



NEWSLETTER

LIFANG & PARTNERS **立方观评**



关注更多精彩内容

No.200

2020.12

立方网络安全与数据合规周报

Weekly Cybersecurity and Data Protection Review

No.37

国内要闻 Domestic News

国务院发布诚信建设指导意见，强调信息安全和隐私保护

China to Improve Bad Faith Deterrent System with Better Information Security and Privacy Protection

工信部下架27款存在侵害用户权益行为的APP

MIIT: 27 Apps Pulled off for Infringing Users' Rights and Interests

上海市消保委发布《APP广告消费者权益保护评价报告（2020）》

Shanghai Consumer Council Releases Report on App Advertising Consumer Protection

《互联网保险业务监管办法》：保险机构应落实网络安全管理与客户信息保护

New Rules of Internet Insurance Business to Strengthen Cybersecurity and Personal Information Protection

四川省发文加强疫情防控期间个人信息和隐私权保护

Sichuan Emphasizes Personal Information Protection amid COVID-19 Control

海外动态 Overseas News

澳洲监管部门起诉Facebook在数据利用中存在虚假诱导行为

Australian Watchdog Alleges Facebook Misled Consumers with VPN App

欧盟推出新网络安全战略

EU Presents New Cybersecurity Strategy

Twitter因违反GDPR未能及时通知违规行为在爱尔兰被罚45万欧元

Twitter Hit with EUR 450k GDPR Fine in Ireland

美国联邦贸易委员会要求亚马逊、Facebook等9家社交和流媒体平台提供收集和使用信息的情况

FTC Orders 9 Social Media and Video Streaming Services to Explain How They Collect, Use, and Present Information

国内要闻 Domestic News

国务院发布诚信建设指导意见，强调信息安全和隐私保护

2020年12月18日，国务院办公厅发布《关于进一步完善失信约束制度 构建诚信建设长效机制的指导意见》（“《意见》”）。《意见》指出，要加强信息安全和隐私保护，具体要求包括：（1）加强信用信息安全管理。各级公共信用信息系统要明确信息查询使用权限和程序，建立完善信息查询使用登记和审查制度，防止信息泄露，对故意或因工作失误泄露信息的，要依法依规严格追究相关单位和人员责任。（2）加大个人隐私保护力度。各地区、各有关部门应当遵循合法、正当、必要、最小化原则，严格按照公共信用信息目录收集使用个人信用信息，明示收集使用信息的目的、方式和范围并经本人同意。（[查看更多](#)）

China to Improve Bad Faith Deterrent System with Better Information Security and Privacy Protection

On December 18, 2020, the General Office of China's State Council released the *Guiding Opinions on Improving the Bad Faith Deterrent System and Building a Long-term Mechanism for Promoting Honesty* (“**Guiding Opinions**”). According to the Guiding Opinions, to enhance credit information security management, access to and use of the information should be regulated with specific permission and procedures in social credit systems at all levels. In case of intentional disclosure of information or due to fault in work, the relevant organization and personnel shall be strictly investigated for responsibility in accordance with laws and regulations. Also, to enhance privacy protection, relevant departments in all regions shall abide by the principles of legality, fairness, necessity and minimization when collecting and using personal credit information, in strict accordance with the social credit information catalog. The purpose, method and scope of the information to be collected and used shall be clearly stated and subject to the consent of the individual. ([More](#))

工信部下架27款存在侵害用户权益行为的APP

2020年12月16日，工业和信息化部（“工信部”）发布通报称，12月3日，工信部向社会通报了60家存在侵害用户权益行为APP企业的名单。经第三方检测机构核查复检，尚有19款APP未按照工信部要求完成整改。各地通信管理局按工信部APP整治行动部署，积极开展手机应用软件监督检查，此次四川省通信管理局检查发现仍有7款APP未完成整改。依据《网络安全法》和《移动智能终端应用软件预置和分发管理暂行规定》等法律和规范性文件要求，工信部组织对上述26款APP进行下架。相关应用商店应在本通报发布后，立即组织对名单中应用软件进行下架处理。（[查看更多](#)）

MIIT: 27 Apps Pulled off for Infringing Users' Rights and Interests

On December 16, 2020, China's Ministry of Industry and Information Technology (“**MIIT**”) issued a circular stating that on December 3, the MIIT announced a list of 60 app operators that infringed users' rights and interests. After verification and re-examination by third-party testing agencies, there were still 19 apps that had not been rectified as required by the MIIT. According to the APP rectification action deployed by the MIIT, all local communication administrations actively carry out supervision and inspection of mobile application software. This time, Sichuan Communication Administration found

that there are still 7 apps that have not been rectified. In accordance with the *Cybersecurity Law, Interim Provisions for the Administration of Pre-installation and Distribution of Mobile Smart Terminal Application Software*, and other laws and regulations, the MIIT decided to organize the removal of these apps. The relevant app stores were requested to organize the removal of the listed apps immediately after the release of this circular. ([More](#))

上海市消保委发布《APP广告消费者权益保护评价报告（2020）》

2020年12月16日，上海市消费者权益保护委员会（“上海市消保委”）发布了《APP广告消费者权益保护评价报告（2020）》（“《报告》”）。《报告》指出了现今APP广告中存在的违规问题，例如，APP广告“关不掉”——上海市消保委通过对600款APP广告行为进行分析发现，58%的APP含有广告，其中69.7%的广告没有“关闭键”。此外，调查还发现APP个性化广告推荐“不可选择”问题较为普遍，上海市消保委重点研究了微信APP，发现其个性化广告推荐关闭入口极其隐蔽，关闭流程设置繁琐，还利用技术手段限制消费者永久关闭个性化广告推荐的权利。（[查看更多](#)）

Shanghai Consumer Council Releases Report on App Advertising Consumer Protection

On December 16, 2020, Shanghai Consumer Council (“SCC”) released the *App Advertising Consumer Protection Evaluation Report (2020)* (“**Report**”). The Report points out the existing violations of APP advertising, such as the failure to turn off app advertising. Through analysis of advertising behaviors on 600 apps, SCC found that 58% of apps contain advertisements, and 69.7% of them do not set the close button. In addition, the Report underlines the common problem of failures to close personalized advertisement recommendation (“PAR”) in apps. SCC focused on WeChat and found that the close button of PAR is extremely hidden, the closing process is cumbersome, and consumers’ right to permanently close PAR is restricted by technical means. ([More](#))

《互联网保险业务监管办法》：保险机构应落实网络安全管理与客户信息保护

2020年12月14日，中国银行保险监督管理委员会（“银保监会”）发布《互联网保险业务监管办法》（“《办法》”）。《办法》规定，开展互联网保险业务的保险机构及其自营网络平台应贯彻落实国家网络安全等级保护制度；保险机构应严格按照网络安全相关法律法规，加强信息系统和业务数据的安全管理，制定网络安全应急预案。此外，保险机构还应承担客户信息保护的主体责任，收集、处理及使用个人信息应遵循合法、正当、必要的原则，保证信息收集、处理及使用的安全性和合法性。《办法》还要求保险机构建立有效的客户信息保护制度，构建覆盖全生命周期的客户信息保护体系，防范信息泄露。（[查看更多](#)）

New Rules of Internet Insurance Business to Strengthen Cybersecurity and Personal Information Protection

On December 14, 2020, China Banking and Insurance Regulatory Commission published the *Measures for the Supervision of Internet Insurance Business* (“**Measures**”). The Measures stipulates that insurance institutions carrying out internet insurance business and their self-run online platforms should im-

plement the national cybersecurity classification protection system. Insurance institutions shall, in strict accordance with relevant laws and regulations on cybersecurity, strengthen the security management of information systems and business data, formulate contingency plans for cybersecurity. In addition, insurance institutions should also shoulder the principal responsibility of protecting customers' information, and its collection, processing and use of personal information should follow the principles of legality, fairness, and necessity to ensure safety and compliance. The Measures also requires insurance institutions to establish effective customers' information protection systems covering the entire life cycle to prevent information leakage. ([More](#))

四川省发文加强疫情防控期间个人信息和隐私权保护

2020年12月12日，四川省应对新型冠状病毒肺炎疫情应急指挥部发布《四川省应对新型冠状病毒肺炎疫情应急指挥部公告（第15号）》（“《公告》”）。《公告》要求，除依法授权的机构外，任何国家机关、社会组织和个人未经被收集者或其监护人同意，不得以疫情防控为由收集公民个人信息。为疫情防控收集的公民个人信息，不得作为其他用途；未经被收集者或其监护人同意，不得公开公民个人姓名、身份证号码、电话号码、家庭详细住址等信息；因疫情防控工作确需公开的，应当经过加工处理，确保无法识别特定个人且不能复原。（[查看更多](#)）

Sichuan Emphasizes Personal Information Protection amid COVID-19 Control

On December 12, 2020, the COVID-19 Response Headquarters of Sichuan Province emphasized that apart from legally authorized institutions, no state organs, social organization or individual may collect citizens' personal information without the consent of the person being collected or his or her guardian. Personal information collected for COVID-19 control shall not be used for any other purpose. Without the consent of the person or his guardian, the citizen's name, identity card number, telephone number, home address or other information shall not be disclosed. If it is necessary to be made public, the information should be processed to ensure that specific individuals cannot be identified and the information cannot be recovered. ([More](#))

海外动态 Overseas News

澳洲监管部门起诉Facebook在数据利用中存在虚假诱导行为

2020年12月16日，澳大利亚竞争与消费者委员会（Australian Competition & Consumer Commission, “ACCA”）发布新闻称，其已在联邦法院对Facebook及其两个子公司提起诉讼，指控Facebook在向澳大利亚消费者推广Onavo Protect移动应用程序时存在虚假、误导或欺骗性行为。Onavo Protect是一款可供免费下载并提供虚拟专用网（VPN）的应用程序。ACCA指控称，2016年2月1日至2017年10月，Facebook及其子公司声称Onavo Protect应用将会保证用户的个人活动数据保持私有、受保护且不公开，除提供该APP的服务外，这些数据不会被用于其它用途；而实际上，Onavo Protect为Facebook的商业利益而收集并使用了大量的用户活动数据，这些数据用于支持Facebook的市场调研，帮助其确定未来潜在的收购对象。（[查看更多](#)）

Australian Watchdog Alleges Facebook Misled Consumers with VPN App

On December 16, 2020, Australian Competition & Consumer Commission (“ACCA”) announced that it has instituted proceedings in the Federal Court against Facebook, Inc. and two of its subsidiaries for false, misleading or deceptive conduct when promoting Onavo Protect, Facebook’s VPN mobile app providing VPN service, to Australian consumers. According to the ACCC, between February 1, 2016, to October 2017, Facebook and its subsidiaries represented that the Onavo Protect app would keep users’ personal activity data private, protected and secret, and that the data would not be used for any purpose other than providing Onavo Protect’s products. In fact, Onavo Protect collected, aggregated and used significant amounts of users’ personal activity data to support Facebook’s market research activities, including identifying potential future acquisition targets. ([More](#))

欧盟推出新网络安全战略

2020年12月16日，欧盟委员会与欧盟外长共同推出了一项新的欧盟网络安全战略。欧盟委员会称，该战略将增强欧洲抵抗网络威胁的集体应变能力，并有助于确保所有公民和企业都能从可信赖和可靠的数字服务及工具中充分受益。该战略在三个行动领域对欧盟的监管、投资及政策建设提出了具体建议，分别是：（1）抗逆力，技术主权及领导力，（2）预防、制止与应对威胁的行动能力建设，（3）加强合作，推动网络空间全球开放。（[查看更多](#)）

EU Presents New Cybersecurity Strategy

On December 16, 2020, the European Commission (“EC”) and the High Representative of the European Union for Foreign Affairs and Security Policy presented a new EU Cybersecurity Strategy. The EC said, the Strategy will bolster Europe’s collective resilience against cyber threats and help to ensure that all citizens and businesses can fully benefit from trustworthy and reliable services and digital tools. The Strategy contains concrete proposals for regulatory, investment and policy initiatives, in three areas of EU action: (i) resilience, technological sovereignty and leadership; (ii) building operational capacity to prevent, deter and respond; and (iii) advancing a global and open cyberspace through increased cooperation. ([More](#))

Twitter因违反GDPR未能及时通知违规行为在爱尔兰被罚45万欧元

2020年12月15日，爱尔兰数据保护委员会（Data Protection Commission, “DPC”) 宣布了其对于Twitter的GDPR调查决定。据称，在收到Twitter违规通知后，DPC于2019年1月开始对Twitter展开调查。调查发现，Twitter未及时向DPC通知其违规行为，且未对其违规行为进行完整记录，违反了GDPR第33（1）条及第33（5）条规定。由此，DPC决定对Twitter处以45万欧元的罚款。（[查看更多](#)）

Twitter Hit with EUR 450k GDPR Fine in Ireland

On December 15, 2020, Ireland’s Data Protection Commission (“DPC”) announced a conclusion to a GDPR investigation conducted into Twitter. The DPC’s investigation commenced in January, 2019 following receipt of a breach notification from Twitter and the DPC has found that Twitter infringed Article 33(1) and 33(5) of the GDPR in terms of a failure to notify the breach on time to the DPC and a fail-

ure to adequately document the breach. As a result, the DPC imposed an administrative fine of EUR 450,000 on Twitter. ([More](#))

美国联邦贸易委员会要求亚马逊、Facebook等9家社交和流媒体平台提供收集和使用信息的情况

2020年12月14日，美国联邦贸易委员会宣布已向9家社交媒体及流媒体公司发出命令，要求这些公司在45天内提供相关数据以解释其如何收集、使用并呈现个人信息，并要求说明其广告和用户参与行为，及其对儿童和青少年群体的影响。本次被问询的公司包括亚马逊、字节跳动、Discord、Facebook、Reddit、Snap、Twitter、WhatsApp及YouTube。 ([查看更多](#))

FTC Orders 9 Social Media and Video Streaming Services to Explain How They Collect, Use, and Present Information

On December 14, 2020, the Federal Trade Commission (“FTC”) announced that it issued orders to nine social media and video streaming companies, requiring them to provide data within 45 days on how they collect, use, and present personal information, their advertising and user engagement practices, and how their practices affect children and teens. The orders are being sent to Amazon.com, Inc., ByteDance Ltd., Discord Inc., Facebook, Inc., Reddit, Inc., Snap Inc., Twitter, Inc., WhatsApp Inc., and YouTube LLC. ([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。



This Newsletter has been prepared for clients and professional associates of Lifang & Partners. Whilst every effort has been made to ensure accuracy, no responsibility can be accepted for errors and omissions, however caused. The information contained in this publication should not be relied on as legal advice and should not be regarded as a substitute for detailed advice in individual cases.



Subscribe to our WeChat community
扫码关注公众号“立方律师事务所”

北京 | 上海 | 武汉 | 广州 | 深圳 | 韩国
Beijing | Shanghai | Wuhan | Guangzhou | Shenzhen | Korea

 www.lifanglaw.com
 Email: info@lifanglaw.com

 Tel: +8610 64096099
 Fax: +8610 64096260/64096261