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信安标委发布《网络安全标准实践指南—移动互联网应用程序（App）收集使用个人信息自评估指南》

2020年7月25日，全国信息安全标准化技术委员会（“信安标委”）发布《网络安全标准实践指南—移动互联网应用程序（App）收集使用个人信息自评估指南》（“《实践指南》”）。《实践指南》总结出App收集使用个人信息的六个评估点供App运营者自评估参考使用，包括：

（1）是否公开收集使用个人信息的规则；（2）是否明示收集使用个人信息的目的、方式和范围；（3）是否征得用户同意后才收集使用个人信息；（4）是否遵循必要原则，仅收集与其提供的服务相关的个人信息；（5）是否经用户同意后才向他人提供个人信息；（6）是否提供删除或更正个人信息功能，或公布投诉、举报方式等信息。小程序、快应用等运营者也可参考其中的适用条款进行自评估。（[查看更多](#)）

TC260 Releases Practice Guidelines for Cybersecurity Standards- Self-Assessment Guidelines for Mobile Internet Applications Collecting and Using Personal Information

On July 25, 2020, the National Information Security Standardization Technical Committee, also known as the TC260, released the *Practice Guidelines for Cybersecurity Standards- Self-Assessment Guidelines for Mobile Internet Applications Collecting and Using Personal Information* (“Guidelines”). The Guidelines summarizes the following six evaluating references for conducting self-assessment by App operators when collecting and using personal information: (i) whether the rules for the collection and use of personal information are transparent; (ii) whether the purpose, methods and scope of the collection and use of personal information are clearly stated; (iii) whether personal information is collected and used after obtaining the consent from users; (iv) whether the necessity principle is followed and only the personal information relating provided services is collected; (v) whether personal information is provided to the third party under the consent from users; and (vi) whether the App provides the function of deleting or correcting personal information, or provides complaint and report channels. The operators of mini program and quick Apps can also refer relevant terms and conditions for conducting self-evaluation. ([More](#))

最高院、国家发改委：加强数据权利和个人信息安全保护

2020年7月22日，最高人民法院（“最高院”）、国家发展和改革委员会（“国家发改委”）联合发布《关于为新时代加快完善社会主义市场经济体制提供司法服务和保障的意见》（“《意见》”），涵盖加强数据权利和个人信息安全保护等31项内容。《意见》指出，尊重社会主义市场经济规律及数据相关产业发展实践，依法保护数据收集、使用、交易以及由此产生的智力成果，完善数据保护法律制度，妥善审理与数据有关的各类纠纷案件，促进大数据与其他新技术、新领域、新业态深度融合，服务数据要素市场创新发展。贯彻落实民法典人格权编关于人格利益保护的规定，完善对自然人生物性、社会性数据等个人信息权益的司法保障机制，把握好信息技术发展与个人信息保护的边界，平衡好个人信息与公共利益的关系。（[查看更多](#)）

SPC and NDRC to Strengthen Data Rights and Personal Information Security Protection

On July 22, 2020, the Supreme People's Court ("SPC") and the National Development and Reform Commission ("NDRC") jointly released the *Opinions on Providing Judicial Services and Security for Accelerating the Improvement of the Socialist Market Economy System in the New Era* ("Opinions") which outlines 31 points, including strengthening data rights and personal information security protection. The Opinions points out that it is necessary to (i) respect the laws of the socialist market economy and the development practices of data-related industries; (ii) protect data collection, use and transactions and the resulting intellectual property in accordance with the law; (iii) improve the data protection legal system, (iv) properly handle various data-related disputes; and (v) promote the in-depth integration of big data with other new technologies, new fields, and new business forms to serve the innovative development of the data element market. The Opinions also underlines that it is necessary to implement the provisions on the protection of personal interests stipulated in the Part IV Personality Rights of the *Civil Code*, improve the judicial protection mechanism for the biological and social data of natural persons and other personal information rights, clarify the boundary between the development of information technology and the protection of personal information, and balance the relationship between personal information and public interests. ([More](#))

中央网信办等4部门启动2020年App违法违规收集使用个人信息治理工作

2020年7月22日，中共中央网络安全和信息化委员会办公室（“中央网信办”）、工业和信息化部、公安部、国家市场监督管理总局4部门召开会议，启动2020年App违法违规收集使用个人信息治理工作。会议指出，针对App违法违规收集使用个人信息问题，2020年将重点开展七方面工作，包括：（1）制定发布SDK、手机操作系统个人信息安全评估要点；（2）针对面部特征等生物特征信息收集使用不规范等重点问题，开展专题研究和深度检测；（3）对违法违规收集使用个人信息行为加大发现力度、曝光力度、处罚力度；（4）制定出台App收集使用个人信息行为应用商店审核管理指南；（5）发布免费技术工具，指导中小企业开展个人信息收集使用行为自评估；（6）推进App个人信息安全认证工作；（7）加强个人信息安全评估培训，推动个人信息安全评估工作的规范化。 ([查看更多](#))

China to Crack Down Illegal Collection and Use of Personal Information by Apps

On July 22, 2020, the Cyberspace Administration of China ("CAC"), the Ministry of Industry and Information Technology, the Ministry of Public Security and the State Administration for Market Regulation held the kick-off meeting of the Campaign against the Collection and Use of Personal Information by Apps in Violation of Laws and Regulations in 2020. The authorities underlined the following seven main tasks: (i) formulating and releasing the assessment points of personal information security for SDK and mobile operating system; (ii) implementing specific researches and in-depth tests for key issues, such as the improper collection and use of facial features and other biometric information; (iii) strengthening the discovery, exposure, and punishment of illegal collection and use of personal information; (iv) formulating and releasing the review management guidelines for App stores on the collection and use of personal information by Apps; (v) releasing free technical tools to guide small and medium-sized enterprises to conduct self-assessment of collecting and using personal information; (vi) promoting the personal information security authentication of Apps; and (vii) strengthening personal information security assessment training and promoting the standardization. ([More](#))

《天津市公共数据资源开放管理暂行办法》发布

2020年7月22日，天津市互联网信息办公室发布《天津市公共数据资源开放管理暂行办法》（“《暂行办法》”），旨在规范和促进公共数据资源开放，推动数字经济发展。《暂行办法》共37条，包括总则、开放机制、开放平台、开发利用、监督保障、责任追究、附则7章。根据《暂行办法》，公共数据资源开放分为无条件开放、有条件开放和不予开放三种类型。对于有条件开放的公共数据资源，资源利用主体需通过开放平台提交开放申请，资源提供单位应与资源利用主体签订公共数据资源使用协议，协议中应明确使用用途、使用时限和安全保障措施等条款。《暂行办法》自2020年8月1日起实施，有效期2年。（[查看更多](#)）

Tianjin Releases Interim Measures for the Management of Public Data Resource Opening

On July 22, 2020, the Tianjin Cyberspace Administration released the *Interim Measures of Tianjin Municipality for the Management of Public Data Resource Opening* (“**Interim Measures**”), which aims to standardize and promote the opening of public data resources and promote the development of the digital economy. The Interim Measures consists of 37 articles under the following 7 chapters: (i) general provisions; (ii) opening mechanism; (iii) opening platform; (iv) development and utilization; (v) supervision and guarantee; (vi) legal liability; and (vii) supplementary provisions. According to the Interim Measures, public data resource is divided into the unconditional opening category, conditional opening category and non-open category. For public data resources included in the conditional opening category, the users of resource shall submit an application through the opening platform, and the resource providers shall sign public data resource use agreements with the resource users, specify the purpose, time limitation and the security measures for using the resource. The Interim Measures will be implemented on August 1, 2020, and will be valid for 2 years. ([More](#))

7部门印发《关于开展国家数字乡村试点工作的通知》

2020年7月18日，中央网信办等7部门联合发布《关于开展国家数字乡村试点工作的通知》（“《通知》”）。根据《通知》，试点内容主要包括完善乡村新一代信息基础设施、完善设施资源整合共享机制、探索乡村数字经济新业态、探索乡村数字治理新模式等七个方面。《通知》指出，要加强基础设施共建共享，打造集约高效、绿色智能、安全适用的乡村信息基础设施；促进信息化与乡村治理深度融合，补齐乡村治理的信息化短板，提升乡村治理智能化、精细化、专业化水平；加大统筹协调和资源整合力度，大力推进涉农政务信息资源共享开放、有效整合。（[查看更多](#)）

China to Pilot “Digital Villages” for Rural Development

On July 18, 2020, the CAC together with six other government departments released the *Notice on Launching the Pilot Work of “Digital Villages”* (“**Notice**”). According to the Notice, the pilot mainly consists of seven aspects, including the improving the new generation rural area information infrastructure, enhancing the integration and sharing mechanism of facilities, exploring new forms of rural area digital economy, probing the new models of rural area digital governance. The Notice points out that it is necessary to (i) strengthen co-construction and sharing of infrastructure to create an intensive, efficient, green, intelligent, safe and applicable rural area information infrastructure; (ii) promote in-depth integration of

informatization and rural area governance, remedy the weakness of rural area governance, and improve the intelligence, refinement, and specialization of rural area governance; and (iii) intensify overall coordination and resource integration, and vigorously promote the share, opening and effective integration of agriculture-related government information resources. ([More](#))

海外动态 Overseas News

EDPB就《<支付服务指令II>与<通用数据保护条例>交互指南》征求意见

2020年7月22日，欧洲数据保护委员会（European Data Protection Board，“EDPB”）发布了《<支付服务指令II>与<通用数据保护条例>交互指南（征求意见稿）》（Guidelines 06/2020 on the Interplay of the Second Payment Services Directive and the GDPR - Version for Public Consultation，“《交互指南草案》”），旨在为《支付服务指令II》背景下的数据保护提供进一步的指导，并重点关注账户信息服务商和支付开通服务提供商（PISPs）对个人数据的处理。《交互指南草案》包括简介，《支付服务指令II》下的合法依据和进一步处理，明示同意，对无明示方数据的处理，《支付服务指令II》规定的特殊类别的个人数据的处理，数据最小化、安全、透明、责任和存档等6部分。意见反馈截止日期为2020年9月16日。（[查看更多](#)）

EDPB Releases Guidelines on Interplay of PSD2 and GDPR for Public Consultation

On July 22, 2020, the European Data Protection Board (“EDPB”) released the *Guidelines 06/2020 on the Interplay of the Second Payment Services Directive (“PSD2”) and the GDPR - Version for Public Consultation (“Draft Guidelines”)*, which aims to provide further guidance on data protection aspects in the context of the PSD2, and focuses on the processing of personal data by account information service providers and payment initiation service providers. The Draft Guidelines consists of 6 parts: (i) introduction; (ii) lawful grounds and further processing under the PSD2; (iii) explicit consent; (iv) the processing of silent party data; (v) the processing of special categories of personal data under the PSD2; and (vi) data minimization, security, transparency, accountability and profiling. The deadline for submitting comments is September 16, 2020. ([More](#))

7家公司因违反《通用数据保护条例》遭西班牙数据保护机构处罚

近日，西班牙数据保护机构接连发布了涉及El Periódico de Catalunya, S.L.U.等7家公司的9起处罚决定，罚款累计425,550欧元。违法行为涉及数据处理的法律依据不足、与监管部门合作不足、信息义务履行不足以及违背通用数据处理原则。值得注意的是，西班牙数据保护机构以数据处理行为的法律依据不足为由对Telefónica Móviles España, SAU公司处罚了三次。（[查看更多](#)）

Spanish DPA Fines 7 Companies for Infringing GDPR

Recently, the Spanish Data Protection Authority (“Spanish DPA”) successively issued 9 penalty decisions on 7 companies including El Periódico de Catalunya, S.L.U., and imposed fines of EUR 425,550 in total. The infringements concerned insufficient legal basis for data processing, insufficient cooperation with the supervisory authority, insufficient fulfilment of information obligations, and non-compliance with general data processing principles. Among the 7 companies, the Spanish DPA issued three penalty

decisions on Telefónica Móviles España, SAU for its insufficient legal basis for data processing behaviors. ([More](#))

EDPB对欧洲法院认定“欧盟-美国隐私盾”无效的判决表示认可

近日，EDPB发表声明，对欧洲法院认定《关于“欧盟-美国隐私盾”协议数据保护适当性的第2016/1250号决定》无效的判决表示认可，该判决强调了在将个人数据转移到第三国背景下的基本隐私权。EDPB注意到，欧洲法院认为将个人数据传输至建立在第三国的处理器的标准合同条款的第2010/87号决定是有效的。关于隐私盾，EDPB指出，欧盟和美国应建立一个完整而有效的框架，以确保美国对个人数据的保护水平与欧盟内部相当。 ([查看更多](#))

EDPB Welcomes CJEU Ruling on EU-US Privacy Shield

Recently, the EDPB expressed its welcome of the judgment of the Court of Justice of the European Union (“CJEU”), which invalidated *Decision 2016/1250 on the Adequacy of the Protection Provided by the EU-US Privacy Shield* (“Privacy Shield”). The judgment highlighted the fundamental right to privacy in the context of the transfer of personal data to third countries. The EDPB had taken note of the fact that CJEU considered *Decision 2010/87 on Standard Contractual Clauses for the Transfer of Personal Data to Processors Established in Third Countries* valid. With regard to the Privacy Shield, the EDPB pointed out that the EU and the U.S. should achieve a complete and effective framework guaranteeing that the level of protection granted to personal data in the U.S. was essentially equivalent to that guaranteed within the EU, in line with the judgment. ([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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