

China Released Latest Classification Catalogue of Telecommunications Services (2015 Revision)

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On December 28, 2015, the **Ministry of Industry and Information Technology of China** (the MIIT) released the newly revised Classification Catalogue of Telecommunications Services (2015 Catalogue) and the new Catalogue is due to take effect as of March 1st, 2016. This round of revision to the catalogue has long been awaited since its last amendment in 2003 (2003 Catalogue).

I. A General Summary of the Revision to the Catalogue

The past 12 years have witnessed dramatic advancement and emergence of new technologies and business models in the telecommunication field both in China and around the globe. The 2015 Catalogue is expected to reflect the advancement since last revision, and keep new telecommunication business models under the regulatory radar.

The 2015 Catalogue follows the general distinction of two categories, i.e., basic telecommunications services (BTS) and value-added telecommunications services (VATS), which is set forth by the Telecommunications Regulations promulgated by China's State Council in 2000. Within each category, the 2015 Catalogue has made some adjustments to reflect the latest progress in the industry and set clearer standards for the classification.

The 2015 Catalogue has introduced various new forms of telecommunication business including internet-based resources collaboration services, content distribution network services and internet domain name resolution services, while it has also re-categorized certain value-added telecommunication services, for example, online data and transaction processing, and domestic multi-party real-time communication, which were Type I VATS under the 2003 Catalogue, now have been classified as Type II VATS.

II. The Adjustments in the BTS Category Reflect the Advancement in the Telecommunications Industry and Pave Way for the Entry of Private Capital

Apart from some minor changes in wording or description of traditional telecommunication services, an obvious characteristic of the changes in the BTS category is that they reflect the technological breakthroughs of China in such fields, including IP telephone services, cellular mobile communications services, internet data transmission services and network access equipment services. The cellular mobile communications services may serve as a case in point.

In the 2003 Catalogue, the description for the cellular mobile communications services covered the theoretical 3G networks at that time, in the form of forecasted characteristics for 3G networks. In contrast, this catalogue of services in the 2015 Catalogue is extended to cover the diversified 3G and 4G networks that are already in operation for quite a while in China and even lists different formats of the networks developed by different operators.

In addition, according to the press release by the MIIT, the 2015 Catalogue also paved way for private enterprises to enter the market of basic telecommunication services, because the 2015 Catalogue makes it clear that cellular mobile communications services may be conducted in the form of resale by operators, which means it is now possible for qualified private companies to acquire the mobile communication service business from the



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current state-owned operators and resell such services in a new package to end-users under a new brand.

III. **Some Changes of VATS May Affect the Cloud Computing Business in China**

Though already widely accepted and applied in people's daily life, cloud computing can still be counted as among the newest and fastest growing technologies, either in China, or around the globe. So far there is no clear legal definition of cloud computing in major jurisdictions of the world, but a relatively authoritative definition comes from the U.S. National Institute of Standards and Technology:

"Cloud computing is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction".

Currently, it is generally accepted that three models can be categorized as cloud computing, namely Infrastructure as a Service (IaaS), Platform as a Service (PaaS) and Software as a Service (SaaS). Like the 2003 Catalogue, the 2015 Catalogue does not specifically identify any of the above cloud computing models as a form of VATS, but the above three models may fit well into the descriptions of the new changes in the 2015 Catalogue.

The 2015 Catalogue has added a new sub-catalogue under the Internet Data Center (IDC) catalogue, namely the Internet Resources Collaboration Services (IRC), which refers to the use of equipment and resources constructed on data centers, and through the internet or other networks, to provide customers with services including data storage, development environment for internet applications, deployment of internet applications and operation management to users by way of easily accessible, use on-demand, easily expanded and/or collaborative sharing. Meanwhile, the 2015 Catalogue has also substantially expanded the contents of information services. In the previous 2003 Catalogue, the scope of information services was relatively narrow whilst the 2015 Catalogue has broadened the definition and the scope of information services to cover five major service patterns, which include information publishing platform and delivery services, information search and inquiry services, community information services, real-time interactive information services and information protection and processing services.

Based on the above new changes in the 2015 Catalogue, it appears that the IaaS and PaaS models may well fall within the scope of the IRC, the newly added sub-catalogue under IDC catalogue (Type I, VATS); while the SaaS may be better covered by the broad definition of the information services (Type II, VATS). We have also made some unofficial consultations with the MIIT on how the cloud computing will be covered by the 2015 Catalogue, and the feedback initially confirmed our above analysis. Nevertheless, we have also learned from the MIIT that the MIIT is in the process of drafting some official detailed guidelines for implementing the 2015 Catalogue which may come out before the end of March 2016, and may hopefully provide a clear and official guidance on the above issue. We will keep a close eye on any further developments here.

IV. **Conclusion**

The 2015 Catalogue has introduced some substantial changes in the telecommunications services and is expected to cover some new technological advancement and business models, especially in the part of value-added telecommunications services. Therefore service providers related to telecommunication business in China may need to be more prudent and seek the professional advice of legal consultants to assess the compliance in the aspect of license requirement.

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