



Cyber Security in China and Data Protection

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Background

With China's new Cybersecurity Law, effective 1st June 2017, businesses in China will find themselves facing increased internet regulation with the aim to protect Critical Information Infrastructure (CII). Critical Information Infrastructure is broadly defined in Article 31 of the law as "public communication and information services, power, traffic, water, finance, public service, electronic governance and other critical information infrastructure that if destroyed, losing function or leaking data might seriously endanger national security, national welfare and the people's livelihood, or the public interest".

Important definitions relevant to the law are found in Article 76 of the law.

1. "Networks" refers to systems comprised of computers or other information terminals and related equipment that follow certain rules and procedures for information gathering, storage, transmission, exchange and processing.
2. "Network security" refers to taking necessary measures to prevent network attacks, incursions, interference, destruction and their unlawful use, as well as unexpected accidents; to put the networks in a state of stable and reliable operation, as well as ensuring the capacity for network data to be complete, confidential and usable.
3. "Network operators" refers to network owners, managers and network service providers.
4. "Network data" refers to all kinds of electronic data collected, stored, transmitted, processed, and produced through networks.
5. "Personal information" refers to all kinds of information, recorded electronically or through other means, that taken alone or together with other information, is sufficient to identify a natural person's identity, including, but not limited to, natural persons' full names, birth dates, identification numbers, personal biometric information, addresses, telephone numbers, and so forth.

(2016 Cybersecurity Law; Article 76)

Because "Network Operators" is a term so broad that it can include any business which operates a website within mainland China, it is important to understand the new law.

Important aspects of the law

• Privacy Protections:

○ The bill grants many privacy protections for network users in mainland China. Network operators will be required to strictly maintain confidentiality of user information and will be required to install protection systems to defend user information. It is required that network operators explicitly state their purpose, means, and scope when collecting user data. The network operator must gain the user's permission before they collect any data and no data unrelated to the services the network operator provides can be legally gathered. In the event that data is leaked, corrupted, or lost, network operators must immediately take remedial measures, quickly inform users and make a report to the relevant departments in accordance with regulations. Network operators may not unlawfully sell or provide a user's information to any other party. (Articles 40-44)

• Network Security:

○ The new cybersecurity law implements a tiered network security system. Network operators will be required to follow measures designed to prevent network interference, damage, unauthorized access, data leaks, theft, and data falsification. Network operators will be required to immediately remedy security flaws and vulnerabilities when they are discovered and must provide security maintenance throughout the time period agreed upon with clients (Articles 21 & 22).

○ Network operators will be required to generate emergency response plans and put them into immediate action for network security incidents, such as computer viruses or network attacks (Article 25).

○ Critical Information Infrastructure (CII) Operators purchasing network products and services that could impact national security must have their purchases sent through a national security review. (Article 35)

○ The law requires that information gathered and produced in mainland China must be stored in mainland China. If it is truly necessary that information be stored outside of the mainland then a security assessment must be conducted (Article 37).

○ At least once a year Critical Information Infrastructure operators must perform an inspection of network security and submit a security report. CII operators will be subject to spot tests to test readiness, they must perform emergency response drills, share network security information with relevant parties, and provide technical assistance for network security management and recovery. (Articles 38 & 39)

• Penalties

○ Violating the provisions in Articles 41-43 can result in the confiscation of unlawful gains and a fine 1-10 times the amount of the unlawful gains. In situations where there are no unlawful gains then a fine up to rmb1,000,000 may be administered and responsible personnel may be fined up to rmb500,000 in serious circumstances. (Article 64)

○ Using products or services that have not been given a security review can get a fine of 1-10 times the purchase price and responsible personnel may be fined up to rmb100,000. (Article 65)

○ Storing network data outside of mainland China can result in confiscation of unlawful gains, a fine of rmb500,000, temporary suspension of operations, revocation of business licenses and permits and individual fines up to rmb100,000 for responsible personnel. (Article 66)

LehmanBrown Cybersecurity Service

Performing an internal audit of your business can help prepare you for the era of cybersecurity by providing you with the information necessary to formulate a unique cybersecurity strategy and adapt to new regulations. Internal audits analyse the business processes, goals, management systems and risks within a company to provide valuable unbiased feedback and recommends steps to be taken to improve.

LehmanBrown can support you in the field of cybersecurity by offering an internal audit of your company.

SOURCE MATERIAL: <http://www.chinalawtranslate.com/cybersecuritylaw/?lang=en>

背景

随着中国新的网络安全法在2017年6月1日生效，在中国的企业将面临为保护关键信息基础建设而变得更严厉的互联网监管。在网络安全法第13条中，关键信息基础建设被广义定义为：公共通信和信息服务、能源、交通、水利、金融、公共服务、电子政务等重要行业和领域，以及其他一旦遭到破坏、丧失功能或者数据泄露，可能严重危害国家安全、国计民生、公共利益的关键信息基础设施。

有关的重要用语定义出现在网络安全法第76条。

网络安全法第七十六条用语的含义：

1. 网络，是指由计算机或者其他信息终端及相关设备组成的按照一定的规则和程序对信息进行收集、存储、传输、交换、处理的系统。
2. 网络安全，是指通过采取必要措施，防范对网络的攻击、侵入、干扰、破坏和非法使用以及意外事故，使网络处于稳定可靠运行的状态，以及保障网络数据的完整性、保密性、可用性的能力。
3. 网络运营者，是指网络的所有者、管理者和网络服务提供者。
4. 网络数据，是指通过网络收集、存储、传输、处理和产生的各种电子数据。
5. 个人信息，是指以电子或者其他方式记录的能够单独或者与其他信息结合识别自然人个人身份的各种信息，包括但不限于自然人的姓名、出生日期、身份证件号码、个人生物识别信息、住址、电话号码等。

(2016 网络安全法， 第76条)

由于「网络运营商」一词含义极为广泛，可以包括任何在中国内地运营网站的业务，所以了解新法律是非常重要的。

网络安全法的重要内容

● 隐私保护：

○ 条例为中国互联网用户提供了很多隐私保护。法律要求网络运营者对其收集的用户信息严格保密，并建立健全用户信息保护制度，以保护用户信息。网络运营商在收集用户信息时明确列出、方式和范围。网络运营商在收集用户信息前必须取得被收集者的同意，而且不得收集与其提供的服务无关的个人信息。在发生或者可能发生个人信息泄露、毁损、丢失的情况时，应当立即采取补救措施，按照规定及时告知用户并向有关主管部门报告。网络运营商不得非法出售或者非法向他人提供个人信息。

(第40-44条)

● 网络安全：

○ 新网络安全法实现了分层网络安全系统。网络运营商需要保障网络免受干扰、破坏或者未经授权的访问，防止网络数据泄露或者被窃取、篡改。在发现其网络产品、服务存在安全缺陷、漏洞等风险时，网络运营商需要立即采取补救措施，并在规定或者当事人约定的期限内，不得终止提供安全维护。

(第21及22条)

○ 网络运营者应当制定网络安全事件应急预案，及时处置系统漏洞、计算机病毒、网络攻击、网络侵入等安全风险；在发生危害网络安全的事件时，立即启动应急预案，采取相应的补救措施，并按照规定向有关主管部门报告。

(第25条)

○ 关键信息基础设施的运营者采购网络产品和服务，可能影响国家安全的，应当通过国家网信部门会同国务院有关部门组织的国家安全审查。

(第35条)

○ 关键信息基础设施的运营者在中华人民共和国境内运营中收集和产生的个人信息和重要数据应当在境内存储。因业务需要，确需向境外提供的，应当按照国家网信部门会同国务院有关部门制定的办法进行安全评估；法律、行政法规另有规定的，依照其规定。

(第37条)

○ 关键信息基础设施的运营者应当自行或者委托网络安全服务机构对其网络的安全性和可能存在的风险每年至少进行一次检测评估，并将检测评估情况和改进措施报送相关负责关键信息基础设施安全保护工作的部门。国家网信部门应当统筹协调有关部门对网络安全事件的应急处置与网络功能的恢复等，提供技术支持和协助。

(第38及39条)

- **罚则**

○ 网络运营者、网络产品或者服务的提供者违反本法第二十二条第三款、第四十一条至第四十三条规定，侵害个人信息依法得到保护的权利的，由有关主管部门责令改正，可以根据情节单处或者并处警告、没收违法所得、处违法所得一倍以上十倍以下罚款，没有违法所得的，处一百万元以下罚款，对直接负责的主管人员和其他直接责任人员处一万元以上十万元以下罚款；情节严重的，并可以责令暂停相关业务、停业整顿、关闭网站、吊销相关业务许可证或者吊销营业执照。违反本法第四十四条规定，窃取或者以其他非法方式获取、非法出售或者非法向他人提供个人信息，尚不构成犯罪的，由公安机关没收违法所得，并处违法所得一倍以上十倍以下罚款，没有违法所得的，处一百万元以下罚款。

(第64条)

○ 关键信息基础设施的运营者违反本法第三十五条规定，使用未经安全审查或者安全审查未通过的网络产品或者服务的，由有关主管部门责令停止使用，处采购金额一倍以上十倍以下罚款；对直接负责的主管人员和其他直接责任人员处一万元以上十万元以下罚款。

(第65条)

○ 关键信息基础设施的运营者违反本法第三十七条规定，在境外存储网络数据，或者向境外提供网络数据的，由有关主管部门责令改正，给予警告，没收违法所得，处五万元以上五十万元以下罚款，并可以责令暂停相关业务、停业整顿、关闭网站、吊销相关业务许可证或者吊销营业执照；对直接负责的主管人员和其他直接责任人员处一万元以上十万元以下罚款。

(第66条)

雷博网络安全服务

为您的业务进行内部审计可以为您提供制定独一无二的网络安全战略所必要的信息，并适应新的法规，为网络安全时代做好准备。在内部审计的过程中会分析公司内部的业务流程、目标、管理体系和风险，以提供中肯有价值的反馈，并建议改善措施。

雷博可以为您的公司提供内部审计，在网络安全领域支持您的公司。

资料来源: <http://www.chinalawtranslate.com/cybersecuritylaw/?lang=en>



About Us

Founded in 2001, LehmanBrown is a China-focused accounting, taxation and business advisory firm, operating in Beijing, Shanghai, Hong Kong, Macau, Shenzhen, Guangzhou and Tianjin. Our firm also manages an extensive affiliate network, providing service throughout China and reach across the globe.

Combining years of international expertise with practical Chinese experience and knowledge, LehmanBrown offers expert advice and support to both local and international clients. Within the mid - tier, we are regarded as a market leader and our clients enjoy access to a combination of senior and experienced counsellors from both China and abroad.

At LehmanBrown we recognise that you are unique, that you have unique requirements and we are committed to providing individually tailored financial solutions. LehmanBrown is dedicated to providing personalised service by working closely with our clients to understand your individual business needs. This enables us to offer the most up-to-date and expert advice.

关于我们

雷博国际会计成立于2001年，是一家获得许可，主要从事有关中国范围内会计、税务和财务咨询服务的公司，在北京、上海、香港、澳门、深圳、广州和天津设有专门办事机构，正积极在全国范围内建立广泛的联合专业服务网络。

综合多年的国际经验和对中国市场的深刻理解和实践体验，我们向广大国内外的客户提供高质量的专业服务和意见帮助。在雷博国际会计的服务过程中，我们作为市场中的佼佼者，您将得到来自中国本土以及其它国家的高级资深专家热忱的咨询帮助。

我们深刻认识到每一位客户都是独一无二的，并都有其独特的业务需求。雷博国际会计承诺将根据客户的不同业务需求，为客户提供个性化的财务解决方案。我们的专业人员将密切与您合作，以充分了解您独特的业务需求，从而提供满足您所需要的高时效、高质量的专业服务。

Professional Services

Audit & Assurance

External Audit

China Statutory Audit
US GAAP Audit
IFRS Audit
Hong Kong Statutory Audit

Internal Audit

Fraud Investigation
Forensic Accounting

Special Purpose Audit

Foreign Currency Audit
Royalty Audit
Capital Verification Audit

Valuation Services

Corporate Valuation

Damage Assessment Valuation
Intellectual Property Valuation
Asset Valuation
Special Purposes Valuation

Corporate Finance

Debt Restructuring
Acquisition, Disposal & Financing

Mergers & Acquisitions

Transaction Advisory
M&A Divestiture
M&A Integration
Financial Due Diligence

Business Services

Company Registration & Maintenance

Cash Flow Management
Chop Custodian Services
Market Entry Advisory
Updating Company Certificates
Annual Inspection & Reporting
Company Secretarial Services
Company Ownership Transferring/Corporate Restructuring
Background/Credit Checking
Company Deregistration & Bankruptcy

HR Support Services

China Visa Services for Expatriates
Social Welfare Structures

Outsourcing Services

Accounting & Bookkeeping

Budgeting & Forecasting
Financial Statement Preparation
Head Office Reporting

Financial Management

Interim Financial Management
Finance Manager Function
CFO Function

Treasury Management

Set-up of Bank Account

Payroll Services

Payroll Processing Setup
Expatriate Employees
Local Employees

Secondment & Temping Service

Taxation Services

Individual Tax Planning (IIT)

Tax Immigration & Investment Review
US & Overseas Personal Income Tax Planning & Filing
IIT Tax Payment Facilitation
Application for Individual Income Tax Refund
Expatriate Staff Individual Income Tax Staff Filing
Local Staff Individual Income Tax

Company Taxation (CIT)

Tax Consulting

Corporate Tax Planning
Business Restructuring
Value Chain Review
Onshore / Offshore Investment
Transfer Pricing

Tax Compliance

Tax Due Diligence
Tax Deregistration
Negotiation of Tax Penalties
Tax Refund Application
Tax Representatives for Tax Audit
VAT & Customs Duty Clearance
PRC Tax Receipt Verification
VAT Application
VAT & Sales Tax Filing
Corporate Income Tax Reporting

Specialist Accounting & Risk Management

Internal Controls

Systems
Risk Management
Sarbanes - Oxley (SOX 404)

GAAP, SEC & IFRS Compliance

US GAAP

US GAAP Financial Statement Preparation
US GAAP Conversion

Other GAAP

GAAP Conversion
Public Company Compliance
Financial Statement Preparation

IFRS

IFRS Accounting Repackaging
IFRS Financial Statement Preparation
IFRS Public Company Compliance

SEC

SEC Public Company Compliance

Legal Services

Legal Advisory

Labour Legal Advisory

Workforce Downsizing Advisory
Labour Tribunal Assistance & Advisory
Labour Law Review & Audits
Review & Preparation of Employment Contracts

Corporate Legal Advisory

Legal Due Diligence
Corporate Restructuring Advisory
Review & Preparation of Articles of Association (AoA)
Review & Preparation of JV Contracts
Review & Preparation of Repatriation Agreements

Other Legal Services

Dispute Mediation & Advisory
Trademark & Intellectual Property Advisory
Debt Collection Assistance
Litigation Support

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Contact Us 联系我们

For further information about how we can add value and support your individual or business needs, please contact us.

如需为个人或企业获取更多的增值服务及业务协助信息，请与我们联系。

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