



## 立方网络安全与数据合规周报

### Weekly Cybersecurity and Data Protection Review

#### No.29

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UK ICO Launches Draft Statutory Guidance on Our Regulatory Action Concerning Its Exercise of Data Protection Regulatory Functions

## 国内要闻 Domestic News

### 最高院发布指导案例143号，涉及信息网络传播环境下名誉权侵权认定规则

2020年10月16日，最高人民法院（“最高院”）发布指导案例143号《北京兰世达光电科技有限公司、黄晓兰诉赵敏名誉权纠纷案》，涉及信息网络传播环境下名誉权侵权认定规则，明确了不特定关系人组成的微信群具有公共空间属性，公民在此类微信群中发布侮辱、诽谤、污蔑或者贬损他人的言论构成名誉权侵权，应当依法承担法律责任。（[查看更多](#)）

### The No. 143 SPC Guiding Cases Clarifies Rules for Recognizing Reputation Infringement in the Context of Information Network Communications

On October 16, 2020, the Supreme People's Court (“SPC”) released its No. 143 guiding case, a reputation dispute case between the Beijing Shida Guangdian, HUANG Xiaolan and ZHAO Min. This case discussed the rules for recognize the infringement of reputation right in the context of information network communications and clarifies the nature of the WeChat groups composed of members of unspecified connections as public space. According to this case, posting insults, slander, defamation or disparaging remarks in such groups constitute an infringement of reputation right, for which they shall bear legal responsibility in accordance with the law. ([More](#))

### 国家网信办发布《互联网用户公众账号信息服务管理规定（修订草案征求意见稿）》

2020年10月15日，国家互联网信息办公室（“网信办”）发布《互联网用户公众账号信息服务管理规定（修订草案征求意见稿）》（“《征求意见稿》”），向公众征求意见。《征求意见稿》共4章22条，内容分为总则、公众账号信息服务平台、公众账号生产运营者、监督管理。

《征求意见稿》明确，公众账号信息服务平台提供互联网用户公众账号信息服务，应当取得国家法律法规规定的相关资质。公众账号信息服务平台和公众账号生产运营者向社会公众提供互联网新闻信息服务，应当取得互联网新闻信息服务许可。（[查看更多](#)）

### CAC Release the Draft Amended Regulations on Information Service Management of Public Internet User Accounts

On October 15, 2020, the Cyberspace Administration of China (“CAC”) released the *Amended Regulations on Information Service Management of Public Internet User Accounts (Exposure Draft)* for public comments. The Exposure Draft contains 22 articles, which are divided into four chapters, i.e. general provisions, public user account information service platforms, public user account producers and operators, as well as supervision and management. The Exposure Draft makes it clear that, to provide public account service, a platform shall obtain the relevant certifications prescribed by national laws and regulations. The Exposure Draft also specifies that, to provide Internet news and information services to the public, the relevant platforms as well as public account producers and operators shall also obtain relevant permission. ([More](#))

## 信安标委发布《信息安全技术 电信领域大数据安全防护实现指南（征求意见稿）》

2020年9月30日，全国信息安全标准化技术委员会（“信安标委”）发布《信息安全技术 电信领域大数据安全防护实现指南（征求意见稿）》（“《指南》”）。根据《指南》，电信大数据可分为四类，包括用户身份相关数据、用户服务内容数据和用户服务衍生数据和企业运营管理数据。根据数据的敏感程度和重要性的不同，将电信大数据类别由低到高划分为1-4级。征求意见截止日期为2020年11月29日。（[查看更多](#)）

### TC 260 Issues Draft Information Security Techniques — Implement Guideline for Telecom Big Data Security Protection

On September 30, 2020, the National Information Security Standardization Technical Committee (“TC 260”) issued the *Information security techniques — Implement guideline for telecom big data security protection (Exposure Draft)* (“Draft Guidelines”). According to the Draft Guidelines, telecom big data can be classified into four categories, including user identity data, user service content data, data derived from user service, and enterprise operation and management data. According to data sensitivity and importance, those categories of data are also classified into 4 levels for data protection purpose. The deadline for submitting comments is November 29, 2020. ([More](#))

### 《个人信息保护法（草案）》公开征求意见

2020年9月29日，十三届全国人大常委会第七十二次委员长会议决定，十三届全国人大常委会第二十二次会议10月13日至17日在北京举行。委员长会议建议，十三届全国人大常委会第二十二次会议审议《个人信息保护法》草案。10月21日，《个人信息保护法（草案）》征求意见稿已对外发布，征求意见于2020年11月19日截止。（[查看更多](#)）

### Draft Personal Information Protection Law Released

On September 29, 2020, the 72nd Council of Chairmen of the 13th National People’s Congress (“NPC”) Standing Committee decided that the 22nd council of the 13th NPC Standing Committee will be held in Beijing from October 13 to 17. The Council of Chairmen proposed that the 22nd Council of the 13th NPC Standing Committee deliberate on the draft *Personal Information Protection Law*. On October 21, the exposure draft of the *Personal Information Protection Law* has been released for public comments till November 19. ([More](#))

### 中国互联网络信息中心发布第46次《中国互联网络发展状况统计报告》

2020年9月29日，中国互联网络信息中心发布第46次《中国互联网络发展状况统计报告》（“《统计报告》”），《统计报告》包括互联网基础建设、网民规模及结构、互联网应用发展、互联网政务发展和互联网安全等五个方面。根据《统计报告》，2020年上半年，国家计算机网络应急技术处理协调中心接收到网络安全事件报告49468件，较2019年同期（49186件）增

长0.6%。全国各级网络举报部门共受理举报8088万件，较2019年同期（6858万件）增长17.9%。

[\(查看更多\)](#)

## CNNIC Releases 46th China Statistical Report on Internet Development

On September 29, 2020, the China Internet Network Information Center (“CNNIC”) released the 46th *China Statistical Report on Internet Development* (“**Statistical Report**”), which consists of five chapters including internet infrastructure construction, netizen population and structure, internet application and development, internet government administration development and cybersecurity. According to the Statistical Report, in the first half of 2020, the National Computer Network Emergency Response Technical Team (“CNCERT”) received 49468 reports of cybersecurity incidents, an increase of 0.6% compared to the same period last year (49186 reports). China’s network reporting departments received 80.88 million reports, an increase of 17.9% compared to the same period last year (68.58 million). [\(More\)](#)

## 《贵州省政府数据共享开放条例》发布

2020年9月26日，贵州人大网公布《贵州省政府数据共享开放条例》（“《共享开放条例》”）。《共享开放条例》规定，政府数据共享开放应当在全省统一的政府数据共享平台、开放平台上进行。根据《共享开放条例》，任何单位或者个人对获取到的有条件共享开放的政府数据，不得擅自转让、改变用途或者使用范围，不得利用政府数据从事违法犯罪活动。《共享开放条例》自2020年12月1日起施行。 [\(查看更多\)](#)

## Guizhou Government Data Sharing and Opening Regulations Released

On September 26, 2020, the Guizhou People’s Congress released the *Guizhou Government Data Sharing and Opening Regulations* (“**Guizhou Data Regulations**”). The Guizhou Data Regulations stipulate that government data sharing and opening should be conducted on a unified platform. According to the Guizhou Data Regulations, any entity or individual shall not transfer or use the conditional-open government data beyond the authorization it obtained or use government data for illegal purpose. The Guizhou Data Regulations will come into force on December 1, 2020. [\(More\)](#)

## 金标委发布《金融数据安全 数据安全分级指南》

2020年9月23日，全国金融标准化技术委员会（“金标委”）发布《金融数据安全 数据安全分级指南》（“《分级指南》”）。《分级指南》适用于金融业机构开展电子数据安全分级工作时使用，也为第三方安全评估机构等单位开展数据安全检查与评估工作提供参考。《指南》主要包括数据安全定级的目标、原则和适用范围，定级要素识别、定级规则、定级流程，并提供了金融业机构典型数据定级规则参考表作为定级参考依据。《分级指南》自发布之日起实施。 [\(查看更多\)](#)

## SAC/TC 180 Releases Financial Data Security — Guidelines for Data Security Classification

Recently, China Financial Standardization Technical Committee (“SAC/TC 180”) released the *Financial data security—Guideline for data security classification* (“**Classification Guidelines**”). The Classi-



fication Guidelines is applied to the digital data classification of financial organizations for data protection purpose, and can also be a reference for the third-party data security inspection assessment organizations. The Classification Guidelines stipulated the purposes, principles, and scope of the data security classification. For the financial organizations data security classification practice, the Classification Guidelines also stipulated the relevant factors to be considered as well as the rules and process, and provided a reference table. ([More](#))

## 海外动态 Overseas News

### 美国司法部发布加密货币执法框架

2020年10月8日，美国司法部发布《加密货币：执法框架》（“《执法框架》”）。《执法框架》共分为三部分：第一部分威胁概述，对大多数加密货币的非法使用行为进行分类；第二部分法律法规，探索政府可用的各种法律和监管工具，以应对加密货币非法使用带来的挑战；第三部分当前挑战及未来战略。《执法框架》是美国司法部网络数字工作组发布的第二份详细报告。该任务组成立于2018年2月，旨在回答两个基本问题：一是司法部应如何应对全球网络威胁；二是联邦执法部门如何更有效的执行其在这一领域的任务。（[查看更多](#)）

### DOJ issues Cryptocurrency: An Enforcement Framework

On October 8, 2020, the Department of Justice (“DOJ”) Office published the *Cryptocurrency: An Enforcement Framework* (“**Framework**”). The Framework mainly consists of three parts including (i) threat overview, cataloging the categories regarding most illicit uses of cryptocurrency; (ii) law and regulations, exploring the various legal and regulatory tools at the government’s disposal to confront the threats posed by cryptocurrency’s illicit uses; and (iii) ongoing challenges and future strategies. The Cryptocurrency Enforcement Framework is the second detailed report issued by the Attorney General’s Cyber-Digital Task Force, which was established in February 2018 to answer two basic questions: How is the Department of Justice responding to global cyber threats, and how can federal law enforcement accomplish its mission in this area more effectively. ([More](#))

### 因违法收集的员工数据，H&M被罚35,258,708欧元

2020年10月1日，汉堡数据保护执法机关根据《通用数据保护条例》（GDPR）对H&M Hennes & Mauritz在线商店A.B.&Co. KG（“H&M”）处以35,258,708欧元的罚款，原因是H&M处理个人数据缺乏足够法律依据。汉堡数据保护执法机关调查发现，至少从2014年起，H&M就开始完整记录一些雇员的私人生活情况，这些信息被存储于网络驱动器中。汉堡数据保护执法机关表示，一些公司高层还秘密获取雇员家庭问题、宗教信仰等个人信息。2019年10月，由于技术配置错误，数据收集行为被公开，并导致全公司数小时内均可访问存储于网络驱动器中的数据。（[查看更多](#)）

### Hamburg DPA Fines H&M for Infringing GDPR

On October 1, 2020, the Data Protection Authority of Hamburg (“**Hamburg DPA**”) issued a penalty decision in which it fined H&M Hennes & Mauritz Online Shop A.B. & Co. KG (“**H&M**”) EUR 35,258,708 for insufficient legal basis for data processing in accordance with GDPR. Hamburg DPA

found that, since at least 2014 private life circumstances of some of the employees have been comprehensively recorded with the information stored on a network drive. In addition, according to the Hamburg DPA, some supervisors also used the “Flurfunk” to hear something through the grapevine to acquire a broad knowledge of individual employees, for example about family problems and religious beliefs. The data collection became known due to a technical configuration error in October 2019, according to which the data stored on the network drive was accessible company-wide for several hours. ([More](#))

## 英国信息专员办公室发布《关于我们的监管行动的法令指南》草案，涉及如何行使数据保护监管职能

2020年10月1日，英国信息专员办公室发布了《关于我们的监管行动的法令指南》（草案）（“《指南草案》”）。《指南草案》规定了英国信息专员办公室将如何行使其信息通知、评估通知、执行通知和处罚通知等数据保护监管职能。为确保个人权利和自由受到保护，《指南草案》还向经营者保证英国信息专员办公室将适度、一致地行使权力。意见征求截止日期为2020年11月12日。（[查看更多](#)）

## UK ICO Launches Draft Statutory Guidance on Our Regulatory Action Concerning Its Exercise of Data Protection Regulatory Functions

On October 1, 2020, the Information Commissioner’s Office (“UK ICO”) launched the *Draft Statutory Guidance on Our Regulatory Action* (“**Draft Guidance**”). The Draft Guidance concerns how the UK ICO will exercise its data protection regulatory functions of information notices, assessment notices, enforcement notices and penalty notices. Designed to ensure the rights and freedoms of individuals are protected, the Draft Guidance also seeks to provide assurance to business that the UK ICO will use its powers proportionately and consistently. The deadline for submitting comments is 12 November 2020. ([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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