



COUNSEL TO GREAT COMPANIES

Global Forum Annual Conference

Cybersecurity & Privacy Rules in China

-- *Regulatory and Corporate Perspectives*

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Cybersecurity & Privacy Rules in China

I. Regulatory Environment

(1) Background:

- Approximately 100 regulations, administrative measures and local policies directly or indirectly related to Internet information security and privacy issues;
- No comprehensive Cybersecurity Law issued in China yet, like the FISMA in the United States;
- No comprehensive Privacy Law issued in the country; and
- Working diligently by the government on the drafting the laws and regulations governing the areas; New positive development, such as the recent rule, Circular No. 11 of 2014 by the Supreme People's Court that became effective on October 10, 2014.

Cybersecurity & Privacy Rules in China

I. Regulatory Environment

(2) Major New Developments:

- Circular No. 11 of 2014 has formally provided the legal ground for bringing legal actions at Chinese civil courts under direct claims of invading of personal information security and privacy;
- 2013 Guidelines for Information Security Technology of Personal Information Protection within the Public and Commercial Systems have set forth the technical standards for the industry;
- Circular No. 33 of 2014 by the State Council strengthens the content control over Internet; Certain other rules imposed restrictions on messaging app application system; and
- State IC Industry Development and Promotion Outlines, issued in June 2014, set the 350 billion Yuan revenue goal by 2015 with 20% increase in each following year; Major reason behind: Ensure the control over information security technology.

Cybersecurity & Privacy Rules in China

I. Regulatory Environment

(3) Characteristics:

- **Enhancing the protection over privacy;**
- **Tightening the control over cybersecurity;**
- **How to strike the balance of Protection v. Control;**
- **Governmental initiatives and commercial opportunities over software and hardware, chips, cloud computing, IOT, and other related industries.**

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II. Corporate Trend & Suggestions

- (1) Creativity v. Restrictions;
- (2) More cooperation with Chinese companies via contractual agreements; Less establishment of foreign invested Chinese legal entities;
- (3) More licensing than sale distributions; and
- (4) Innovative technology deal structures under conventional foreign invested corporate structures in China.

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