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LIFANG & PARTNERS **立方观评**



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立方要闻周报

Weekly News By Lifang & Partners

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中国农业银行崇左分行因违规使用个人金融信息被罚约1142万元

Chongzuo Branch of Agricultural Bank of China Fined RMB 11,420,000 for Illegal Use of Personal Financial Information

欧盟数据保护委员会（EDPB）发布关于政府在第三国获取数据的法律研究

EDPB Publishes Legal Study on Government Access to Data in Third Countries



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欧洲议会表决通过《数字服务法》以打击违法内容

MEPs Approves *Digital Services Act* to Tackle Illegal Content

美国议会提出数据透明法案

US Lawmakers Propose Data Transparency Bill

2021年，违反欧盟 GDPR 隐私法的罚款飙升七倍至 12 亿美元：

Fines for Breaches of EU Privacy Law Spike Sevenfold to \$1.2 Billion

德国数据保护会议就TTDSG展开公众意见征求

Germany DSK Open Consultation on TTDSG Guidance

西班牙数据保护局对非法使用视频监控个人处以1,500欧元罚款

Spanish AEPD Fine Unnamed Person €1,500 for Unlawful Use of Video Surveillance

立方竞争法周报 Weekly Competition Law News

最高人民法院：依法公正高效审理反垄断案件

2022年1月13日，最高人民法院印发《关于充分发挥司法职能作用助力中小微企业发展的指导意见》（“《意见》”）。《意见》指出，相关人民法院应当依法公正高效审理反垄断案件，保护中小微企业生存发展空间，健全司法与执法衔接机制，支持反垄断行政执法机关依法履职，加强沟通协作，推动形成工作合力。（[查看更多](#)）

SPC: To Hear Anti-Monopoly Cases Fairly and Efficiently Under the Law

On January 13, 2022, the Supreme People's Court (“SPC”) issued the *Guiding Opinions on the Full Use of the Judiciary in Facilitating the Development of Small Enterprises* (“*The Opinions*”). The *Opinions* require that the People's Court at all levels shall conduct fair and efficient trials of anti-monopoly cases and severely punish illegal acts and ensure the development of small enterprises be protected. The Courts should improve the mechanism for linking up judiciary and enforcement, support anti-monopoly law enforcement agencies, strengthen communication and coordination, and create synergy in their work. ([More](#))

上海市市场监管局发布《关于发展壮大市场主体的若干措施》，将制定实施《经营者反垄断合规指引》

2022年1月12日，上海市市场监督管理局（“上海市市场监管局”）发布了《上海市市场监督管理局关于发展壮大市场主体的若干措施》（“《措施》”）。《措施》中提出，要强化公平竞争审查，防止滥用行政权力排除限制竞争的行为，同时也将加强市场经营行为合规性指导，制定实施《上海市经营者反垄断合规指引》。（[查看更多](#)）

Shanghai AMR Announces to issue Guidelines on Anti-Monopoly Compliance

On January 12, 2022, the Shanghai Administration for Market Regulation (“Shanghai AMR”) issued the *Measures of Shanghai AMR on the Development of Market Entities* (“*The Measures*”). The *Measures* advocates strengthening fair competition review, preventing abuse of administrative power. It also indicates that Shanghai AMR will strengthen market compliance guidance, issuing *Shanghai Operators Anti-Monopoly Compliance Guidelines*. ([More](#))

北京市市场监管局局长冀岩：医药行业3起反垄断案件正在查办

2022年1月9日，北京市市场监督管理局（“北京市市场监管局”）局长冀岩在专访时表示，北京市市场监管局在医药行业有3起反垄断案件正在查办中，今后也将依法严肃查处食品、药品行业中可能存在的垄断行为。北京市市场监管局在2021年聚焦平台经济、药品医疗、公用事业等重点领域，扎实推进反垄断工作，取得积极成效。同时，北京市市场监管局持续加强平台经济领域反垄断监管，推动公平竞争审查深入实施，积极探索京津冀区域执法协作。（[查看更多](#)）

Chair of Beijing AMR: Three Anti-monopoly Cases in the Pharmaceutical Industry Are Under Investigation

On January 9, 2022, YI Yan, the director of Beijing Administration for Market Regulation (“**Beijing AMR**”) said in an interview that Beijing AMR is investigating three anti-monopoly cases in the pharmaceutical industry and will severely scrutinize and punish possible monopolistic acts in the food and medication industries under the law. In 2021, Beijing AMR made a solid progress in its anti-monopoly work, focusing on key areas such as the platform economy, medical care, and public utilities. At the same time, Beijing AMR will continue to strengthen anti-monopoly supervision in the platform economic field, promoted the in-depth implementation of the fair competition review, and actively explored regional law enforcement cooperation between Beijing, Tianjin, and Hebei. ([More](#))

因涉嫌行政性垄断，山东滨州市城管局废止与哈啰单车独家合作

2022年1月7日，山东省滨州市城市管理局（“**滨州市城管局**”）发布了《关于废止共享单车相关文件的公告》。公告指出，按照《反垄断法》相关法律规定，为营造更好的营商环境，该局决定废止与上海钧正网络科技有限公司于2017年12月18日签订的《战略合作协议》。（[查看更多](#)）

Binzhou Abolishes the Exclusive Partnership with Hellobike on Suspicion of Administrative Monopoly

On January 7, 2022, Shandong Province Binzhou Urban Management And Law Enforcement issued an announcement stating that to follow the requirements of Anti-Monopoly Law and to create a better business environment, Binzhou decided to abolish the strategic cooperation agreement signed on December 17, 2017 with Hellobike. ([More](#))

谷歌针对欧盟28亿美元天价反垄断罚单再次提起上诉

2022年1月20日，谷歌向欧洲法院提起上诉，以推翻28亿美元的反垄断罚款。2017年，欧盟竞争委员会向谷歌开出了这一天价罚单，理由是谷歌利用自身的比价购物服务获得了不公平的竞争优势。对此，谷歌提起上诉，认为商业平台本身就存在着竞争，但这一上诉被欧盟普通法院驳回。欧盟普通法院认为欧盟委员会的裁决无误。对此，谷歌表示决定对该判决提出上诉，但不管结果如何，谷歌将继续采取补救措施，并将继续与欧盟委员会进行建设性合作。（[查看更多](#)）

Google Launches Fresh Appeal to Overturn USD 2.8 Billion Fine at Top EU Court

On January 20, 2022, Google files an appeal at the European Union's top court against an earlier decision to uphold the USD 2.8 billion antitrust fine. The EU Commission fined Google in 2017 over the use of its price comparison shopping service to gain an unfair advantage. Google filed a challenge against the fine, alleging that the presence of merchant platforms showed there was strong competition, which was also dismissed by the EU's General Court. Google said they had decided to appeal the General Court's decision. But irrespective of the appeal, they will continue to invest in their remedy and continue to work constructively with the European Commission. ([More](#))

美国FTC主席：面对苹果、谷歌、Meta和亚马逊等科技巨头的威胁，反垄断绝不退缩

2022年1月20日，美国联邦贸易委员会（“FTC”）主席Lina Khan在接受采访时表示，目前正被反垄断调查的苹果、谷歌、Meta和亚马逊这四大科技巨头都有强大的资源，而FTC的资源有限。与这些实力强大的公司较量需要勇气，但是面对他们的威胁恐吓，FTC的执法人员不会因此退缩。在Lina的领导下，FTC已采取措施向科技巨头们表明决心，在针对Facebook提出的反垄断诉讼被法庭驳回之后，FTC很快又提出一个修改的诉讼，这次诉讼获得了法庭支持。（[查看更多](#)）

FTC Chair Lina Khan Says Agency Won't Back Down in the Face of Intimidation from Big Tech

On January 20, 2022, Federal Trade Commission (“FTC”) Chair Lina Khan said that the four major technology giants - Apple, Google, Meta Platforms, and Amazon - currently under antitrust investigation have powerful resources against FTC. Khan said it takes “courage” to take on companies with immense power, especially in the face of the FTC’s own resource challenges that force it to narrow the scope of its enforcement capabilities. But their enforcers are not going to back down because of these companies flexing some muscle or trying to intimidate them. Under her leadership, the FTC has taken steps to show its resolve against big business. The agency filed an amended complaint against Facebook on antitrust charges after its earlier one was dismissed, and this time it was allowed to advance. ([More](#))

美国司法部和FTC会寻求加强对非法合并的执法

2022年1月18日，美国司法部反垄断司和FTC联合发起了一项公开征求意见，旨在加强对非法兼并的执法。近期证据表明，美国经济体中的许多行业正愈发集中，竞争力下降，这危及消费者、工人、小企业的选择和经济收益。2020年到2021年，持续的并购浪潮使合并申报增加了一倍多，因此以上问题很可能会继续存在并且恶化。对此，美国司法部反垄断司和FTC向公众征求意见，以确保联邦合并准则能适应现状，更好地发现并制止市场中的反竞争性交易。（[查看更多](#)）

DOJ and FTC Seek to Strengthen Enforcement Against Illegal Mergers

On January 18, 2022, the U.S Justice Department’s Antitrust Division and FTC launched a joint public inquiry aimed at strengthening enforcement against illegal mergers. Recent evidence indicates that many industries across the economy are becoming more concentrated and less competitive – imperiling choice and economic gains for consumers, workers, and small businesses. These problems are likely to persist or worsen due to an ongoing merger surge that has more than doubled merger filings from 2020 to 2021. To address mounting concerns, the agencies are soliciting public input on ways to modernize federal merger guidelines to better detect and prevent illegal, anticompetitive deals in today’s modern markets. ([More](#))

苹果公司将遵守荷兰监管机构裁决，允许交友软件应用内第三方支付选项

2022年1月15日，苹果公司表示，将遵守荷兰消费者和市场管理局（“ACM”）的命令，允许荷兰交友APP的开发者向其用户提供非苹果支付选项。ACM于12月24日作出的裁决中，认为苹果公司滥用市场地位，要求交友APP开发者独家使用苹果支付。苹果公司表示将遵守ACM做出的这一裁决，并专门为荷兰App商城上的交友软件提供额外的支付选项。（[查看更多](#)）

Apple Complies with Dutch Watchdog Ruling on Payment Options in Netherlands

On January 15, 2022, Apple said it will allow developers of dating apps in the Netherlands to offer non-Apple payment options to their users, complying with an order from the country's market regulator. The country's Authority for Consumers and Markets (“ACM”) found in a decision published on December 24, 2021 that Apple had abused its market position by requiring dating app developers to exclusively use Apple's in-app payment system. Apple said it will comply with the decision and introduce "two optional new entitlements exclusively applicable to dating apps on the Netherlands App Store that provide additional payment processing options for users". ([More](#))

现代重工收购大宇造船案遭欧盟委员会禁止

2022年1月13日，根据欧盟并购条例（EU Merger Regulation），欧盟委员会通过对市场份额、替代商品、行业发展、市场进入、疫情影响五个方面的调查，禁止了韩国现代重工对韩国大宇造船及海洋工程有限公司的收购交易，认为两家公司合并后将形成支配地位，减少全球大型液化气船建造市场中的竞争并且当事人没有正式向欧盟委员会提供解决方案以解决其竞争担忧。（[查看更多](#)）

EU Commission Prohibits Proposed Acquisition of Daewoo Shipbuilding & Marine Engineering by Hyundai Heavy Industries Holdings

On January 13, 2022, EU Commission prohibited, under the EU Merger Regulation, the acquisition of Daewoo Shipbuilding & Marine Engineering CO., Ltd (“**Daewoo Shipbuilding & Marine Engineering**”) by Hyundai Heavy Industries Holdings. The merger between the two South Korean shipbuilders would have created a dominant position by the new merged company and reduced competition in the worldwide market for the construction of large, liquefied gas carriers. The Commission's decision was based on the following considerations: the parties enjoy very large and increasing market shares; very few alternatives for customers; limited capacity in the market; very high barriers to entry and no buyer power; no impact of the coronavirus pandemic. The parties did not formally offer remedies to address the Commission's concerns. ([More](#))

FTC附限制性条件批准了ANI制药公司收购Novitium Pharma

2022年1月12日，FTC作出了一项最终裁决，附限制性条件批准ANI Pharmaceuticals, Inc.以2.1亿美元收购Novitium Pharma LLC。2021年11月，一份向FTC的控告称该收购可能会损害美国市场上SMX-TMP口服悬浮液和口服类固醇产品地塞米松片的竞争。最终FTC要求ANI在完成收购后10天内将ANI的SMX-TMP口服悬浮液和地塞米松片的权利和资产剥离给Prasco LLC。（[查看更多](#)）

FTC Approves an Order on ANI Pharmaceuticals' Acquisition of Novitium Pharma

On January 12, 2022, FTC approved a final order settling charges that ANI Pharmaceuticals, Inc. (“ANI”)’s USD 210 million acquisition of Novitium Pharma LLC (“Novitium Pharma”) violated anti-trust law. In the November of 2021, a complaint sent to FTC alleging that the acquisition as proposed likely would have harmed competition in the U.S. markets for generic SMX-TMP oral suspension and generic dexamethasone tablets. The final order requires ANI and Novitium Pharma to divest ANI’s rights and assets to generic SMX-TMP oral suspension and generic dexamethasone tablets to Prasco LLC within 10 days after the acquisition is final. ([More](#))

联邦法官驳回Facebook关于撤销FTC最新反垄断诉讼的请求

2022年1月12日，美国哥伦比亚特区法院裁定，驳回Meta Platforms Inc.关于撤销FTC修改后的诉讼的请求。FTC可以继续推进其反垄断诉讼。FTC于2020年12月起诉Facebook滥用其在社交媒体中的垄断地位，但法官以“法律上不充分”和“缺乏具体事实指控”为由驳回该案。FTC于2021年8月重新提起诉讼，并称其已掌握了足够的事实来证明Facebook拥有垄断地位，并且通过反竞争行为故意维持。（[查看更多](#)）

Judge Refuses to Throw Out Facebook Antitrust Lawsuit

On January 12, 2022, United States District Court for the District of Columbia denied Facebook’s motion to dismiss FTC’s antitrust lawsuit against it. FTC sued Facebook in the December of 2020, but the Judge dismissed the case for being “legally insufficient” and “light on specific factual allegations.” FTC filed the case again in August, alleging they have “enough facts to plausibly establish” that Facebook has monopoly power and has willfully maintained that power through anticompetitive conduct. ([More](#))

耶鲁等16所美国顶级大学因涉嫌违反反垄断法被起诉

2022年1月10日，耶鲁大学、哥伦比亚大学、芝加哥大学等16所美国顶级大学被指控违反了反垄断法而遭到联邦起诉。据称，这些大学通过共谋使用同种计算方法来确定学生的助学金数额，构成了价格垄断，从而限制了大学助学金政策之间的竞争。虽然在反垄断法中有针对学校录取行为的豁免，但是该诉讼指出至少有9所学校在录取中考虑了申请人的学费支付能力，属于豁免中的禁止行为。该诉讼提出索赔要求，并要求各大学停止共谋行为。（[查看更多](#)）

Yale And Other 16 Top U.S. Universities Hit with Lawsuit for Allegedly Price Fixing Student Aid

On January 10, 2022, Yale and the other 16 country’s top universities were reported that they are facing a federal lawsuit over allegations they violated antitrust laws. The universities allegedly took part in price-fixing by using a shared methodology to determine students’ financial needs, which will prevent competition to offer more generous aid packages. The suit alleges that at least nine of the schools considered potential students’ ability to pay tuition in some admissions and waiting list decisions, which is prohibited for universities claiming the antitrust exemption. The lawsuit seeks unspecified damages and for the universities to stop working together to determine financial needs. ([More](#))

网络安全与数据合规 Cybersecurity and Data Protection

中国银保监会发布《银行保险机构信息科技外包风险监管办法》

《办法》对银行保险机构信息科技外包风险管理提出全面要求：（1）明确信息科技外包风险管理的总体要求；（2）对银行保险机构的组织和职责、外包战略、外包禁止、服务提供商管理策略、外包分类、外包分级管理、退出策略等提出明确要求；（3）对信息科技外包准入提出监管要求，包括准入前评估、尽职调查、合同等进行了规定；（4）对外包过程监控、效能和质量监控、服务监控及评价、服务提供商经营监控、异常纠正、关联外包评价、外包终止做出规定；（5）规范信息科技外包风险管理，对外包风险识别与评估、业务连续性管理、信息安全管理等提出要求；（6）对监管机构实施外包监督管理做出规定，包括事前报告要求、重大事件报告、监管评估和监督检查、风险监测、监管干预、实地核查、监管问责等内容。（[查看更多](#)）

CBIRC Releases Measures for Risk Supervision of Information Technology Outsourcing of Banking and Insurance Institutions

On 31 December 2021, China Banking and Insurance Regulatory Commission (CBIRC) released *Measures for Risk Supervision of Information Technology Outsourcing of Banking and Insurance Institutions* (the Measures), aiming to furtherly strengthen risk supervision for information technology outsourcing of banking and insurance institutions, to promote banking and insurance institutions to improve their management of information technology outsourcing, and to promote banking and insurance institutions to steadily carry out digital transformation.

The Measures put forward comprehensive requirements for IT outsourcing risk management of banking and insurance institutions: (1) Clarify the overall requirements for IT outsourcing risk management; (2) Put forward clear requirements for the organization and responsibilities, outsourcing strategy, outsourcing prohibition, service provider management strategy, outsourcing classification, outsourcing hierarchical management, exit strategy, etc. of Bancassurance institutions; (3) Put forward regulatory requirements for IT outsourcing access, including pre-access assessment, due diligence, contracts, etc.; (4) Make provisions on outsourcing process monitoring, efficiency and quality monitoring, service monitoring and evaluation, service provider operation monitoring, anomaly correction, related outsourcing evaluation, and outsourcing termination; (5) Standardize the risk management of IT outsourcing, and put forward requirements for outsourcing risk identification and evaluation, business continuity management and information security management; (6) Make provisions on the implementation of outsourcing supervision and management by regulators, including prior reporting requirements, major event reports, regulatory evaluation, supervision and inspection, risk monitoring, regulatory intervention, on-site verification, regulatory accountability, etc. ([More](#))

信标委就《突发公共卫生事件数据有效利用评估指南》征求意见

2022年1月17日，全国信息技术标准化技术委员会（以下简称“信标委”）发布《突发公共卫生事件数据有效利用评估指南》标准征求意见稿（以下简称“[《指南》](#)”），并就该意见稿向公众公开征集意见。

根据《指南》的编制说明，新冠肺炎疫情防控暴露了各地包括数据基础设施建设滞后、数据中枢神经系统缺失等问题，需要有标准化的数据规范来弥补当前公共卫生应急板块的短板标准。该《指南》的出台旨在解决突发公共卫生事件中“数据不可及”“数据质量低下”“数据共享失灵”“数据整合失控”等数据失准失序问题。《指南》给出了突发公共卫生事件数据有效利用的基本原则、评估框架、评估要素的描述、评估要素的选择因素及其适用对象与场景，适用于各地区突发公共卫生事件预防、应急处置和事后恢复等工作中的数据有效利用规划、设计、实施、评价、审计、报告和持续改进。（[查看更多](#)）

NITS Solicits Public Comments on *Evaluation Guide for Effective Utilization of Public Health Emergency Data (Exposure Draft)*

On 17 January 2022, China National Information Technology Standardization Network (NITS) issued *Evaluation Guide for Effective Utilization of Public Health Emergency Data (Exposure Draft)* (the Guide) to solicit public comments. According to the formation description of the Guide, the prevention and control of COVID-19 epidemic has exposed problems including lag of data infrastructure construction and lack of central nervous system of data. Standardized data regulations are required to make up for the short board standard of the current public health emergency sector. The Guide aims to provide solutions to data misalignment and disorder, such as data inaccessibility, data inferior quality, dysfunction of data sharing, uncontrollability of data integration, etc. The Guide provides basic principles, evaluation framework, description of evaluation elements, selection factors of evaluation elements and their applicable objects and scenarios for the effective utilization of public health emergency data. It is applicable to the effective data utilization planning, design, implementation, evaluation, audit, reporting and continuous improvement in the the course of prevention, emergency response and recovery from public health emergencies in all regions. ([More](#))

九部门发布关于推动平台经济规范健康持续发展的若干意见

2022年12月24日，国家发展改革委、市场监管总局、中央网信办、工业和信息化部、人力资源社会保障部、农业农村部、商务部、人民银行、税务总局九部门发布关于推动平台经济规范健康持续发展的若干意见（以下简称“[《意见》](#)”）。《意见》从健全完善规则制度、提升监管能力和水平、优化发展环境、增强创新发展能力、赋能经济转型发展和保障措施六方面入手，提出了十九点具体措施。《意见》提出，要修订《反垄断法》，完善数据安全法、个人信息保护法配套规则，并细化平台企业数据处理规则，完善跨境数据流动“分级分类+负面清单”监管制度，探索制定互联网信息服务算法安全制度。同时，在提高监管能力和水平方面，《意见》指出要探索数据和算法安全监管，从严管控非必要采集数据行为，依法依规打击黑市数据交易、大数据杀熟等数据滥用行为。

推动平台企业深入落实网络安全等级保护制度，探索开展数据安全风险态势监测通报，建立应急处置机制。此外，《意见》还强调了支付领域的平台监管，要求规范平台数据使用，从严监管征信业务，确保依法持牌合规经营。（[查看更多](#)）

Nine Ministries Jointly Issue Opinions on Promoting the Healthy and Sustainable Development of Platform Economy

On 24 December 2022, National Development and Reform Commission, State Administration for Market Regulation, Cyberspace Administration of China, Ministry of Industry and Information Technology of the People's Republic of China, Ministry of Human Resources and Social Security of the People's Republic of China, Ministry of Agriculture and Rural Affairs of the People's Republic of China, Ministry of Commerce of the People's Republic of China, the People's Bank of China, State Taxation Administration jointly issued *Opinions on Promoting the Healthy and Sustainable Development of Platform Economy* (the Opinions). The Opinions put forward 19 specific measures from six aspects: perfecting the rules and systems, improving the supervision ability and level, optimizing the development environment, enhancing the innovation and development ability, enabling the transformation and development of the economy and safeguard measures. The Opinions put forward that it is necessary to revise the Anti-Monopoly Law, improve the supporting rules of the Data Security Law and Personal Information Protection Law, refine the data processing rules of platform enterprises, improve the supervision system of cross-border data flow with classification plus negative list, and explore and formulate the security system of Internet information service algorithm. At the same time, in terms of improving the supervision ability and level, the Opinions point out that safety supervision of data and algorithms shall be explored, unnecessary data collection shall be strictly controlled, and data abuse such as black-market data trading and big data discrimination shall be cracked down on in accordance with the law and regulations. The Opinions also propose that it is necessary to promote platform enterprises to deeply implement the cyber security level protection system, explore and carry out data security risk situation monitoring and notification, and establish an emergency response mechanism. In addition, the Opinions emphasize the platform supervision in the payment field, require standardizing the use of platform data, strictly supervise the credit investigation business, and ensure the licensed and compliant operation in accordance with the law. ([More](#))

工信部指出2022年APP专项治理三个方面重点布局

2022年1月20日，国务院新闻办公室举行2021年工业和信息化发展情况新闻发布会。工信部新闻发言人、信息通信管理局局长赵志国介绍了APP专项整治工作情况。赵志国表示，2021年，工信部重点聚焦违规调用手机权限、超范围收集个人信息等问题，大力推进APP专项整治。建成了全国APP检测平台，具备了每个月能够检测18万款APP检测能力，开展APP技术检测，对开屏弹窗信息“关不掉”“乱跳转”的问题，通过整治基本解决。2022年，工信部还将重点做好以下几个方面的工作。一是坚持综合治理，完善全链条监管。重点突出关键责任链监管，对应用商店、第三方软件开发工具包（SDK）、终端企业、重点互联网企业等实现监管全覆盖，打造更为安全的信息通信消费环境。二是深化“524行动”（信息通信服务感知提升行动），提升服务水平，稳步推进相关企业落实行动的各项任务要求。适时组织召开开展“回头看”，从而更好巩固各项工作的成效，提升用户的获得感。三是推动协同共治，建立长效机制。加强与相关部门协同配合，形成监管合力，构建政府监管、企业自律、媒体监督、社会组织和用户共同参与的综合监管格局，从而营造更安全、更清朗的APP应用环境。（[查看更多](#)）

MIIT Points out Three Key Aspects of APP Special Governance in 2022

On 20 January 2022, the State Council Information Office of PRC held press conference on development of industry and informatization in 2021. Zhiguo ZHAO, press spokesman of the Ministry of Industry and Information Technology (MIIT) and director of the Information and Communication Administration, made an introduction of the circumstance of APP special governance. According to ZHAO, in 2021, MIIT focused on mobile phone permissions illegal invocation, personal information excessive collection, vigorously promoting APP special governance. Additionally, MIIT successfully built a national online platform for APP compliance testing, with the capability to test 180,000 APPs per month. MIIT also developed technical detection for APP, and basically solved the problems of popup messages, which used to be hard to quit and frequently skip to other links without permission. Looking ahead, in 2022, MIIT plans to focus on the following aspects: (1) Adhere to comprehensive management and improve the whole supervision chain. Focus on the supervision of key responsibility chain, realize the full supervision coverage of application stores, third-party software development kits (SDKs), terminal enterprises and key Internet enterprises, and create a safer information and communication consumption environment. (2) Deepen the "524 Action", i.e., the Information and Communication Service Perception Improvement Action, improve the service level, and steadily promote relevant enterprises to implement the tasks and requirements of the action; timely organize review to better consolidate the effectiveness of various work and improve users' sense of acquisition. (3) Promote coordinated governance and establish a long-term mechanism. Strengthen coordination with relevant departments, form a joint regulatory force, and build a comprehensive regulatory pattern with the participation of government supervision, enterprise self-discipline, media supervision, social organizations, and users, so as to create a safer and cleaner APP application environment. ([More](#))

中国信通院联合奇安信发布《数据安全风险分析及应对策略研究（2022年）》

2022年1月17日，中国信息通信研究院与奇安信集团联合撰写的《数据安全风险分析及应对策略研究（2022年）》（以下简称“《报告》”）正式发布。《报告》从理论与实践层面对当前企业面临的内外部数据安全风险进行分析与研究，完成了以下几方面的探索：一是梳理了当前数据安全面临的突出问题；二是提出了数据安全体系建设的行动思路和关键举措；三是提出了数据安全建设发展建议。《报告》认为，当前数据安全面临的几个突出问题：一是APP对用户信息的采集过度；二是账号弱口令的使用普遍；三是数据权限分配、使用的不透明；四是API接口面临严重攻击威胁；五是数据安全的持续状态难以保持。 ([查看更多](#))

CAICT and QI-ANXIN Jointly Release Data Security Risk Analysis and Countermeasures (2022)

On 17 January 2022, China Academy of Information and Communications Technology (CAICT) and QI-ANXIN jointly compiled and released *Data Security Risk Analysis and Countermeasures (2022)* (the Report). The Report analyzes and studies the internal and external data security risks faced by enterprises from both theoretical and practical levels and completes the exploration in the following aspects: First, it combs the prominent problems faced by current data security; Second, it puts forward the acting direction and key measures for the construction of data security system; Third, it puts forward suggestions on the development of data security construction. According to the Report, the current data security faces several prominent problems: First, APP's excessive collection of user information; Second, the weak password of account is widely used; Third, the data authority distribution and use are opaque; Fourth, API interface faces serious attack threat; Fifth, the continuous state of data security is difficult to maintain. ([More](#))

上海市发布《上海市智能网联汽车测试与应用管理办法》

2022年1月21日，上海市人民政府发布了《上海市智能网联汽车测试与应用管理办法》（以下简称“《办法》”）。《办法》自2022年2月15日起施行，旨在促进智能网联汽车产业健康有序发展，规范智能网联汽车测试与应用活动，保障道路交通安全。《办法》适用于有条件自动驾驶、高度自动驾驶智能网联汽车的测试与应用活动，从道路测试、示范应用、示范运营、商业化运营四个环节入手，完善智能网联汽车的测试与应用流程。《办法》明确，上海优先支持在物流配送、短途接驳、智能公交、养护作业等应用领域开展智能网联汽车测试与应用，培育智能交通领域新业态。

《办法》明确各部门职责分工，由市网信、通信管理部门负责智能网联汽车相关网络与数据安全管理工作，并以专章规定智能网联汽车测试应用过程中的网络与数据安全保护，要求落实网络安全保护制度、明确数据安全保护责任、建立个人信息保护制度、规范数据跨境传输要求。（[查看更多](#)）

Shanghai Issues Measures of Shanghai Municipality on the Administration of Testing and Application of Intelligent Networked Vehicles

On 21 January 2022, Shanghai Municipal People's Government issued *Measures of Shanghai Municipality on the Administration of Testing and Application of Intelligent Networked Vehicles* (the Measures). The Measures will come into force as of 15 February 2022, aiming to promote the healthy and orderly development of the intelligent connected vehicle industry, standardize the intelligent connected vehicle testing and application activities, and ensure road traffic safety. The Measures are applicable to testing and application of conditional automatic driving and highly automatic driving intelligent networked vehicle and improve the test and application process of intelligent networked vehicles from four aspects: road test, demonstration application, demonstration operation and commercial operation. It is clear that Shanghai gives priority to supporting the testing and application of intelligent connected vehicles in the application fields of logistics distribution, short-distance connection, intelligent public transportation, and maintenance operations, and cultivating new business forms in the field of intelligent transportation. The Measures clarify the division of responsibilities of each department. The municipal network information and communication management department is responsible for the network and data security management of intelligent connected vehicles and specify the network and data security protection in the test and application process of intelligent connected vehicles in a special chapter. It is required to implement the network security protection system, clarify the responsibility of data security protection, establish a personal information protection system, and standardize the requirements for cross-border data transmission. ([More](#))

浙江省通过《浙江省公共数据条例》

2022年1月21日，浙江省人民代表大会通过并发布了《浙江省公共数据条例》（以下简称“《条例》”），《条例》将于2022年3月1日起施行。《条例》明确了公共数据的定义，并专章规定如何细化如一体化智能化公共数据平台的建设，顺应了浙江省数字化改革的背景。《条例》最大程度地发掘公共数据的价值，规定公共数据应当以共享为原则，规定在保障数据安全的前提下，除了政府部门，数据也可以向公众有序开放，并明确政府可以授权符合安全条件的单位运营公共数据，加强公众参与。除了以上开放措施，《条例》也对公共数据安全保障做出要求，包括授权单位不得向第三方提供原始数据，公共数据安全实行谁收集谁负责、谁使用谁负责、谁运行谁负责的责任制，同时建立数据安全常态化运行管理机制。对于个体权益，当个体认为公共数据开放侵犯了个人合法权益时，有权向公共管理和服务机构提出撤回数据的要求。（[查看更多](#)）

Zhejiang Province Passes *the Regulations of Zhejiang Province on Public Data*

On 21 January 2022, Zhejiang Provincial People's Congress passed and issued *the Regulations of Zhejiang Province on Public Data* (the Regulations), which will come into force as of 1 March 2022. The Regulations make a definition of public data, with a chapter to give guidance on specification of the construction of integrated intelligent public data platform, conforming digital reform of Zhejiang Province. The Regulations excavate value of public data to the greatest extent, stipulating that public data shall be shared in principle, and that on the premise of ensuring data security, in addition to government departments, data can also be opened to the public in an orderly manner. The Regulations also make it clear that the government can authorize entities that meet the safety conditions to operate public data and strengthen public participation. In addition to the above opening-up measures, the Regulations also make requirements for the security of public data, including that authorized units shall not provide raw data to third parties. It also established the responsibility of collectors, users, and operators of the public data. At the same time, the normalized operation and management mechanism of data security is established. For protection of individual rights and interests, the Regulations stipulate that when individuals believe that the opening of public data breaches their legitimate rights and interests, they own the right to request the public management and service institutions to withdraw the data. ([More](#))

小红书因违反未成年人保护法被罚30万

2022年1月14日，信用中国网站通报，小红书APP所属的行吟信息科技（上海）有限公司被并处以30万元的行政处罚，处罚机关为上海市黄浦区文化和旅游局，处罚依据是《中华人民共和国未成年人保护法》第一百二十七条，即网络服务提供者发现用户发布、传播含有危害未成年人身心健康内容的信息的，没有立即停止传输相关信息，采取删除、屏蔽、断开链接等处置措施。对此，小红书回应称：该处罚系因12月份央视报道提及的未成年信息审核漏放问题。小红书将持续提升对不良信息的识别能力，持续提升平台治理能力。2021年12月，央视报道称，小红书涉嫌泄露未成年隐私及内容审核不严问题。 ([查看更多](#))

APP “Xiaohongshu” Fined RMB 300,000 for Violation of the Law on the Protection of Minors

On 14 January 2022, Creditchina.gov.cn published a notice on an administrative penalty of RMB 300,000 for Xingyin Information Technology (Shanghai) Co., Ltd., which is the operator of Chinese famous community APP “Xiaohongshu”. The punishment authority is Shanghai Huangpu District Culture and Tourism Bureau, and basis of the punishment is Article 127 of the *Law on the Protection of Minors*, which stipulates that when a network service provider finds that a user publishes or disseminates information containing content harmful to the physical and mental health of minors, it shall immediately stop transmitting relevant information and take disposal measures such as deletion, shielding and disconnection of links. In response, the company declared that the punishment was due to the omission of minors' information audit disclosed in CCTV report in December 2021, and “Xiaohongshu” would continue to improve its ability to identify bad information and improve its platform governance. In December 2021, CCTV reported that Xiaohongshu was suspected of divulging minors' privacy and its lax content audit. ([More](#))

中国农业银行崇左分行因违规使用个人金融信息被罚约1142万元

2022年1月12日，根据中国人民银行南宁中心支行官网公示，中国农业银行崇左分行因违规使用个人金融信息，未按规定完整保存客户身份资料等被处以警告并共处罚金人民币 1,142.50万元罚款。去年12月10日，崇左幼师学校表示，近期学校招生就业处、财务处接到2020届已离校毕业生反映，其持有的银行卡未经本人同意被办理了II类、III类副卡。次日，中国农业银行广西分行在其微信公众号公告称，“经核实，此事确系我行辖属江州支行营业室未与客户充分沟通，内部审核把关不严，不规范操作所致”，并表示将尽快与相关学生逐一取得联系，在征得同意的情况下，销掉多开立的账户。（[查看更多](#)）

Chongzuo Branch of Agricultural Bank of China Fined RMB 11,420,000 for Illegal Use of Personal Financial Information

On 12 January 2022, according to the announcement on the official website of Nanning central branch of the People's Bank of China (PBC), Chongzuo branch of Agricultural Bank of China was warned and fined RMB 11,420,000 for using personal financial information in violation of regulations and failing to keep the customer's identity data completely as required. On 10 December 2021, Chongzuo Preschool Normal School said that recently, the school's enrollment and employment department and finance department received reports from the 2020 graduates who had left the school that their bank cards were handled with class II and class III sub cards without their consent. Then, the Agricultural Bank of China Guangxi branch announced in its WeChat official account that "After verification, it is confirmed that that our bank's business offices under the jurisdiction of Jiang Zhou branch are not fully communicated with customers, internal audit is lax, and the operation is not standardized." It also said that it would get the relevant students one by one as soon as possible and cancel their redundant accounts with consent. ([More](#))

欧盟数据保护委员会（EDPB）发布关于政府在第三国获取数据的法律研究

2021年11月8日，欧洲数据保护委员会（EDPB）发布了一份关于政府在第三国获取数据的法律研究报告。该研究分析了在欧洲法院在审理爱尔兰数据保护专员诉脸书爱尔兰公司、Maximilian Schrems案后，对欧盟和欧洲经济区数据保护监管机构将个人数据转移到第三国的影响。此外，该研究还向EDPB和欧盟及欧洲经济区的个人数据保护监管机构提供了有关中国、印度和俄罗斯政府通过经济主体获取个人数据的立法和实践信息。（[查看更多](#)）

EDPB Publishes Legal Study on Government Access to Data in Third Countries

On 8 November 2021, the European Data Protection Board (“EDPB”) published a legal study, prepared by external providers, on Government access to data in third countries. In particular, the study states that it is part of a study analyzing the implications for the work of the EU and the EEA data protection supervisory authorities in relation to transfers of personal data to third countries after the Court of Justice of the European Union's judgment in *Data Protection Commissioner v. Facebook Ireland Ltd, Maximilian Schrems* (C-311/18). In addition, the study notes that it provides the EDPB and the supervisory authorities in the EU and EEA with information on the legislation and practice in China, India, and Russia on their governments' access to personal data processed by economic operators. ([More](#))

欧洲议会表决通过《数字服务法》以打击违法内容

2022年1月20日，欧洲议会通过了《数字服务法》。这一法案旨在打击违法内容，确保大型互联网平台对其算法负责，并改进内容审核。法案规定平台移除违法内容的义务，避免虚假信息的传播，明确了中介服务提供者（特别是社交平台 and 电商平台等在线平台）的义务和问责制，此外，由于超大型平台在传播违法与有害内容时具有特殊风险，法案还为超大型平台设定了附加义务，法案旨在通过强制性风险评估、风险缓和措施、独立审计及算法推荐透明度等方式来有效解决有害（可能并不违法）和虚假信息传播的问题。此外，议会对委员会的提案进行了其他修改，包括豁免小微企业的某些义务、基于算法排名上允许更多选择，等等。（[查看更多](#)）

MEPs Approves Digital Services Act to Tackle Illegal Content

On 20 January 2022, Members of the European Parliament agreed *The Digital Services Act* (DSA) to tackle illegal content, to ensure platforms are held accountable for their algorithms, and improve content moderation. DSA stipulates obligations of platforms to remove illegal content and preventing the spread of disinformation. It defines clear responsibilities and accountability for providers of intermediary services, and in particular online platforms, such as social media and marketplaces. Additionally, DSA sets additional obligations for very large platforms, which will be subject to specific obligations due to the particular risks they pose regarding the dissemination of both illegal and harmful content. The DSA would help to tackle harmful content (which might not be illegal) and the spread of disinformation by including provisions on mandatory risk assessments, risk mitigation measures, independent audits and the transparency of so-called “recommender systems” (algorithms that determine what users see). Other key points include exempting micro and small enterprises from certain DSA obligations, more choice on algorithm-based ranking, etc. ([More](#))

美国议会提出数据透明法案

2022年1月13日，美国议员提出了《服务条款标签、设计和可读性法案》（TLDR），要求商业网站和移动应用创建简单易读的服务条款协议摘要。该法案将提高数据的在线透明度，确保消费者了解他们的个人数据是如何被收集和使用的。小企业被豁免于该法案。该法案要求服务条款摘要包括以下内容，从而给予消费者服务透明度：（1）所收集的消费者信息的种类；（2）所收集的数据是否为公司向消费者提供服务所必需的；（3）消费者数据如何与第三方共享的图表；（4）消费者是否可以删除其数据以及如何删除的说明；（5）使用服务的消费者的法律责任，包括对服务内容的权利、强制仲裁和放弃集体诉讼的权利；（6）过去三年内已报告的数据泄露事件清单。（[查看更多](#)）

US Lawmakers Propose Data Transparency Bill

On 13 January 2022, U.S. Senators and Representative introduced the Terms-of-service Labeling, Design and Readability (TLDR) Act to require commercial websites and mobile apps to create a simple and readable summary of their terms-of-service agreements. The TLDR Act would increase online transparency and ensure consumers are informed about how their personal data is collected and used. Small businesses are exempt from the law. The TLDR Act gives consumers transparency by requiring terms-of-service summaries to include: (1) The type of consumer information being collected; (2) Whether the data collected is necessary for the company to provide consumers their service; (3) A graphic diagram of how consumer data is shared with third parties; (4) Whether a consumer can delete their data and instructions on how to do so; (5) The legal liabilities of a consumer using the service, including their rights to their content, mandatory arbitration, and class action waivers.; (6) A list of reported data breaches from the past three years. ([More](#))

2021年，违反欧盟 GDPR 隐私法的罚款飙升七倍至 12 亿美元：

据CNBC.com 2022年1月18日的报告，欧盟数据保护机构自2021年1月28日以来开出了总额超过12.5亿美元的罚单，处罚依据都是因对欧盟《通用数据保护条例》（GDPR）。DLP Piper律师事务所星期二公布的一份报告中说，这一数据比一年前的1.8亿美元明显增加。从公司到监管机构的数据泄露通知增长较为温和，平均每天增加 8% 至 356 条。GDPR自2018年起生效。欧盟数据规则的全面修改旨在让欧洲消费者对其信息拥有更多控制权。去年一年，欧盟监管机构根据GDPR的规定处以创纪录的罚款，大型科技公司首当其冲。 ([查看更多](#))

Fines for Breaches of EU Privacy Law Spike Sevenfold to \$1.2 Billion

According to CNBC.com report on 18 January 2022, EU data protection authorities have handed out a total of \$1.25 billion in fines over breaches of the bloc's General Data Protection Regulation since Jan. 28, 2021, law firm DLA Piper said in a report published Tuesday. That's up from about \$180 million a year earlier. Notifications of data breaches from firms to regulators climbed more modestly, by 8% to 356 a day on average. GDPR has been in force since 2018. The sweeping changes to EU's data rules are aimed at giving consumers in Europe more control over their information. Last year saw EU regulators impose record fines under GDPR, with Big Tech taking the brunt of the penalties. ([More](#))

德国数据保护会议就TTDSG展开公众意见征求

2022年1月14日，德国数据保护会议宣布，就其于2021年12月1日生效的《电信和电话媒体数据保护和隐私联邦法案》（“TTDSG”）的指南展开公众意见征求。德国数据保护会议特别指出，征求过程旨在审查并在必要时进一步完善该指南，但不会影响其有效性和适用性。 ([查看更多](#))

Germany DSK Open Consultation on TTDSG Guidance

On 14 January 2022, The German Data Protection Conference (“DSK”) announced that it had opened a public consultation on its guidance on the Federal Act on *the Regulation of Data Protection and Privacy in Telecommunications and Telemedia*, which entered into force on 1 December 2021. In particular, the DSK noted that the consultation process is intended to review and, if necessary, further develop the guidance, but does not affect its validity and application. ([More](#))

西班牙数据保护局对非法使用视频监控个人处以1,500欧元罚款

2022年1月13日，西班牙数据保护局公布了其决定，对未具名个人因违反GDPR第5(1)(c)条和第13条，在其住宅正面安装了两个视频监控摄像头，面向公共道路，而未能向数据主体提供足够的信息，违反了最小化原则的行为，被处以1,500欧元的罚款。西班牙数据保护局要求该主体在决定作出后的十天内遵守以下措施：（1）提供使用相关设备观察到的图像，在位置图上标明与数据控制者的特定属性相对应的部分；（2）证明数据控制者已将摄像头从其当前位置移除，或将它们重定向到适当的区域；（3）证明已着手将信息通知放置在视频监控区域，并将摄像头放置在足够明显的位置，包括开放和密闭空间；和（4）证明其将GDPR中提及的信息提供给受影响的人。（[查看更多](#)）

Spanish AEPD Fine Unnamed Person €1,500 for Unlawful Use of Video Surveillance

On 13 January 2022, the Spanish data protection authority (“AEPD”) published its decision, in which it fined an unnamed person €1,500 for violations of Articles 5(1)(c) and 13 of the General Data Protection Regulation (“GDPR”), following their unlawful use of video surveillance cameras, in violation of the data minimization principle and failing to provide sufficient information to data subjects. Additionally, the AEPD ordered the company to comply with the following measures, among others, within ten days of the decision: (1) to provide images that are observed with the devices in question, indicating on a location map the parts that correspond to the data controller's particular property; (2) to prove that the data controller removed the cameras from their current locations, or redirected them to an appropriate area; (3) to certify that it has proceeded to place the informative notice in the video-monitored areas and located the cameras in a sufficiently visible place, both in open and closed spaces; and (4) to certify that it keeps the information referred to in the GDPR available to those affected. ([More](#))

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