close down the venue that engaged in illegal business activities, and seize the special tools and equipment used for conducting the illegal business activities. If the perpetrator has violated the Criminal Law, it shall be prosecuted by law in accordance with the provisions of the Criminal Law on the crime of conducting unlawful businesses. If the acts are not serious enough to merit criminal sanctions, the industrial and commercial administrative department shall confiscate any illegal gains and the special tools and equipment used for engaging in illegal business activities. If

the illegal business turnover has exceeded 10,000 yuan, fines of not less than five times and not more than ten times the illegal business turnover shall be concurrently imposed, and if the illegal business turnover has been less than 10,000 yuan, fines of not less than 10,000 yuan and not more than 50,000 yuan shall be concurrently imposed.

Article 28. If an operator of an Internet access service business venue, in violation of the provisions of these regulations, tampers with, alters, leases, lends out, or in other ways transfers the Internet Cultural Operations License and has thereby violated criminal law, the operator shall be prosecuted by law in accordance with the provisions of the Criminal Law regarding the crime of forging, altering, and buying and selling official state documents, certifications, and seals. If the acts are not serious enough to merit criminal sanctions, the industrial and commercial administrative departments shall revoke the operator's Internet Cultural Operations License and confiscate any illegal gains. If the illegal business turnover has exceeded 5,000 yuan, fines of not less than two times and not more than five times the illegal business turnover shall be concurrently imposed, and if the illegal business turnover has been less than 5,000 yuan, fines of not less than 5,000 yuan and not more than 10,000 yuan shall be concurrently imposed.

Article 29. If the operator of an Internet access service business venue, in violation of the provisions of these regulations, has used the business venue to produce, download, reproduce, look up, disseminate, or in other ways make use of information that contains content the inclusion of which is forbidden by the provisions of Article 14 of these regulations, and has thereby violated the Criminal Law, the operator shall be prosecuted by law for criminal liability. If the acts are not serious enough to merit criminal sanctions, the public security organs shall issue a warning and confiscate any illegal gains. If the illegal business turnover has exceeded 10,000 yuan, fines of not less than two times and not more than five times the illegal business turnover shall be concurrently imposed, and if the illegal business turnover has been less than 10,000 yuan, fines of not less than 10,000 yuan and not more than 20,000 yuan shall be concurrently imposed. If the circumstances are grave, the operator shall be ordered to suspend business for rectification all the way up to revocation of its Internet Cultural Operations License by the cultural administration authorities.

If an Internet service consumer has committed any of the illegal acts set forth in the preceding paragraph and thereby violated the Criminal Law, he or she shall be prosecuted by law for criminal liability; if the act is not serious enough to merit criminal sanctions, the public security organ shall impose sanctions in accordance with the Law on Public Order Administration and Punishments.

Article 30. If an operator of an Internet access service business venue, in violation of the provisions of these regulations, commits any one of the acts set forth below, it shall be warned by the cultural administrative authorities and may be concurrently imposed a fine of not more than 15,000 yuan; and if the circumstances are serious, shall be ordered to suspend business for rectification all the way up to revocation of its Internet Cultural Operations License:

1. conducting of business outside the specified business hours;
2. admission of minors to the premises of the business venue;
3. operation of nonnetwork games;

4. termination of the implementation of business management technical measures without authorization; and
5. failure to display its Internet Cultural Operations License or signs barring minors from access.

Article 31. If an operator of an Internet access service business venue, in violation of the provisions of these regulations, commits any one of the acts listed below, it shall be given warnings by the cultural administrative authorities and public security organs, each in accordance with their powers of office, and may be concurrently imposed fines of not more than 15,000 yuan; and if the circumstances are serious, the operator shall be ordered to suspend business for rectification all the way up to revocation of its Internet Cultural Operations License by the culture administrative authorities:

1. providing Internet access service consumers with computers that have not been connected to the Internet by way of a local area network;
2. failing to set up an inspection system within a venue, or failing to halt any illegal activities found to have been committed by Internet access consumers, and failing to report such activities to the cultural administrative authorities and public security organs;
3. failing to check and register the valid identification certificates of Internet access consumers according to regulations or to record information regarding Internet access.
4. failing to preserve registration contents and backup records for the stipulated period of time, or altering or deleting registration contents and backup records during the preservation period; and
5. changing its name, address, legal representative or principal person in charge, its registered capital, or network address, or terminated its business activities without going through the relevant procedures or filing for the record with the cultural administrative authorities and public security organs.

Article 32. If an operator of an Internet access service business venue, in violation of the provisions of these Regulations, commits any one of the acts listed below, it shall be given warnings by the public security organs, and may be concurrently imposed a fine of not more than 15,000 yuan; and if the circumstances are serious, the operator shall be ordered to suspend business for rectification all the way up to revocation of its Internet Cultural Operations License by the cultural administrative authorities:

1. using open flames for illumination, or failing to restrain smoking when this is discovered, or failing to display no-smoking signs;
2. permitting flammables and explosives to be brought in or stored;
3. installing fixed barriers or grilles at the doors and windows of business venues;
4. obstructing or locking the doors, windows, safety evacuation routes, and emergency exits during business hours; and
5. terminating without authorization the implementation of safety technologies and measures.

Article 33. If there are violations of state regulations on information and network safety and on the management of public order, fire prevention, industrial and commercial

administration, and telecommunications administration in violation of the Criminal Law, the perpetrators shall be prosecuted for criminal liability; if the acts are not serious enough to merit criminal punishments, public security organs, industrial and commercial administrative departments, and telecommunications administrative agencies shall administer penalties according to law. If the circumstances are serious, the organ that originally issued licenses to the perpetrators shall revoke the licenses.

Article 34. If an operator of an Internet access service business venue has violated the provisions of these regulations and has been sanctioned by suspension of its Internet Cultural Operations License, it shall by law proceed to the industrial and commercial administration authorities to carry out procedures for changing or canceling its registration. If it has not carried out the procedures within specified time limits, the industrial and commercial administration authorities shall revoke its business permit.

Article 35. If an operator of an Internet access service business venue has had its Internet Cultural Operations License revoked for violating the provisions of these regulations, its legal representative or principal person in charge may not serve as a legal representative or principal person in charge of any operator of an Internet access service business venue within five years after the date of revocation of its Internet Cultural Operations License.

If the operator of an Internet access service business venue set up without authorization has been banned by law, its legal representative or principal person in charge may not serve as a legal representative or principal person in charge of any operator of an Internet access service business venue within five years after the date of the ban.

Article 36. When the administrative punishments of fines are imposed in accordance with provisions of these regulations, the decisions to impose the fines and the collection of the fines shall be implemented separately in accordance with the relevant laws and administrative regulations. All fine monies and all illegal proceeds must be turned over to the state treasury.

Chapter 5. Supplementary provisions

Article 37. These Regulations go into effect as of November 15, 2002. The “Regulations for the Administration of Internet Access Service Business Venues” promulgated by the Ministry of the Information Industry, Ministry of Public Security, and Ministry of Culture and State Administration for Industry and Commerce on April 3, 2001, shall be annulled at the same time.

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