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China Strengthens Management of Mobile Apps

CHINA REGULATION WATCH¹

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The Cyberspace Administration of China, also known as the State Internet Information Office (国家互联网信息办公室) (the “CAC”)², recently posted on its website a brief acknowledgement that on January 13, 2017, the CAC circulated to the provincial level offices of the CAC the Notice for Registration Management of Online App Stores (关于开展互联网应用商店备案工作的通知) (the “App Stores Regulations”).³ Although the CAC did not post the official version of the App Stores Regulations on its website, the provincial CAC offices subsequently issued notices concerning these regulations.⁴ Those subsequent notices indicate that the CAC will now start enforcing previously issued rules that require mobile app stores to register with the CAC and to be responsible for the content of the mobile apps distributed through their stores.

This is not the first time that the CAC has issued rules regarding management of app providers and app stores in the past year. On June 28, 2016, the CAC released the Regulations for the Administration of Mobile Apps Information Service (移动互联网应用程序信息服务管理规定) (the “Mobile App Regulations”), which came into effect on August 1, 2016. The Mobile App Regulations set forth the bulk of the CAC’s substantive rules with respect to mobile app stores, including the new requirements for mobile app stores to register with the applicable provincial level office of the CAC. Following the release of the App Store Regulations in January, the provincial offices of the CAC provided detailed information on mobile app store registration procedures and filing requirements.

According to CAC officials, approximately four million mobile apps are currently available for download through various app stores in China.⁵ These numbers reflect the fact that mobile apps are becoming a dominant way to deliver internet information

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² Since established in May 2011, CAC has exercised widespread censorship control over the internet and mobile phone network to ensure cyber security and data privacy from threats, such as the spread of violence and terrorism.

³ See CAC Launched the Filing Work of App Stores at [CAC](#).

⁴ The required app store registration documents are generally same among the various provinces. For instance, see Guangdong Launched the Filing Work of App Stores at [Tencent News](#) and Shanghai Launched the Filing Work of App Stores at [NetEase News](#).

⁵ See Officers of CAC Answering Journalist Questions about the Mobile App Regulations at [Xinhua Net](#).



services. As a result, China's various regulators, including the CAC, increasingly recognize the importance of supervising the mobile apps industry.

In contrast with the United States, where Google Play and Apple's app store dominate mobile app distribution, China's app store market is very fragmented and the number of mobile app stores continues to grow. Given this market landscape, the new rules issued by the CAC are designed to supervise the various mobile app stores rather than attempting to directly supervise the millions of mobile apps. By placing responsibility for the content of mobile apps upon the mobile app stores that distribute those apps, the CAC is trying to supervise the mobile apps indirectly through their authority over the distribution channels. This desire to supervise app stores was the impetus behind the release of the Mobile App Regulations.

1. Requirements for App Stores

According to the Mobile App Regulations, released in June 2016, app stores must register with the applicable provincial level office of CAC. In addition, app stores are required to supervise the activities of app providers. App stores are responsible for ensuring that such app providers do not publish any illegal information, violate the privacy of users, or infringe on the intellectual property rights of third parties.

- **Registration Rules.** When an app store begins its operations, that app store must register with the provincial level office of CAC. If there are any changes in information previously filed with the provincial level office of CAC, the app store must update its registration information.⁶ The provincial level offices of CAC generally require app stores to provide the following information in connection with the new registration procedure: owner's individual identity cards or company business license certificates, internet content provider ("ICP") registration or ICP license number, domain name of its homepage, internet protocol address of servers, internet service provider information, app providers' security measures, app providers' content censorship system information, public complaints access information, and form service agreement between the app store and app providers.⁷
- **Content Regulation Rules.** Mobile app stores must establish a management system that will monitor and detect whether app providers publish any illegal information.⁸ If an app provider publishes illegal information, the app stores may issue warnings, temporarily suspend the relevant mobile apps, or remove those mobile apps from the app stores entirely.
- **User Data Protection Rules.** App stores must supervise the app providers to ensure they (i) disclose to their users how the mobile apps will collect users' information

⁶ See CAC Starts Online App Stores Filing Work at [CAC Website](#).

⁷ See Guangdong Launched the Filing Work of App Stores at [Tencent News](#) and Shanghai Launched the Filing Work of App Stores at [NetEase News](#).

⁸ See Article 8 of the Mobile App Regulations.



and (ii) protect the users' information.⁹ In September 2013, the Ministry of Industry and Information (工信部) (“MIIT”) formally required telecommunication and internet providers to obtain internet users' consent before collecting and using their personal information. Such regulations, however, did not impose any responsibilities upon the app stores.¹⁰ The Mobile App Regulations now require app stores to supervise the app providers that distribute apps through their stores.

2. Real-Name Registration and Identity Verification Requirements

The Mobile App Regulations require app providers to authenticate the real identity of their users through the users' mobile phone numbers.¹¹

Over the past decade, China's regulatory authorities made various attempts to implement and enforce a mobile phone real-name registration system. This system called for all mobile phone users to provide their real name and national identification number when registering a new subscriber identity module (“SIM”) card. In May 2016, MIIT issued a notice indicating that it would strictly enforce these requirements, with the goal of full implementation of real-name registration for all SIM cards in China by June 30, 2017. In May 2016, Xinhua, China's state owned news agency, reported that approximately 92% of mobile phone users in China had already registered their SIM cards with real identity information.¹²

In addition to mobile phone real-name registration, regulators in China have also repeatedly attempted to implement similar requirements for internet services, including online games, mobile games, microblogs, and online streaming services.¹³ Following the widespread adoption of Weibo and Weixin, two of the most popular communication mobile apps in China, the government recognized the need to implement real-name registration requirements in the mobile apps industry. By fully implementing the mobile phone real-name registration system and now requiring mobile app users to register with their mobile phone numbers when downloading a new mobile app, the government should be able to more easily track and identify the authors of any illegal information that is published through a mobile app, enabling the authorities to take appropriate actions against the individuals involved.

⁹ See Article 8 of the Mobile App Regulations.

¹⁰ See Article 9 of the Regulation for the Protection of Telecommunication and Internet User Personal Information (电信和互联网用户个人信息保护规定) issued by the Ministry of Industry and Information Technology (“MIIT”) (工信部) on September 2013.

¹¹ See Article 7 of the Mobile App Regulations.

¹² See news report of the strictest mobile real-name registration rules at [Xinhua Net](#).

¹³ See Notice of Implementation of Online Game Anti-Fatigue and Real Name Registration System (关于启动网络游戏防沉迷实名验证工作的通知), issued on July 1, 2011 by SAPPRFT; Section 9 of Several Rules on the Administration of Weibo Development (北京微博客发展管理若干规定) issued by the Beijing Government on December 16, 2011; and Sections 4 and 5 Notice Regarding the Administration of Mobile Game Publication Services (关于移动游戏出版服务管理的规定), issued on May 24, 2016 by the SAPPRFT.



3. Other Requirements for App Providers

The Mobile App Regulations issued in June 2016 require app providers to comply with the following rules.

- User Consent Required to Access Certain Phone Functions. Prior to obtaining a mobile user’s consent, app providers may not (i) access any mobile phone function that interferes with the user’s privacy, such as location information, address book, camera and voice recording; (ii) provide any irrelevant functions that might monitor the user’s personal data, or unnecessarily take up their bandwidth; or (iii) bundle additional unrelated software into mobile apps.¹⁴
- Content Regulation Rules for Certain User Publishing Function. Mobile app providers with apps that enable user posts and information sharing must prohibit their users from publishing illegal information. If users publish illegal information, the app providers may warn or punish such users. The app providers can suspend or limit a non-compliant users’ mobile app updates and other functions, or shut down the user’s account entirely.¹⁵ The Mobile Apps Regulations indicate that “illegal information” refers to information that violates national security laws or regulations, disturbs public order, violates the legal rights of others, or relates to other prohibited activities.¹⁶
- Users Activities Log Rules. App providers are required to preserve records of their users’ activity for at least sixty (60) days.¹⁷ These rules enable the app providers to track the information their users publish or share, and to ensure their users do not publish or share any illegal information.

¹⁴ See Article 7 of the Mobile App Regulations.

¹⁵ See Article 7 of the Mobile App Regulations.

¹⁶ See Article 6 of the Mobile App Regulations.

¹⁷ See Article 7 of the Mobile App Regulations.