



MMLC Group  *China Update*

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Business News

Google removes paid Android Applications from Taiwan

According to a statement from the Taipei City Government, the Californian company was fined NT\$1 million (US\$34,596) for failing to comply with Taiwan's consumer protection law. The law states that consumers should be given seven days to evaluate purchases and decide whether to request a refund. But Google currently gives Android owners just 15 minutes. Google has responded by halting sales of software applications in the Taiwan.

China placing priority on biotechnology

During the 12th Five-Year Plan period, China has announced some its plans for its two trillion Yuan (US\$308.5 billion) biotechnology budget – it intends to spend much of this on innovative medicines, on the cultivation of new varieties of genetically modified organisms and on the prevention and control of viral hepatitis and other infectious diseases. Biotechnology has become a strategic pillar industry for China. From 2011 to 2015, it is expected to generate over one million jobs, as well as contribute to the China's growing intellectual property portfolio.

Beijing issues pay rise guidelines for this year

According to a living cost adjustment guide issued by Beijing Bureau of Human Resources and Social Security, enterprises in Beijing are advised to give their employees a wage rise of between 5 and 10 percent this year. It has also recommended that management executives should not get a rise unless other non-management staff members do. The guide is intended as a basis for employers and employees to collectively discuss wage adjustments this year, but is not mandatory. For those enterprises that are not profitable, the Bureau has suggested that the wage increases could be less than 5%. It remains to be seen how well received the guidelines will be by employers, who are already dealing with rising property and materials prices, as well as slowing sales.

Alibaba Restructures Taobao Unit

Alibaba has announced restructuring plans regarding the splitting its key Taobao unit into three separate companies for better focusing on separate segments of online commerce. The three companies are Taobao Marketplace, which will operate its flagship business linking individual buyers and sellers; Taobao Mall, a platform on which retail brands sell to consumers; and eTao, a service for searching across Chinese shopping websites. These new business units will remain wholly owned subsidiaries of Alibaba Group.

Chery and Fuji Heavy Industries close to Subaru deal

China's largest homegrown automaker Chery Automobile is in talks with Fuji Heavy Industries about a possible joint venture to

produce Fuji's Subaru brand vehicles in China. The companies are close to signing an initial framework agreement to form a venture at Chery's new manufacturing base in Dalian, Liaoning province.

China FDI Growth Slows

Actual foreign direct investment in China increased at a slower pace in May. Actual FDI rose 13% in May from a year earlier to US\$9.23 billion. Growth was down from the 15% rise in April, when FDI was US\$8.46 billion. During the January-May period, actual FDI was up 23% from a year earlier at US\$48.03 billion, following a 26% rise in the January-April period. Investment from the U.S. dropped 24% in the January-May period to US\$1.29 billion. Meanwhile, outbound investment by Chinese companies has continued to show strong growth. Overseas investments by Chinese companies in non-financial sectors totaled US\$20.35 billion in the first five months of 2011, up 42% from 2010.

China and Mongolia forge strategic partnership

Chinese Premier Wen Jiabao and his Mongolian counterpart Sukhbaatar Batbold have inked a joint statement regarding closer economic partnering and witnessed the signing of another eight judicial and economic agreements after their talks at the Great Hall of the People in Beijing. Premier Batbold said he welcomed Chinese investors and that Mongolia will continue to follow the one-China policy – he indicated that the partnership will see increasing activity in trade, mining, transportation, finance, husbandry, energy, and environment protection.

China's energy imports to increase

The government has announced that China is expecting an energy shortfall of more than 30 million kilowatts during Summer. A host of factors have caused this year's electricity shortage - some areas which are usually served by hydropower have suffered due to severe droughts. Moreover, new high energy consumption projects in a number of areas have also led to increased electricity consumption across China. Recently, the government raised power prices for businesses in 15 regions, by an average 0.0167 Yuan for each kilowatt-hour, in order to try to encourage energy saving practices in industry.

CSRC steps up effort to tackle insider trading

The China Securities Regulatory Commission (CSRC) has issued draft rules for a Nation-wide registration system for people with access to price sensitive information of listed companies.

The move is aimed at tackling reports of rampant stock market insider trading and market manipulation.

The proposed rules would require all domestically listed companies to register the names of people with access to price sensitive information that could influence stock prices and other derivative securities.

Companies are also asked to record the time, place and means of how the information was provided.

People who are subject to the new rules include shareholders owning more than 5 percent of a public company, those involved in mergers and

acquisitions, and intermediary financial institutions, etc.

The CSRC has also appointed two senior judges as members of its administrative judicial committee in an attempt to ensure case hearings are professional and independent.

MOF offers US\$230m to improve rural environment

China's Ministry of Finance has allocated 1.5 billion Yuan (\$230.8 million) to support the improvement of rural environments in nine provincial-level regions in 2011 – water and sewerage are the key areas. The regions include Shanxi, Jilin, Anhui, Shandong, Henan, Guangxi, Gansu, Qinghai and Xinjiang. Meanwhile, the country's central government plans to spend 12 billion Yuan on rural environmental protection from 2010 to 2012, a move expected to benefit 100 million rural residents.

Rio Tinto boosts purchases in China

Rio Tinto Group will double its procurement of goods in China to further their long-term collaboration with the country. Due to business expansion, Rio Tinto expects to spend over US\$1 billion in raw material, marine freight, operational and capital goods in China in 2011. China is reported to be Rio Tinto's largest customer.

China, U.K. Announce US\$2.2 Billion in Business Deals

The British Prime Minister David Cameron and Chinese Premier Wen Jiabao have just announced business deals between the two

countries valued at £1.4 billion (US\$2.2 billion). Among the deals announced, U.K. energy firm BG Group PLC reached a memorandum of understanding with Bank of China Ltd. for a US\$1.5 billion credit line; Beverage maker Diageo PLC was given approval to increase its holding in Chinese spirit company Sichuan Chengdu Quanxing Group Company Ltd. to 53%; and U.K.-based Seawell International Ltd. signed a deal with China Energy Conservation and Environmental Protection Group to build an underground coal gasification plant and that U.K. design house Priestmangoode will open an office in the Chinese city of Qingdao.

The leaders also agreed to expand trade cooperation outside of the big cities, to encourage bilateral trade in services, to foster opportunities for British companies to invest in infrastructure and other projects in China.

China to crack down illegal highway toll-booths

China has launched a year-long national campaign targeting illegal highway toll booths amid rising public outcry over the management of the country's toll way system. Initiated by five central government departments, the campaign is designed to eliminate unauthorized tollbooths, as well as legal tollbooths that are continuing to operate beyond their authorization period. The campaign is also intended to prevent other illegal practices regarding the collection of highway tolls.

Dairy safety standards trigger debates

China's current dairy safety standards have stirred a new round of complaints, as critics have argued that they are the weakest in the world and were created as a favor for major dairy producers. Some believe that the standards were lowered because of pressure from dairy producers seeking to reap larger profits by cutting costs; some said that 70 percent of China's dairy farmers will be forced to throw out their milk or even sell some of their cows if stricter standards are put into place; and it is suggested also that raising the national dairy safety standards might result in a shortage of milk and may create a dependence on imported dairy products, and improving the quality of raw milk requires an increase in large-scale dairy farming in China. Nevertheless, the regulators are adamant that stronger regulations are required and stricter enforcement will occur, no matter which entities are involved.

Legal News

China amends the *Individual Income Tax law*

On 30 June 2011, the Standing Committee of China's National People's Congress passed the amendment to the country's *Individual Income Tax Law* which is going to come into force on 1 September of this year. In accordance with the amendment, the lowest tax rate will be reduced from 5 to 3 percent; the monthly tax exemption income threshold will be increased from 2000 to 3,500 Yuan (US\$538.4). The reduction of the minimum tax rate as well as the threshold is mainly expected to further reduce middle-and-low-income citizens' tax burdens.

Chinese Anti-Trust – Clarification of Investigatory Issues

On 13 June 2011, the Ministry of Commerce published the Provisional Rules on the Investigation of Concentrations of Business Operators without Legal Filing (Draft Rules) which elaborates on the procedure for investigating violations of the law, including the assessment of liability and penalties for violations. They state that in addition to the Ministry's right to investigate an unfiled concentration on its own initiative, any institution or person can report to the Ministry to initiate an investigation.

Articles 6 to 8 state that investigated operators must submit relevant evidence regarding the concentration, which the Ministry will start to review within 60 days. The draft rules provide that if operators are found to be participating in an illegal concentration, the Ministry may: block the concentration; require the operators to dispose of the shares or assets involved in

the concentration; transfer the business within a prescribed period; take steps to require the operators to restore their operations to the situation that existed before the concentration; and fine an undertaking up to RMB 500,000. Although the maximum fine is insignificant compared to the value of many concentrations, the potential damage to a company's reputation and its relationship with the regulatory authorities is likely to be a greater deterrent.

Trends in administrative recognition of well-known trademarks

On 27 May 2011, the State Administration for Industry and Commerce (SAIC) published a document entitled "Lists of Well-Known Trademarks Recognized through Administrative Procedures" which shows the recognition statistics for the China Trademark Office (CTMO) and the Trademark Review and Adjudication Board (TRAB). In the CTMO's trademark enforcement cases, 289 trademarks were recognized as well known – surprisingly, none were owned by a foreign entity. Regarding its trademark opposition cases, 24 trademarks were recognized as well known, of which one was owned by a foreign entity. In the TRAB's opposition reviews and trademark dispute cases, 83 trademarks were recognized as well known, of which 10 were owned by foreign entities. In all, nearly 400 trademarks were recognized as well known through administrative procedures, of which only 11 were owned by foreign entities. The recognition rate of below 3% indicates the difficulties that foreign companies face in having their trademarks recognized as well

known in China in administrative procedures. However, the recognition rate for trademarks owned by foreign entities in trademark opposition reviews and disputes has risen from 9.8% in April 2009 to 12% in May 2011.

Auto parts JV proposals spark debate

The National Development and Reform Commission (NDRC) released a draft Catalogue for Guiding Foreign Investment in Industry, which has been thrown open for comment. The draft indicates that foreign investors will be limited to a maximum 50 percent stake in joint ventures producing key components for "new-energy vehicles". China already has a 50-50 rule for auto manufacturing joint ventures for complete vehicles, but the proposals are the first time such an investment cap has been imposed on auto parts companies for helping Chinese companies to take the lead in the production of new-energy vehicles. Many foreign auto-parts manufacturers that have set up wholly owned companies in China, or hold a majority share in domestic joint ventures, have expressed great concern over the possible regulation. If the new rule takes effect, foreign auto parts makers will need to establish new joint ventures for key component manufacturing, or reduce their shares in the original joint ventures. According to the draft, the phrase "key components" covers everything from batteries to control systems, which means a host of components makers involved in new-energy vehicle technologies will be affected. It is expected that this draft will be revised following pressure from foreign investors and governments.

New insurance law to benefit foreign employees

More than 230,000 foreign employees with work permits are expected to benefit from upcoming changes to China's Social Insurance Law. According to the Law, foreign nationals who are employed in China shall be covered by the country's social insurance system in order to promote equality between Chinese citizens and foreign nationals working in China. Under the new law, foreign employees will gain access to five forms of insurance, including endowment insurance, basic medical insurance, work injury insurance, unemployment insurance and maternity insurance; and workers from countries that have signed bilateral social insurance agreements with China will be able to avoid paying two premiums.

Hong Kong SAR seeks ruling from Beijing

The Court of Final Appeal has asked Beijing to interpret Hong Kong's constitution in a landmark case on state immunity, raising concerns about the city's judicial independence 14 years after the handover. Hong Kong's highest judicial authority submitted four questions to the National People's Congress Standing Committee seeking an explanation of the city's state immunity policy, arising out of Congo's dispute with FG Hemisphere and Associates. The decision will look at whether a foreign state can be sued in Hong Kong.

This update is aimed at keeping our clients informed of developments in Greater China. Whilst every care has been taken to ensure the accuracy of this update, it should not be relied upon before individual advice is obtained. The MMLC Group is an international legal and corporate advisory group.