E-commerce in China: a Chance You Should not Miss

Asia

Still unclear how to embark on a journey into Chinese e-commerce market? Still keep away from Chinese e-commerce?

In 2020, we see many real store based companies greatly affected in the Covid-19. Due to lack of business many companies are forced to close. On the other side, the Chinese e-commerce market has become more dynamic and vibrant than before. E-commerce has become a new economic model that gradually dominates the China's retail market. In this context, many international brands are trying to capture China's e-commerce market share.

In this newsletter, we would like to share with you how to start a business in China's e-commerce market.

In the past, if consumers need to purchase foreign products, they had to order products on the foreign websites and use the conventional delivery method. It may guarantee the quality of the products but it is time-consuming and not stable in particular if the foreign website is blocked due to the PRC governmental censorship.

Now, a foreign company that wants to enter China's e-commerce market has several strategies available to it. Below are the two most popular modes.

Mode 1: Selling on the Third party E-commerce Platform ("3rd Party Platform Mode")

Foreign brands may launch online stores on a third-party platform ("Platform"). The well-known Chinese Platforms includes Tmall/Taobao (Alibaba Group) and JD.com (Jingdong Group) that act as a virtual mall for thousands of difference business. The advantage of this 3rd Party Platform Mode is the high user traffic.

Under this mode, foreign companies selling products online (e.g. Tmall, JD) are required to establish a legal business entity in China. According to the < *PRC E-commerce Law*>, companies who sell online are defined as e-commerce network operators and shall run its business as a legal entity in China and register with the Administration of Market Regulation, except in cases of which no registration is required. For foreign companies who just want to test the water in the Chinese market and do not wish to establish a legal presence in China, they can opt to open an e-store on the international website of the Platform (e.g. Tmall International, Jingdong International). However, the drawbacks are that such international Platforms mainly target the international market and there is no wide exposure to Chinese market.

The requirement on launching stores by a foreign company or its subsidiary on the Platforms may vary. Besides the general documentation of enterprises' basic information (e.g., business license), the Platforms also request trademark registration in China and/or license from the trademark holder, quality certifications (i.e. 3C/China Compulsory Certification) and sound financial capacity certificate. As such, foreign brands should check the Platform's requirement beforehand.

No matter whether a foreign company intends to set up a subsidiary in China or not, it should be mindful of the trademark protection. Some foreign companies, before entering China market, fail to register its trademark within China and thus its trademarks are exposed to the trademark squatter. These opportunists may register the trademark and then charge the foreign owner for it when the foreign companies arrive.
Therefore, we recommend that foreign brands apply for trademarks in China as soon as possible, which is quite critical for foreign companies targeting Chinese customers.

Mode 2: Selling on WFOE's Own Website: brands use their own websites to sell products;

To be successful in China, having a website/e-store based in China is often the best option to display your brand and products to Chinese customers. Practically, this mode would be applicable to foreign brands that are already confident in Chinese market and have its own WFOEs or JVs in China.

But if a foreign-invested enterprise wishes to open its own e-commerce store, a certificate called ICP license or ICP record-filing is mandatory. The companies that run paid information, search engines, social media platforms (e.g. LinkedIn) need to obtain the ICP license. If all content on the website is free and everything is a display of the products and services, then ICP filing is sufficient. Theoretically it is feasible for a WFOE or a JV to apply for an ICP license, however, the whole ICP license application process is quite tough in reality.

Besides the ICP license or record filing, a WFOE or JV engaging in e-commerce should also record-file with the network security department of the local Public Security Bureau of their jurisdiction. Fortunately, this procedure is quite straightforward.

Though marketing through their own website will require budgets, they are unavoidable investment costs for foreign brands to survive and thrive in the competitive Chinese e-commerce market.

Conclusion

Now is the gold time for e-commerce in China. The market will continue to grow rapidly. As China will continue to open up, we believe foreign companies will surely gain more opportunities.

These two modes illustrated above both have its pros and cons. The best fit one should be based on different consideration including the capital available to the foreign company, its market development plan in China, the products plan to sell online. If you have any question on the entry into the Chinese e-commerce market, please do not hesitate to contact us.

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