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### China Issues New Rules Regulating Personal Information Collection by Mobile Apps

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On March 12, 2021, the Ministry of Industry and Information Technology and the Ministry of Public Safety jointly issued the *Rules on the Scope of Necessary Personal Information for Common Types of Mobile Internet Applications* (“**Rules**”), effective May 1, 2021. The *Rules* are promulgated based on China’s Cybersecurity Law<sup>1</sup> (“**Cybersecurity Law**”) and aim to regulate the collection of personal information by mobile internet applications (“**Apps**”) and to safeguard personal information of Chinese individuals.

Under the *Rules*, Apps are not allowed to decline to provide their basic functions to users if those users refuse to provide personal information other than what is categorized as “necessary personal information” (“**Necessary PI**”). In other words, users who provide the *Necessary PI* to an App should be able to use the App’s basic functions. Or, in cases where the *Rules* identify no *Necessary PI*, users should be able to have unfettered access to the App’s basic functions without providing any personal information. “Personal information” is defined as information recorded in electronic or any other form that is used either alone or in combination with other information to identify an individual, including but not limited to: the individual’s name, date of birth, ID number, personal biological information, address and telephone number.<sup>2</sup>

App developers and businesses should be aware of and comply with the *Rules* and be especially careful in collecting information outside the *Necessary PI*. According to Article 41 of the *Cybersecurity Law*, network operators (broadly defined to include App developers and owners) should not collect personal information that is not relevant to the service being provided. Violating this article will result in administrative penalties to the business, including a warning, forfeiture and/or fines up to 10 times any illicit gains (or fines up to RMB 1,000,000 if no illicit gain), depending on the circumstances. Directly responsible person(s) can also be subject to fines up to RMB 100,000. Serious violations can even result in suspension of the business, closure of the website and/or revocation of licenses and permits.

What is considered *Necessary PI* for common Apps under the *Rules* is listed below:

Type of App	Basic Function	Necessary Personal Information
Navigation	Location and navigating	Location; departure place; destination place.
Ride-Hailing	Internet-based taxi booking	Registered user’s mobile phone number; rider’s departure and destination place, location, route; payment information such as time, amount, channel, etc.
Instant Messaging	Provide instant messaging services of text, picture, voice, video, etc.	Registered user’s mobile phone number; account number and contacts

<sup>1</sup> On November 7, 2016, the National People’s Congress Standing Committee promulgated the Cybersecurity Law, which came into effect on June 1, 2017.

<sup>2</sup> See Article 76 of the Cybersecurity Law.

Online Community	Topics discussion, information sharing and interaction, such as blog and BBS	Registered user's mobile phone number
Online Payment	Online payment, withdrawal, transfer	Registered user's mobile phone number; registered user's name, ID type and number, ID expiration date, bank account number
Online Shopping	Shopping	Registered user's mobile phone number; recipient's name, address, number; payment information such as time, amount, channel, etc.
Meal Delivery	Meal purchase and delivery	Registered user's mobile phone number; recipient's name, address, number; payment information such as time, amount, channel, etc.
Package Delivery	Delivery of mail, package, publishing, etc.	Sender's name, ID type and number; sender's address, contact number; recipient's name, address, contact number; item's description and quantity
Transit Tickets	Transit-related ticketing and itinerary services (such as ticket purchasing, changing, cancellation, etc.)	Registered user's mobile phone number; passenger's name, ID type and number, type (children, adult, student, etc.); departure and destination place, departure time; train/boat/flight number; class; seat number (if applicable); license plate number and color (ETC service); payment information such as time, amount, channel, etc.
Match-Making	Match-making service	Registered user's mobile phone number; candidate's gender, age, marital status
Job	Job seeker and employer information exchange	Registered user's mobile phone number; applicant's resume
Online-Lending	Online-based personal loan services	Registered user's mobile phone number; borrower's name, ID type and number, ID expiration date, bank account number
Real Estate Selling and Leasing	Publication of real estate for-sale information; selling or leasing of real estate	Registered user's mobile phone number; real estate's basic information: address, size, price/rent
Used-Car Sale	Information exchange of used-car sale	Registered user's mobile phone number; buyer's name, ID type and number; seller's name, ID type and number, vehicle registration number and ID number
Medical Appointment and Consultation	Online medical consulting, making doctor's appointment	Registered user's mobile phone number; patient's name, ID type and number, name of the hospital and department upon making the appointment; description of the illness upon consulting
Travel Services	Travel product's publication and subscription	Registered user's mobile phone number; traveler's destination and time; traveler's name, ID type and number, contact number
Lodging	Hotel booking	Registered user's mobile phone number; guest's name and contact number, check-in and check-out time; name of the hotel

Online Gaming	Provide online gaming products and services	Registered user's mobile phone number
E-Learning	Online tutoring, online classroom, etc.	Registered user's mobile phone number
Local Services	Household-related services such as repairing, renovation, flea market, etc.	Registered user's mobile phone number
Female Welfare	Health management service such as menstrual management, prenatal, child care, beauty, etc.	None
Use of Vehicle	Services such as bicycle sharing, car sharing, rental car, etc.	Registered user's mobile phone number; user's ID type and number, driver's license information; payment information such as time, amount, channel, etc.; user's location when using shared-bicycle or rental car
Investment	Financial investment services such as in stocks, futures, funds, bonds, etc.	Registered user's mobile phone number; user's name, ID type and number, ID expiration date, copy of ID; user's capital account number, bank account number or payment account number
Mobile Banking	Mobile banking, including account management, information inquiry, money transfer, etc.	Registered user's mobile phone number; user's name, ID type and number, ID expiration date, copy of ID, bank account number, mobile phone number with the bank; for online transfer, need recipient's name, bank account number, bank information
Email and Cloud Drive	Online mailbox, cloud drive, etc.	Registered user's mobile phone number
Remote Conference	Audio or video conference via internet	Registered user's mobile phone number
Live Streaming	Live video, audio, picture, text streaming to the public	None
Online Streaming	Video and audio search and streaming	None
Short Videos	Short video search and streaming	None
News	Browsing and searching of news	None
Fitness	Fitness training	None
Browser	Browsing internet resources	None
Input	Input of texts and symbols, etc.	None
Security	Cleaning of virus and malware, fix bugs, etc.	None
Digital Library	Searching and reading e-books	None
Photo Filtering	Photo filtering, shooting, etc.	None
App Store	Apps search and download	None

Tools	Services such as calendar, weather, dictionary, calculator, remote, flashlight, compass, alarm, file transfer, file management, wallpaper and ringtone, screenshot, recorder, document processing, etc.	None
Show Ticketing	Purchasing of show ticket	Registered user's mobile phone number; showing's session, seat number (if applicable); payment information such as time, amount, channel, etc.

Therefore, if your business is offering a “short video” app (such as TikTok) or a web browser app (such as Safari), you really cannot justify collecting and thus should not collect a user's personal information, such as the person's mobile phone number or physical location as a condition to providing the basic functions of video streaming/web browsing, even though the collection of this information is currently quite common. Given that the *Rules* are set to be effective in May, businesses with App operations in China should do a self-assessment and make any necessary modifications to ensure compliance with the *Rules*.

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- [China Issues Measures for the Security Review of Foreign Investments](#), February 9, 2021
- [China Patent Law Fourth Amendment—Impact on Foreign Companies](#), January 26, 2021
- [China Regulators Remove Restrictions on Insurance Fund Investment](#), December 14, 2020
- [China Adopts Interim Provisions on the Review of Concentrations of Business Operators for the Anti-Monopoly Law](#), November 30, 2020
- [China Releases Draft Personal Data Protection Law for Comments](#), November 12, 2020
- [China Adopts Export Control Law](#), November 5, 2020
- [China Releases New QFII/RQFII Rules](#), October 27, 2020
- [China Releases Provisions on Strengthening the Supervision of Private Equity Investment Funds \(Draft\)](#), October 15, 2020
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Additional questions? Please contact Haynes and Boone lawyers [Liza L.S. Mark](#) and [Tianyun \(“Joyce”\) Ji](#).