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工信部就《移动互联网应用程序个人信息保护管理暂行规定》征求意见

2021年4月26日，为加强移动互联网应用程序个人信息保护，规范App个人信息处理活动，工业和信息化部（“工信部”）发布《移动互联网应用程序个人信息保护管理暂行规定（征求意见稿）》，向社会公开征求意见，截止日期为5月26日。征求意见稿规定，从事App个人信息处理活动应遵循最小必要原则，用户如拒绝相关授权申请，不得强制退出或关闭App；处理个人生物特征、医疗健康、个人行踪等敏感个人信息的，应对用户进行单独告知，取得同意后方可处理敏感个人信息。（[查看更多](#)）

MIIT Seeks Advice on the Interim Regulations on the Management of Personal Information Protection for Mobile Internet Applications

On April 26, 2021, in order to strengthen the personal information protection collected by mobile Internet Applications and standardize the personal information processing activities of the relevant Apps, the Ministry of Industry and Information Technology (“MIIT”) issued the *Interim Regulations on the Management of Personal Information Protection for Mobile Internet Applications (Exposure Draft)* and sought advice publicly. The deadline for advice submission is May 26. The exposure draft stipulates that, when an App processes personal information, the providers should follow the minimum necessary principle, and if the users refuse to authorize the unnecessary information, the providers must not force the users to exit or close the App; when processing sensitive personal information such as personal biometrics data, medical health, personal locations, etc., users should be informed separately and the providers may only process sensitive personal information after they obtain consent. ([More](#))

工信部向社会通报主流应用平台问题数量占比

2021年4月23日，工信部发布新闻称，在2021年第一季度检测中，腾讯应用宝、小米应用商店、OPPO软件商店、华为应用市场和vivo应用商店发现问题数量分别占比14.22%、13.81%、12.80%、11.37%和11.17%，主要存在上架审核不严格，存量问题清理不彻底，登记核验APP开发运营者信息不准确，误导用户下载等问题。工业和信息化部已督促相关平台企业进行全面整改，严格落实企业主体责任。同时，工信部还公布了最新一批存在问题的应用软件名单，并要求名单上的138款APP在4月29日前完成整改工作。（[查看更多](#)）

MIIT Publishes the Proportions of Problematic Applications on the App Platform

On April 23, 2021, MIIT issued a statement, stating that during the first quarter inspection of 2021, the respective proportions of problematic Apps in Tencent App Store, Xiaomi App Store, OPPO App Store, Huawei App Market, and Vivo App Store were 14.22%, 13.81%, 12.80%, 11.37% and 11.17%. There were problems like failing to review the Apps in the App store according to the rules, failing to solve the problems already exists, inaccurate registration and verification of the information of App developers and operators, and misleading users to download, etc. MIIT has urged the relevant platform companies to carry out comprehensive rectification and strictly fulfill the company responsibilities. Meanwhile, MIIT also published the latest batch of problematic App lists, and required that the listed 138 Apps to be rectified completely before April 29. ([More](#))

信安标委就三项推荐性国家标准征求意见

2021年4月23日，全国信息安全标准化技术委员会（“信安标委”）发布公告，就推荐性国家标准《信息安全技术 人脸识别数据安全要求》征求意见稿向社会征求意见，截止日期为6月22日。另外，4月19日，信安标委也曾就两项推荐性国家标准《信息安全技术 移动互联网应用程序（APP）个人信息安全测评规范》和《信息安全技术 移动互联网应用程序（APP）SDK安全指南》的征求意见稿向社会征求意见，截止日期均为6月18日。（[查看更多](#)）

TC260 Seeks Advice on 3 Recommended National Standards

On April 23, 2021, the National Information Security Standardization Technical Committee (“TC260”) issued an announcement, seeking for public advice on the recommended national standard: *Information Security Technology — Security Requirements of Face Recognition Data*. The deadline is June 22. Furthermore, on April 19, TC260 also sought advice on another two recommended national standards: *Information Security Technology — Personal Information Security Measurement and Evaluation Specification in Mobile Internet Applications* and *Information Security Technology — Guidelines for SDK Security in Mobile Internet Applications*. The deadline for these two standards is June 18. ([More](#))

法工委：个人信息保护法草案将设置严格的法律责任

2021年4月22日，全国人民代表大会法制工作委员会（“法工委”）发言人出席新闻发布会，对个人信息保护法草案进行了介绍。据介绍，该草案将进一步完善个人信息保护领域的制度规范，确立以“告知—同意”为核心的个人信息处理的一系列规则；设专节对处理敏感个人信息作出更严格的限制，只有在具有特定目的和充分必要性的情形下，方可处理敏感个人信息，并应取得个人的单独同意或书面同意，在事前进行风险评估；明确个人在个人信息活动处理中的各项权利，如知情权、查询权、删除权等，强化个人信息处理者合规管理和保障个人信息安全的义务。草案将于4月26日提请全国人大常委会审议。（[查看更多](#)）

LAC: Strict Legal Responsibility to be Set in Personal Information Protection Law

On April 22, 2021, the spokesperson of the Legislative Affairs Commission (“LAC”) attended a news hearing and introduced the draft of *Personal Information Protection Law*. According to the introduction, the draft will: further perfect the system regulations in the field of personal information protection, and establish rules for processing personal information, which are based on the “notification - authorization” principle; set up a special section to impose stricter restriction on processing sensitive personal information, and stipulates that sensitive personal information can only be processed when the processor has a specific purpose and be with sufficient necessity, prior separate consent or written consent of the individual should be obtained and prior risk assessment should be carried out; clarify the rights of individuals in the processing of personal information activities, such as the right to know, the right to inquire, and the right to delete, etc., and strengthen the obligations of compliance management and of protecting personal information security of personal information processors. The draft will be submitted to the Standing Committee of the National People’s Congress for review on April 26. ([More](#))

最高检发布检察机关个人信息保护公益诉讼典型案例

2021年4月22日，最高人民检察院（“最高检”）发布了11件检察机关个人信息保护公益诉讼典型案例。在11件公益诉讼案例中，行政案件主要涉及行政机关个人信息监管、政府信息公开问题和私营企业泄露个人信息等问题，民事案件主要涉及互联网企业违规收集个人信息和消费欺诈等问题，而刑事附带民事案件则主要涉及非法获取、交易个人信息等问题（在此类案件中，网络运营者作为共同被告，被要求与行为人一起承担公益损害责任）。据悉，2020年9月，最高检出台《关于积极稳妥拓展公益诉讼案件范围的指导意见》，明确将个人信息保护作为网络侵害领域的办案重点。（[查看更多](#)）

SPP Publishes Typical Cases of Public Interest Litigation Regarding Personal Information Protection

On April 22, 2021, the Supreme People's Procuratorate (“SPP”) published 11 typical cases of public interest litigation regarding personal information protection by procuratorial organs. Among the 11 public interest litigation cases, the administrative cases mainly involved personal information regulation by administrative agencies, government information disclosure issues, and private companies' disclosure of personal information; the civil cases mainly involved Internet companies' illegal collection of personal information and consumer fraud; and the criminal and incidental civil cases mainly involved illegal acquisition and trading of personal information (in such cases, the network operator, as a co-defendant, is required to bear the responsibility for public damages together with the actor). It is reported that in September 2020, the SPP issued the *Guiding Opinions on Actively and Steadily Expanding the Scope of Public Interest Litigation Cases*, in which the protection of personal information is listed as a focus of cyber infringement cases. ([More](#))

三家房企因使用人脸识别系统被宁波市市监局共罚款75万

2021年4月19日，浙江省宁波市市场监督管理局（“宁波市市监局”）发布公告，对宁波保利实业投资有限公司侵害消费者个人信息权利的行为，根据《侵害消费者权益行为处罚办法》和《消费者权益保护法》，处以人民币25万元的罚款。此前，在4月14日与4月15日，已另有两家房地产企业因同样理由被分别罚款25万。据查，这三家企业均在其售楼处安装、使用人脸抓拍系统自动存储所有到访客户的人脸生物识别信息，以便与分销商介绍的客户生物识别信息进行比对。在比对符合的情况下，三家企业将向分销商结算佣金。尽管其中两家企业主张已在售楼处入口张贴了监控采集标识，但宁波市市监局驳回了这一申辩，仍认定其构成侵犯消费者依法得到保护的个人信息权利。（[查看更多](#)）

Ningbo AMR Fines 3 Real Estate Companies CNY 750,000 for Improperly Using Facial Recognition System

On April 19, 2021, Ningbo Municipal Administration for Market Regulation (“Ningbo AMR”) issued a statement, stated that it fined Ningbo Baoli Industrial Investment Co., Ltd. CNY 250,000, according to the *Measures for Penalties Against Infringement upon Consumers' Rights and Interests* and *Law on Safeguarding the Consumer Rights and Interests*, for infringing consumers' personal information right.

Previously, on April 14 and April 15, there were another two real estate companies fined for the same reason for CNY 250,000 respectively. According to investigation, the three companies all have installed and used facial capture systems at the entrance of their sales offices to automatically capture and store the facial biometrics information of all visiting customers, so that they could compare with the biometrics information of the customers introduced by distributors. Once there is a match, the companies will pay commission to the distributors. Although two of the companies claimed that they had posted monitor collection marks at the entrance of the sales offices, Ningbo AMR rejected the defense and still concluded that it constituted an infringement of consumers' legally protected personal information rights. ([More](#))

海外动态 Overseas News

EDPB发布关于向社交媒体用户定向推广的指南

2021年4月22日，欧盟数据保护委员会（European Data Protection Board，“EDPB”）发布了关于向社交媒体用户定向推广的指南终稿，该稿于2021年4月13日通过。特别的是，指南旨在澄清社交媒体提供者和定向推广者的角色和责任。因此，指南概述了处理个人信息会给个人权利自由带去的潜在风险，并确定了主要行为人和他们的责任。此外，指南试图解决关键数据保护要求的适用，包括合法性、透明度和数据保护影响评估，并概述了对社交媒体提供者和定向推广者间的安排的关键要素。（[查看更多](#)）

EDPB Publishes Final Version of Guidelines on Targeting of Social Media Users

On April 22, 2021, the European Data Protection Board (“EDPB”) published the final version of its guidelines on the targeting of social media users which were adopted on 13 April 2021. In particular, the guidelines aim to clarify the roles and responsibilities of social media providers and targeters. As such, the guidelines outline the potential risks to the rights and freedoms of individuals posed by the processing of personal data and identify the main actors and their roles. Furthermore, the guidelines seek to address the application of key data protection requirements, including lawfulness, transparency, and Data Protection Impact Assessments, as well as outline the key elements of arrangements between social media providers and the targeters. ([More](#))

欧盟委员会提出关于人工智能管理提案

2021年4月21日，欧盟委员会提出了首个关于人工智能法律框架的提案：《建立关于人工智能统一规则的条例提案》。该提案的具体目标是：确保在欧盟市场上投放、使用的人工智能系统是安全的，且尊重关于基本权利和欧盟价值的现有法律；确保法律确定性，以促进人工智能领域的投资和创新等。为实现这些目标，该提案提供了平衡和适当的人工智能横向规制方法，仅对解决人工智能相关的风险和问题提出最小且必要的要求。该提案还延续了基于风险的比例原则方法，为人工智能系统在欧盟内的市场投放、市场发展和使用设置了统一规则，并设置了可靠的风险评估方法来定义何为给人们的健康、安全或基本权利带来严重风险的“高风险”人工智能系统。（[查看更多](#)）

EU Commission Proposes a Regulation on Artificial Intelligence

On April 21, 2021, the European Commission proposed the first ever legal framework on AI: Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence. The specific objectives of the proposals are: to ensure that AI systems placed on the Union market and used are safe and respect existing law on fundamental rights and Union values and to ensure legal certainty to facilitate investment and innovation in AI, etc. To achieve those objectives, the proposal presents a balanced and proportionate horizontal regulatory approach to AI that is limited to the minimum necessary requirements to address the risks and problems linked to AI. The proposal also sets harmonized rules for the development, placement on the market and use of AI systems in the Union following a proportionate risk-based approach, and lays down a solid risk methodology to define “high-risk” AI systems that pose significant risks to the health and safety or fundamental rights of persons. ([More](#))

欧盟将成立网络安全能力中心

2021年4月20日，欧盟委员会通过了关于建立网络安全能力中心和相关网络的法案，随后将由欧洲议会决定是否最终通过。通过建立这一中心，欧盟可以集中对网络安全研究、技术和行业发展的投资，以提高互联网以及其他关键网络和信息系统的的天性。这个“欧洲网络安全行业、技术和研究能力中心”将与由成员国指定的国家协调中心构成的网络一道工作。该中心还将汇集主要的欧洲利益相关者，包括行业的、学术的和研究性的组织，以及其他相关的公民社会协会，共同形成一个网络安全能力社区，以在欧盟范围内加强并传播关于网络安全的专业知识。
([查看更多](#))

EU to Boost Cybersecurity Competence Centre

On April 20, 2021, the EU Council adopted the regulation establishing a Cybersecurity Competence Centre and the network, which will be followed by a final adoption by the European Parliament. The EU is set to boost the security of the internet and other critical network and information systems by establishing the Centre to pool investment in cybersecurity research, technology and industrial development. This “European Cybersecurity Industrial, Technology and Research Competence Centre” will work together with a network of national coordination centres designated by member states. The Centre will also bring together the main European stakeholders, including industry, academic and research organisations and other relevant civil society associations, to form a cybersecurity competence community, in order to enhance and spread cybersecurity expertise across the EU. ([More](#))

立方律师事务所编写《立方观评》的目的仅为帮助客户及时了解中国法律及实务的最新动态和发展，上述有关信息不应被看作是特定事务的法律意见或法律依据，上述内容仅供参考。

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