



HAN KUN LAW OFFICES

Legal Commentary



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Comments on the Circular Regarding Mobile Game Publication Services Management

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On June 2, 2016, the State Administration of Press, Publication, Radio, Film and Television of the People's Republic of China (hereinafter referred to as "**SAPPRFT**") issued the *Circular Regarding Mobile Game Publication Services Management* (hereinafter referred to as the "**Circular**"), which comprehensively refines provisions relating to mobile game publisher content reviews, publication applications, and applications for game publication numbers. This article will analyze and provide a summary of the main contents of the Circular.

Scope of application

The Circular regulates the content of mobile games that have two features: 1) operated on smart mobile terminals, including mobile phones; and 2) are available on information networks for the public to download or are played interactively online.

Thus, "mobile games" includes online interactive games and "single device" handheld games, and games operated on mobile terminals are not merely limited to mobile phones, but may also include tablets and other smart devices. Accordingly, providing network game download services or making games available for interactive use online is be deemed to be the provision of mobile game publishing and operating services.

Publishing application reviews

a. Review criteria

The Circular distinguishes between domestic games and games authorized by foreign copyright holders. Games authorized by foreign copyright holders continue to be subject to the *Circular on Further Standardizing Application Materials for the Publication of Foreign Copyright Holder-Authorized Internet Game Works and Electronic Game Publications* (the "Standardizing Circular") and the *Circular on the Launching of Real Name Verification Work for*

the Prevention of Network Game Addiction. Domestic games are subject to two different methods of review based upon whether the game involves political, military, ethnic or religious content, and whether the game operates along a story plot.

The Circular stipulates detailed provisions with respect to the review of domestic casual and intellectual mobile games that do not relate to political, military, ethnic or religious subjects, and have no plot or a simple plot, such as tile-matching games, parkour games, flight games, board games, puzzle games, sports games, and music and dance games (hereinafter referred to as “**Casual Games**”).

The Circular does not stipulate detailed provisions with respect to the review of non-Casual Games, and only specifies for the continuing application of the Standardizing Circular and the *Circular on the Launching of Real Name Verification Work for the Prevention of Network Game Addiction*. Therefore, non-Casual Games may be subject to the same standards applicable to foreign copyright holder-authorized games.

b. Reviews of Casual Games

- i. Applicants: the game publication service units (hereinafter referred to as “**Publishers**”)
- ii. Application review time: applications are to be submitted at least 20 business days in advance before the anticipated date of publication of the game (beta). It takes approximately 20 business days for the provincial publication administration and SAPPRFT to review an application.
- iii. Application materials: “Domestic Mobile Game Works Application Form,” and photocopies of the relevant certificates.
- iv. Post-review obligations: Within 7 business days after a game is published online and operating, the Publisher shall report to the competent provincial administration for publication certain operating conditions, such as the time of publication and operation, the site available for download, the number of operators, the names of the main operators, and whether the game is open to in-game purchases. In the event that the publication is delayed 20 business days more than the anticipated publication date, the Publisher is to submit a written statement to explain the reasons.

c. Reviews of Non-Casual Games

Non-Casual Games are subject to review and approval standards stricter than those applicable to foreign copyright holder-authorized games, and the review of such games requires the submission of more complex application materials than for Casual Games. Application materials include those used for reviewing content and for the prevention of internet game addiction, such as an explanation of the functional settings for the game’s anti-addiction system, certification materials for anti-addiction personal identity verification, 3 sets of accounts

for senior, middle and junior administrators, respectively, for the purpose of reviewing content and 3 accounts for the game's anti-addiction testing system, and the game's full Chinese script and blocked words list. Since the Circular does not specify the schedule for the review of non-Casual Games, the schedule referred to in prior regulations shall continue to apply.

According to Article VI of the Circular, if an approved mobile game is substantially updated and given an expansion name to indicate such update, the game will be regarded as a new game and the Publisher must apply for review again based upon the category to which the game belongs.

Game Publisher announcement and review obligations

The Circular stipulates that Publishers shall, on a dedicated webpage, specify the game's copyright holder, the publishing service units, the approval and publication numbers, and any other information approved by SAPPRFT. In addition, Publishers are to routinely review game updates.

Review obligations of joint Publishers

According to the Circular, joint operators are to review and confirm whether the game's approval procedures are full and complete, and whether relevant information is marked. Mobile games that have not been approved or for which the relevant information is not marked are not allowed to be jointly operated.

Review obligations of mobile terminal manufacturers and operators

The Circular provides that manufacturers and operators must examine and confirm whether mobile game approval procedures have been completed and whether relevant information is marked before preloading mobile games onto phones, tablets or other mobile terminals. Mobile games that have not been approved, for which the relevant information has not been marked, or that are pirated, are not allowed to be preloaded.

Submission deadlines for reviews

The Circular will be implemented from July 1 of this year. After that time, mobile games that have not been approved by SAPPRFT may not be published and operated online. With respect to mobile games that are already published and operating on a network before July 1, relevant approval procedures still need to be followed with the competent provincial administration for publication before October 1, 2016, otherwise, such games will not be eligible to continue operating online.

The Circular reflects the determination of SAPPRFT to standardize the mobile game market. Some provisions therein detail and repeat the old stipulations to make them more enforceable. For example, the provision with respect to the pre-publication review of network games is also referenced in Article 27 of *Provisions on Network Publication Service Management*, promulgated in February of this year, and the provision regarding the re-approval of updated games can also be found in the *Circular for Implementing the State Council's "Three Determinations" Stipulation and Relevant Interpretations of the State Commission Office for Public Sector Reform and Further Strengthening the Pre-approval of Network Games and the Review and Management of Imported Network Games*.

SAPPRFT makes it clear that games which fail to undergo the review and approval procedures shall be treated as illegal publications that may be ordered offline, and the operator may be subject to the confiscation of illegal income or be subject to a penalty fine. In serious cases, the operator may be ordered to suspend business for rectification or be subject to license revocation.

In order to ensure the results of implementation, the Circular increases the review obligations of the joint operating platforms and mobile terminal manufacturers and operators. Although no punishment is provided for with respect to the foregoing persons due to a failure to perform the review obligations, it will still place pressure on them to take the initiative to review the serial number application status of games awaiting publication.

We hope that this article is of any assistance to you. If you have any questions, please feel free to contact us.

● **Important Announcement**

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