



**Case Study**

# **US-Based Online Media Agency Expands to China Despite Regulatory Complexities**

One of the fastest growing micro-online media agencies globally, serving customers in 192 countries in 20 languages, expands presence in China to both develop the China market on the ground, and provide strong support and online performance to the Chinese market.

## **Company Profile**

- Industry: High tech, photography
- Revenue: USD 100-200 million
- Ownership: Privately Held
- Headquarters: USA, NY
- Global offices: 20 worldwide
- Global staff: 201-500 employees
- Presence: Americas, Europe, Asia
- DSA client date: 2016 to present

### **Challenges**

Our client's intended business activities are tightly regulated by the Ministry of Industry and Information Technology ("MIIT") and the Administration of Industry of Commerce ("AIC") in China. A number of pre-entry decisions would be required to navigate a complex regulatory framework and select a business model that would best serve their strategy.

### **Solutions**

Dezan Shira & Associates (DSA) provided legal and financial advisory services for the client's industry, researching the latest regulations and licensing requirements. DSA also liaised with officials from MIIT and AIC to seek opinions on the success of the application since the regulatory environment in the sector constantly changes in relation to the participation of foreign businesses.

### **Impacts**

The company was able to successfully comply with all requirements for market entry and licensing in the sector and set up operations in China. The company also retained Dezan Shira's services to provide ongoing maintenance for monthly and annual compliance.

## **CHALLENGE: Establish a China presence navigating stringent sector compliance requirements.**

Our client initially sought to identify the most efficient entry market strategy and optimal overall corporate structure, together with professional advice on operational, funding, tax, legal and compliance considerations. However, our client's intended business activities are tightly regulated by the Ministry of Industry and Information Technology ("MIIT") and the Administration of Industry of Commerce ("AIC") in China. This meant that a number of pre-entry decisions would be required in order to both navigate a complex regulatory framework and select and implement a business model that would best serve their strategy, which is how we began to assist and support this client.

At the time, specific intended online and offline business activities, while more open in some other markets, were restricted for Foreign invested enterprises in China. Other intended activities required specialization licenses to be applied for and issued, which sometimes can be difficult for clients to obtain.

Our client's core business model is its online web platform. Access to their site within China had previously been blocked, and this needed to be addressed, by ensuring proper Internet Content Provider ("ICP") filing with MIIT.

To avoid perceived IP protection risks of hosting their servers in China, our client decided to retain its hosting in the USA, with some technical assistance provided by the HQ to support China operations. Under this structure, HQ needed to license the technology to Chinese subsidiary and receive payments for the technical support and royalties. This meant that it was required to put in place an efficient and compliant process for outbound payments from China. Since the transactions were going to occur between related parties, transfer pricing regulations require to ensure that the pricing under the agreement applies to arm's length principle.

Lastly, as a tech start up, our client was planning to bring a small team focusing on the market development and customer's support. To manage the team, the client was looking for an integrated solution for outsourcing of HR, financial and legal compliance support.

## **SOLUTION: Liaise with government officials and strategize optimal business model**

Dezan Shira & Associates (DSA) provided legal and financial advisory services for the client's industry, researching the latest regulations and licensing requirements. DSA also liaised with officials from MIIT and AIC to seek their opinion on the success of the application since the sector is new and regulatory environment constantly changes in relation to the participation of foreign businesses. After several discussions with the officers, DSA legal team received positive feedback that the proposed business model can operate with ICP filing rather than entering restricted area of Value-Added Telecommunication licensing.

After the client's plans were enacted, DSA assisted with advisory and execution assistance throughout the stages of incorporation the legal entity, including guidance on the key considerations on the corporate governance, funding, holding structure, business scope, and internal controls. This enabled client to put in place straightforward structure.

Further, DSA legal and tax teams helped to put in place an efficient structure for outbound payment including drafting the intercompany cross border agreement in English and Chinese as well as register it with local authorities to support transactional and licensing flows between their HQ and Chinese subsidiary. We also assisted with tax advisory and a benchmark study to define the fair market price under the intercompany transactions according to transfer pricing regulations. Our client successfully processes monthly payments to the HQ.

Upon beginning operations, our accounting and HR team guided the process of initial set up in compliance with China GAAP - helping to fill the gap between western and Chinese operating practices. Our teams continue to support with overall accounting, banking and tax compliance, HR administration and payroll, enabling our client to focus mainly on the business activities and market development without additional burden of ongoing compliance.

## **IMPACT:** Business expansion to new market while remaining compliant with regulatory requirement.

Through Dezan Shira's structured corporate formation and strategic compliance advisory, the client was able to:

- Client defined efficient business model for China operations
- In the process of incorporation all required licenses and registrations were obtained including ICP filing
- Benchmark Study supporting group transfer pricing policy was completed
- Client put in place cross border intercompany licensing agreement in compliance with PRC regulations; and,
- Initial set up on the financial and HR operations and ongoing maintenance Monthly and Annual compliance and transparency for China operations.

## Your Partner for Growth in Asia



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