

Internet Email Service Management Regulations

No. 38 Circular, the Ministry of Information Industry of PRC

The **Internet Email Service Management Regulations** were reviewed and approved at the 15th Ministerial Meeting of the Ministry of Information Industry of the People's Republic of China on November 7, 2005 and are now promulgated. The Regulations will be effective on March 30, 2006.

Minister: Wang Xudong

February 20, 2006

Internet Email Service Management Regulations

Article 1 The Regulations are formulated for purpose of regulating Internet email services and safeguarding the legitimate rights of Internet email service users in accordance with the Regulations of the People's Republic of China on Telecommunications and Internet Information Services Regulations.

Article 2 The Regulations are applicable to such acts as delivering Internet email services and providing access service to Internet email service providers and sending emails via Internet within the territory of the People's Republic of China.

The Internet email service referred to herein means such acts as setting up Internet email servers to facilitate sending and receiving emails via Internet for Internet users.

Article 3 The privacy of citizens using Internet email services should be protected by laws. Except for purpose of national security or criminal investigations whereby public security authorities or procuratorial authorities are entitled to censor emails in accordance with laws, no organizations or individuals can infringe upon the communication privacy of citizens on any excuse.

Article 4 Firstly telecom value-added business license shall be obtained or necessary registration formalities for delivering non-profit Internet information services shall be handled in accordance with laws before engaging in Internet email service.

No organizations or individuals without obtaining such license or handling such registration formalities shall engage in Internet email services within the territory of the People's Republic of China.

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Article 5 Such telecom business providers as Internet access service providers shall not provide email access service to any organizations or individuals that have yet obtained telecom value-added business license or handled registration formalities for delivering non-profit Internet information services.

Article 6 The IP addresses of email servers of Internet email service providers shall be registered with the competent authorities. The Internet email service providers shall, 20 days before the operation of email servers, register all the IP addresses used by their Internet email servers with the Ministry of Information Industry (MII) of P.R.C. or Bureaus of Telecommunications Administration of all provinces, autonomous regions or municipalities directly under the Central Government (the Bureaus).

In case any Internet email service provider plans to change the IP address of his email server, necessary formalities shall be handled 30 days before such proposed change.

Article 7 Internet email service providers shall build an Internet email service system based on MII technical standards, disable the anonymous forwarding function of email servers, tighten control over security of email service system, and take prompt measures when network security loopholes are detected.

Article 8 Internet email service providers, when delivering service to users, shall make clear the service scope and related rules to users.

Article 9 Internet email service providers are duty bound to keep confidential the personal registration information and email addresses of users.

Internet email service providers and their employees shall not use the personal registration information and email addresses of users without duly authorization. Unless laws and administrative regulations otherwise prescribe, without the consent of users, their personal registration information and email addresses shall not be disclosed.

Article 10 Internet email service providers shall record the sending time and receiving time of emails sent or received by their email servers, and email addresses and IP addresses of senders or recipients. The above data shall be kept 60 days, and shall be furnished when requested by the authorities concerned in accordance with laws.

Article 11 No organizations or individuals shall produce, duplicate, release or distribute emails containing the information specified in Article 57 of the Regulations of the People's Republic of China on Telecommunications.

No organizations or individuals shall, through means of emails, go in for activities threatening network security and information security, which are specified in Article 58 of Regulations of the People's Republic of China on Telecommunications.

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Article 12 No organizations or individuals shall

- (1) Send emails through others' computers without duly authorization;
- (2) Sell, share with others, exchange the email addresses of others obtained through such approaches as online automatic gathering and random combination of letters and figures, or send emails to such email addresses.

Article 13 No organization or individual, when sending emails or having emails sent, shall have the following acts:

- (1) Purposely hiding or counterfeiting the information on the envelope of an email;
- (2) Sending commercial-purpose emails without express consent of recipients of such emails.
- (3) There is no "AD" caption or the equivalent in Chinese characters as the subject when sending commercial-purpose emails.

Article 14 Unless otherwise agreed by both sides, after the recipient agrees to receive certain commercial-purpose emails and refuses to receive other similar emails, the sender shall stop sending.

When the sender sends commercial-purpose emails, he shall provide his contact information so that the recipient can communicate his refusal to receive other emails, including the email address of the sender, and shall ensure such contact information remains valid in 30 days.

Article 15 Internet email service providers and telecom business providers delivering access service to Internet email service providers shall accept the complaints of users about the Internet emails, and shall make available approaches to facilitate posting complaints.

Article 16 Internet email service providers, and telecom business providers delivering access service to Internet email service providers shall handle the complaints of users according to the following requirements:

- (1) They shall immediately report to the competent authorities, when the reported email is found violating the provision of Article 11 (1) of the Regulations,
- (2) They shall report all the reported emails not covered in (1) of this article to the Internet Email Reporting Center (the Center) established by the Internet Society of China entrusted by MII;

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(3) When any reported email concerns the service provider itself, an investigation shall be conducted immediately, reasonable and effective measures shall be taken, and related summary and findings shall be promptly submitted to the competent authorities or the Center.

Article 17 Internet Email Reporting Center shall perform the following job duties in accordance with rules and work flowchart laid down by MII:

(1) To accept complaints over Internet emails

(2) To assist MII or the Bureaus to judge whether the reported emails violate the related provisions of the Regulations and who shall be to blame.

(3) To assist the authorities concerned to find who shall be responsible for violation of Article 11 of the Regulations

Article 18 Internet email service providers and telecom business providers delivering access service to Internet email service providers shall work closely with the competent authorities and the Center in conducting investigations.

Article 19 In case of violation of Article 4 of the Regulations, i.e. provide unlicensed Internet email services without obtaining telecom value-added business license or handling necessary registration formalities for delivering non-profit Internet information service, Article 19 of Internet Information Services Regulations shall apply.

Article 20 In case of violation of Article 5 of the Regulations, MII or the Bureaus shall have the right to order a correction of such violation and impose a fine of RMB10,000 or less.

Article 21 In case of failure to comply with Article 6, 7, 8 and 10 of the Regulations, MII or the Bureaus shall have the right to order a correction of such failure, and impose a fine of between RMB5,000 and RMB 10,000.

Article 22 In case of violation of Article 9 of the Regulations, MII or the Bureaus shall have the right to order a correction of such violation, and impose a fine of RMB 10,000 or less; in case of illegitimate income, the fine is likely to rise to RMB 30,000.

Article 23 In case of violation of Article 11 of the Regulations, Article 67 of the Regulations of the People's Republic of China on Telecommunications shall apply.

In case telecom business providers including Internet email service providers violate Article 11 of the Regulations, MII or the Bureaus shall discipline violators according to Article 78 of the Regulations of PRC on Telecommunications and Article 20 of Internet Information Services Regulations.

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Article 24 In case of violations of Article 12, 13, or 14 of the Regulations, MII and the Bureaus shall have the right to order a correction of such violations, and impose a fine of RMB10,000 or less; in case of illegitimate income, the fine is likely to rise to RMB 30,000.

Article 25 In case of violations of Article 15, 16 or 18 of the Regulations, MII and the Bureaus shall have the right to give a disciplinary warning and impose a fine of between RMB 5,000 and RMB10,000.

Article 26 The Internet email address referred to herein means a globally unique destination ID which is composed of a user name and an Internet domain name, and by which an email can be sent to email users globally.

The Internet email envelope information referred to herein means the information which is attached to an email and used to indicate the sender and recipient of such email and the route through which the email is transmitted.

The Internet email subject information referred to herein means the information which is attached to an email and used to indicate the content of the email.

Article 27 The Regulations will be effective on March 30, 2006.