



Understanding ICP (Beian) and Online Business in China

The Internet is ubiquitous. All commercial industries, whether a one-owner store or a multi-billion dollar conglomerate, are continually increasing their level of online content creation and delivery. Digital forms of payment are replacing hard currency. Digital forms of payment requiring solely an email address and a bank account are reducing the transaction costs for merchants.

Whether a company offers gaming, content, social networking or all of the above, its core business strategy must necessarily include an Internet presence. The global Internet market for goods and services runs in the multiple of trillions USD annually. What was once an option, to have a strategy for delivering goods and services, is now an imperative.

China as a market has unique requirements. There are laws which regulate online content with severe penalties for violations of some of those regulations. As a result of these laws, compliance is a necessity and critical aspect of running an enterprise which delivers or produces content for the Chinese marketplace.

The Chinese Ministry of Industry and Information Technology (MIIT) regulates online entities. One regulation promulgated by the MIIT is the rule that all Internet Content Providers (ICPs) must register their business with the MIIT. The term for the registration is “Beian”. As a domestic law, the requirement is absolutely clear for all Chinese companies. This was not always the case for foreign companies, but as of July 2014, all domains used to deliver any content into China, including that of foreign companies, must have an ICP license.

If you wish to deliver content within China, including information about goods and services, it is important to understand that content is regulated. The consequences of violating regulations are also important to understand as it has the potential to impact your business negatively. Without a proper license or partnership with a Chinese counterpart, your website can be shut down without any prior warning.

ICP Beian: What it is and What it is Not

The ICP Beian process is designed to assist the agency, much as a Social Security number is used to track tax compliance by the Internal Revenue Service in the United States. In order to register for an ICP license, you must provide:

- An original, printed copy of a Chinese business license
- A copy of the domestic content provider’s identification
- Photos of company executives
- Detailed contact information for the company

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In addition, a Chinese citizen must take responsibility for the filing. This is similar to a domestic business requiring a domestic agent for the acceptance of service of process. Overall, the requirements are similar to those for operating a standard business in the United States.

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ICP Beian is a regulatory framework designed for and targeted at domestic businesses targeting the domestic market. Foreign companies must set up a partnership with a local Chinese company in order to register for ICP Beian and any China-based ISP that detects an unlicensed website will shut it down without exception. There is a cottage industry in China for providing falsified documents, much as the United States has a cottage industry for providing falsified Social Security numbers. In both cases, taking this path can result in severe penalties for all parties involved, including criminal penalties domestically and a loss of revenue abroad.



The Consequence of Not Registering and the Best Workaround

ICP Beian is used to identify content owners when violations of Chinese law occur within China. Understanding the Chinese framework of enforcement is important.

The MIIT relies on private data centers to enforce laws. This is much like United States companies being responsible for enforcing immigration laws through the employment of the I-9 form. The basic principle is that a private data center should know what type of content it is storing and delivering. Legitimate registrations range in cost from one to roughly three thousand USD.

If you have a fraudulent registration, then the MIIT will penalize the company providing the fraudulent registration and the company that paid for it. Thus, the private data center may avoid responsibility if it has no knowledge of the fraudulent behavior. It might still receive a penalty, but it will not be severe if it had no reason to know of the fraudulent activity.

On the other hand, a private data center hosting unregistered content has a potential problem. For this reason, all providers now make sure their customers are fully compliant to avoid any penalty. Private data centers cannot risk delivering unregistered content.

In addition to having an ICP license, having an entirely separate Chinese site is extremely useful during sensitive times of the year, as many global sites are shutdown during these periods to avoid potential content related problems. China's National Day (each October 1st) and congressional meetings (especially 5-Year Planning sessions) and all times of heightened political or cultural significance are considered sensitive. After these times pass, business practices will return to normal, and content will again be delivered as before.

If you are unable to qualify for a legally-compliant registration on your own, then you need to seek out a company that can vouch for your content and help you to avoid bandwidth issues at peak times. It is the equivalent of a trusted partner who has domestic registration and can vouch for your content much like their own. This type of partner should have a broad network in China and be capable of analyzing your content for any risks that could result in penalties for you and for them.

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The Role of the CDN in China

Content Delivery Networks (CDNs) are in widespread use as a method of increasing profitability and reducing the risk of lost revenue. There are many studies that have shown that customers with a poor online experience buy less and view less over time. A CDN is designed to cache content much closer to the target user geographically in order to ensure they have a positive user experience.

CDNs are a core component of online content delivery. In financial services, electronic traders will often pay hundreds of millions of

dollars to be a few feet closer to an online exchange. Why? Speed. The closer they are, the faster their trade execution and the higher the odds of a profitable transaction. Speed matters and so does reliability.

User experience surveys consistently bear out that responsiveness drives loyalty and perception. A CDN exists to deliver robust user experience, beyond what traditional hosting can provide.

A private data center has to allocate bandwidth at peak times. In making those decisions, commercial reality will trump negotiated contracts. First and foremost, the most profitable contracts, which are generally the largest, will get the bandwidth first. During Chinese New Year for example, larger companies will typically achieve the most reliable response times for their users. CDNs have leverage, partly because their nature and business model is to deliver heavy content. The aggregated bandwidth from their client base gives them leverage in terms of delivery contracts with private data centers. Using a CDN is therefore an especially sound business decision for a foreign entity doing business in China, as it ensures a level playing field with local competitors.

CDNs are not only registered, they are very often domestic entities. They have leverage and are responsible for ensuring the legality of the content they deliver. Private data centers therefore trust CDNs and support the risk allocation onto them of non-compliance with Chinese regulations.



Not all CDNs are equal. In China, as with most countries, there are CDNs that have a range across the whole of China and those that are regional. Considering that China is the fourth largest nation in the world by land mass, there is considerable territory to cover for any CDN.

China has three major Internet Service Providers (ISPs) and a number of high-income and highly-populated cities. These targets for content are overlapping but create a large amount of territory to cover, which is reflected in major infrastructure investments by CDNs to cover these areas. The more territory a CDN covers, the higher the probability of continual responsiveness in the face of high user demand.

The Best Path Forward for a Foreign Entity

Without an ICP both criminal penalties and blacklisting will eventually occur. Reversing that blacklisting is an enormous undertaking. There are also potential civil and indirect penalties such as the refusal of private data centers to carry future traffic. Such risks are serious, directly relating to a failure to comply with regulations, which is the reason for ICP Beian in the first place.

To obtain an ICP, an entity should select a provider with connections both within and outside of China. The ideal solution is a company with roots inside China, as that is the target market and experience there it therefore more important. Understanding the legal framework, and the framework within which data centers operate are both also crucial. Relationships with those firms is essential for commercial success.

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When using a CDN, it is also important that the CDN be registered. There is no rational or commercially-viable reason to select an unregistered CDN, as this would compound issues and likely result in harsh consequences. Selecting a legitimate, domestic CDN is thus also the best solution.

A strong CDN will have leverage throughout China and be able to ensure stable bandwidth during high-peak usage, such as Chinese New Year and sensitive times, such as a 5-Year Planning session. The ability of a domestic CDN to assist with registration is a compelling reason to move traffic through one. Technically and commercially it is the path to the highest-probability of commercial success.

Conclusion

China is the world’s largest market for ecommerce and is likely to grow substantially over the coming years. Any business intending to transact business globally will need to consider China in its plans. Providing content to China online has requirements that are unique to China. Securing an ICP Beian license before delivering content from within China must be part of that plan.

A CDN addresses two fundamental challenges for a foreign entity. First, it ensures reliable bandwidth where it is most needed, and when it is most needed. A CDN is a good idea for any business that wishes to remain profitable during peak bandwidth usage periods, such as Chinese New Year.

Ideally, the CDN provider should also be based in China, as that is where the requirements originate and that in-depth knowledge of the local market will assist a foreign entity in their quest for reliable profitability within China. A local CDN is more likely to be trusted by all the related local authorities, extending that trust to the customers for which it delivers content. There is at least one company that meets all of these requirements.

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ChinaCache began in 1998 in Beijing as a CDN. Over the past 16 years, it has built a network that now includes maintaining more than 400 service nodes in 120 cities across China with a global point of presence spanning five continents. It has network capacity of over 3000 Gbit/s with interconnections to all major Chinese ISPs.

With this depth of experience, ChinaCache understands the global market and especially the ICP Beian process with which foreign firms must comply. This places ChinaCache in the unique role of trusted advisor as well as vendor to organizations wishing to expand and maintain their online presence in China.

The market is proven, the potential is proven and the risk is proven. All are important considerations for the foreign entity wishing to exploit the profit potential of China in the coming years. Regulatory compliance is critical, as is avoiding falling into the some of the situations that end up harming foreign investment in China through decisions that seem expeditious but in fact result in poor results, thus defeating the purpose of the investment.

For more information and to take a look at ChinaCache as your gateway to content delivery in China, please visit www.chinacache.com.