

Llinks Client Alert – Cybersecurity, Data & Privacy

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Shanghai · Beijing · Shenzhen · Hong Kong · London

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Law Offices
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I. Legislation

On April 26th, by summarizing the experiences from dedicated governance actions, in order to strengthen the protection of personal information and to regulate personal information related activities, *Cyberspace Administration of China* (“CAC”), the *Ministry of Industry and Information Technology* (“MIIT”), the *Ministry of Public Security* (“MPS”) and the *State Administration of Market Regulation* (“SAMR”) jointly drafted the *Provisional Managerial Measures for the Protection of Personal Information in Mobile Internet Applications (Draft)* for public consultation.

On May 12th, in order to strengthen the protection of personal information and important data, and to regulate the auto data process activities, in accordance with laws and regulations such as *PRC Cyber Security Law*, CAC, jointly with other relevant departments, drafted the *Several Rules on the Security Management of Auto Data (Draft)* for public consultation. It is the first time that Chinese government regulates the data in the auto industry, which will have a profound influence on automobile industry.

II. Court Rulings

On May 13th, Beijing Haidian People’s Court issued the ruling on the case *Sina Weibo sued ByteDance over unfair competition*. The Court held that, ByteDance massively transplanted contents from Sina Weibo via the “copy and paste” method, and purposefully transferred the contents in Sina Weibo to TouTiao, which constituted an unfair competition practice, ByteDance shall be liable for the economic loss suffered by Sina Weibo at the amount of RMB 20,000,000, as well as reasonable costs incurred by Sina Weibo at the amount of RMB 1,157,000 in total.

III. Law Enforcement

On May 1st, in accordance with laws and legislations such as *PRC Cyber Security Law* and *Methods for Identifying the Illegal Collection and Use of Personal Information by Applications (Apps)*, CAC organized an inspection against some widely-used Apps such as input method Apps and map & navigation Apps, and released a notification that 33 input and map & navigation Apps have illegally collected and used personal information. On May 10th, CAC released another notification that 84 security management and P2P Apps have illegally collected and used personal information. On May 21st, CAC released a notification that 105 instant video, browser, job recruitment and tool Apps have illegally collected and used personal information. The key to the said actions enforced by CAC was to confirm whether an App has complied with the requirements under the *Rules for the Scope of Necessary Personal Information for Common Types of Mobile Internet Applications (Apps)* enacted on May 1st, 2021.

[Links Comments]

Since May 1st 2021, CAC had consecutively released 3 reports on the illegal collections of personal information by Apps within one month, and focused the law enforcement on the satisfaction by Apps of the “necessity” requirement in collection and use of personal information. Considering that the current strict environment of enforcement, we suggest that Apps operators (including WeChat mini programs operators) carry out self-inspection on whether the collection and use of personal information complies with the current laws and regulations, especially on whether the collection and the design of privacy protection are in line with the current PRC data privacy law. Please refer to our article [“Can “Informed Consent” Still Solve Everything”](#) for further information about the “necessity” requirement.

On May 13th, MIIT issued *the Notification on Take-down of Apps Infringing Users’ Interests*, in which 90 Apps such as TianYa, Damai, Tuniu, PeiLian, MaiMai were required to be removed from App stores. In reality, the Apps required to be taken-down must be removed from App stores for at least 30 days.



About Llinks' Cyber Security and Data Compliance Services

Llinks' partners have been representing clients in data and cyber security related legal matters, such as offshore server, log records storage and filing, personal data collection and use, data integrity, centralized data process, differentiation between trade secrets and state secrets, etc. After 2010, Llinks' partners started to represent domestic and foreign enterprises in forming whole-process compliance solutions for the collection, use, transfer and destruction of customer personal information in digital marketing environment. In the course of handling these cases, Llinks' team has built up its solid capacity in tracing the logical chain which underlies all the data privacy laws and regulations. On that basis, our team can provide clients with practical and economical solutions which meet the requirements of the regulatory authorities.

Our team also includes some experienced lawyers who previously have served as law enforcement officials in cyber security administration. Their insights contribute to a better understanding on the regulatory authorities' key concerns and priorities in law enforcement, which is critically important for us to work out a practical solution for clients.

We have been working closely with relevant government consultancy departments and academic research institutions on the trend of legislation and implementation of the CSL regime. Our team has published special reports and analytical articles in this field. In September 2018, LexisNexis published a special issue written by our team, on *Companies' Compliance in the Context of China*, which contains six articles on practical issues concerning cyber security and data compliance. In September 2018, we drafted a series of concise bilingual articles titled *30 Practical Questions about the CSL*, which were later exclusively published online by Wolters Kluwer. In September 2019, as regulations and practice evolved, we updated the *30 Practical Questions about the CSL* and renamed the combined articles as *2019 The Blue Book of PRC Cybersecurity and Data Compliance (Bilingual)*. In November 2020, based on the latest cases and typical scenarios, we updated again and presented the *2020 Blue Book of PRC Cybersecurity and Data Protection Compliance (Bilingual)*. From 2018 to 2020, we published several Chinese and English professional articles, such as *Three Major Problems of China's Internet Security Data Law*, *China-US Game of Data Regulation*, in the national and foreign journals such as *Insights*, *The American Lawyer*, *China Business Law Journal* and the *Legal System Daily*.

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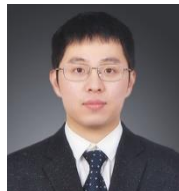
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