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CSRC Issues the Revised Administrative Measures for Information Disclosure by Listed Companies

一、市场监管总局出台《网络交易监督管理办法》

2021.03.15

SAMR Releases Measures for the Supervision and Administration of Online Transactions



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近日, 国家市场监督管理总局发布《网络交易监督管理办法》(下称《办法》), 自 2021 年 5 月 1 日起施行。

The State Administration for Market Regulation ("SAMR") has recently issued the *Measures for the Supervision and Administration of Online Transactions* (the "*Measures*") for implementation from May 1, 2021.

《办法》共 56 条, 包含总则、网络交易经营者、监督管理、法律责任和附则五章。其中, 针对消费者权益保护问题, 《办法》要求, 经营者不得将搭售商品等选项设定为消费者默认同意, 不得将消费者以往交易中选择的选项设定为消费者默认选择; 要求自动展期、自动续费服务的经营者应当在消费者接受服务前以及展期、续费前五日, 以显著方式提请消费者注意, 由消费者自主选择等。此外, 《办法》还对网络经营主体登记、新业态监管、平台经营者主体责任、个人信息保护等重点问题作出明确规定。

The *Measures* consist of 56 articles in five chapters, including general provisions, online transaction operators, supervision and administration, legal liability, and supplementary provisions. Regarding the protection of consumers' rights and interests, the *Measures* require that operators shall not make tied sale as an option for the consumer's consent by default, or set the option adopted by a consumer in a previous transaction as his or her default option; operators providing automatic extension or renewal service shall give a notice to the consumers in an obvious way and allow them to make independent choice before they accept the service and five days prior to such extension or renewal respectively. Moreover, the *Measures* set out clear provisions on such key issues as the registration of online operation entity, the regulation of new business forms, the primary responsibility of platform operators and personal information protection.

(Source: http://gkml.samr.gov.cn/nsjg/fgs/202103/t20210315_326936.html)

二、四部门印发常见类型 App 必要个人信息范围规定

2021.03.22



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Four Authorities Issue Rules on the Scope of Necessary Personal Information for Common Types of Mobile Internet Applications

近日，国家互联网信息办公室秘书局等四部门联合发布《常见类型移动互联网应用程序必要个人信息范围规定》（下称《规定》），自 2021 年 5 月 1 日起施行。

Recently, the Secretariat of the Cyberspace Administration of China (the "CAC") and other three authorities have jointly issued the *Rules on the Scope of Necessary Personal Information for Common Types of Mobile Internet Applications* (the "Rules"), which are to come into force on May 1, 2021.

《规定》明确了地图导航、网络约车、即时通信等 39 类常见类型 App 必要个人信息范围，要求其运营者不得因用户不同意提供非必要个人信息，而拒绝用户使用 App 基本功能服务。根据《规定》，房屋租赁类 App 的基本功能服务为“个人房源信息发布、房屋出租或买卖”，必要个人信息包括：1.注册用户移动电话号码；2.房源基本信息：房屋地址、面积/户型、期望售价或租金。在线影音类 App 的基本功能服务为“影视、音乐搜索和播放”，无须个人信息，即可使用基本功能服务。

The *Rules* define the scope of necessary personal information for each of 39 common types of mobile internet applications including maps and navigation apps, online ride-hailing apps and instant messaging apps. It requires that operators of these apps shall not refuse basic app functions and services to users because of their refusal to provide their unnecessary personal information. According to the *Rules*, the basic functions and services of residential real estate leasing/sales apps include the "posting of information on personal residential property for rent or sale, for which the necessary personal information includes: 1. mobile phone number of the registered user; 2. basic information of the property including its address and floor area/floor plan, and the expected purchase or rental price. The basic function and service of online audio/video apps is to "search and play videos or music", and personal information shall not be required for the use of this basic function and service.



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(Source: http://www.cac.gov.cn/2021-03/22/c_1617990997054277.htm)

三、最高法出台知识产权惩罚性赔偿司法解释

2021.03.03

SPC Issues Judicial Interpretation on Punitive Damages in Intellectual Property Infringement Cases

近日，最高人民法院发布《关于审理侵害知识产权民事案件适用惩罚性赔偿的解释》（下称《解释》），自 2021 年 3 月 3 日起施行。

Recently, the Supreme People's Court ("SPC") has issued the *Interpretation on the Application of Punitive Damages in the Trial of Intellectual Property Infringement Civil Cases* (the "*Interpretation*"), with effect as of March 3, 2021.

《解释》共七个条文，主要对知识产权民事案件中惩罚性赔偿的适用范围、请求内容和时间、故意和情节严重的认定、计算基数和倍数的确定、生效时间等作出具体规定。其中，《解释》厘清了侵害知识产权案件中“故意”和“恶意”之间的关系，明确二者含义一致。

The *Interpretation* consists of seven articles, containing specific provisions on the scope of application of punitive damages in intellectual property civil cases, the content of a claim and the time to file a claim, determination of what constitutes an intent and a serious circumstance of intellectual property infringement, determination of calculation base and multipliers for calculating punitive damages, and the effective date, among others. In particular, the *Interpretation* clarifies the relation between the "intent" and "malice" in intellectual property infringement cases, specifying that the two words are the same.

《解释》还将参考原告的主张和提供的证据所确定的赔偿数额作为基数的一种。同时规定，对于提供虚假账簿、资料的，将依据《中华人民共和国民事诉讼法（2017 年修订）》第一百一十一条追究法律责任。



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The *Interpretation* also takes the amount of damages determined by reference to the claim filed and evidence provided by the plaintiff as a type of calculation base. Meanwhile, it provides that those providing false account books and information shall be investigated for legal liability in accordance with Article 111 of the *Civil Procedure Law of the People's Republic of China (Revised in 2017)*.

(Source: <http://www.court.gov.cn/zixun-xiangqing-288861.html>)

四、证监会发布修订后《上市公司信息披露管理办法》

2021.03.18

CSRC Issues the Revised Administrative Measures for Information Disclosure by Listed Companies

日前，中国证券监督管理委员会发布修订后《上市公司信息披露管理办法》（下称《办法》），自 2021 年 5 月 1 日起施行。

The China Securities Regulatory Commission ("CSRC") has recently released the revised *Administrative Measures for the Information Disclosure by Listed Companies* (the "*Measures*") for implementation from May 1, 2021.

《办法》修订的主要内容如下：一是完善信息披露基本要求，新增简明清晰、通俗易懂原则，细化自愿披露的规范要求等；二是完善定期报告制度，针对性完善上市公司董监高异议声明制度；三是细化临时报告要求，补充完善重大事件的情形，完善上市公司重大事项披露时点；四是完善信息披露事务管理制度，增加上市公司应当建立内幕信息知情人登记管理制度的要求，新增上市公司应当制定董监高对外发布信息的行为规范要求；五是完善监督管理措施类型，针对滥用异议声明制度专门设置法律责任。

The *Measures* mainly make the following revisions: firstly, improving the basic requirements for information disclosure, adding clear and easy-to-understand principles, and detailing the standards and requirements for voluntary disclosure; secondly, improving the regular reporting system and making targeted improvement to the system for objection by directors, supervisors and officers of listed companies; thirdly,



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providing detailed rules for ad hoc reports, supplementing the provisions on major events and clarifying the time of disclosure for major issues; fourthly, perfecting the administrative system for information disclosure, adding provisions to require listed companies to establish a system for registering and managing the persons with insider information and adding provisions to standardize the external communications by directors, supervisors and officers; fifthly, perfecting the type of regulatory measures and specifying the legal liability for abusing the objection system.

(Source: http://www.csrc.gov.cn/pub/zjhpublic/zjh/202103/t20210319_394491.htm)

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