International Organisations Research Journal, 2024, vol. 19, no 2, pp. 145–160
Original Article
doi:10.17323/1996-7845-2024-02-08

China's Digital Platforms Regulation Policy[1]

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Abstract

With the increasing importance of digital platforms as an infrastructure for the digital modernization of industry, the People's Republic of China (PRC) is moving toward a comprehensive, but more flexible, model for their regulation. The distinctive features of this model include the requirement to ensure interoperability of large platforms, interoperability of social networks and mobile payments, the use of artificial intelligence (AI) by platforms, and three-way interaction between AI developers, platform operators, and inspection authorities. This article presents the results of monitoring the key decisions of the Chinese leadership in changing the regulatory model for digital platforms in recent years, as well as analyzing the PRC's policy of regulating digital platforms in three key areas—competition protection, ex-ante regulation, and consumer and personal data protection.

Keywords: People's Republic of China, digital platforms, regulation of digital platforms, personal data protection.

Acknowledgements: the article was written on the basis of the RANEPA state assignment research programme.

For citation: Sakharov A., Shelepov A. (2024). Regulation of Digital Platforms in Russia. *International Organizations Research Journal*, vol. 19, no 2, pp. 145-160 (in English). doi:10.17323/1996-7845-2024-02-08

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[1] This article was submitted on 15.04.2024

Introduction

The Chinese government has ambitious goals to turn the country into a preeminent technological and scientific superpower by the 100th anniversary of the founding of the People's Republic of China (PRC) in 2049. The digitalization of the economy plays a key role in realizing this goal. Digital platforms are central to the new digital economy model, effectively serving as the infrastructure for digital industrial upgrading, productivity improvement, optimization of resource allocation, and employment.

In this environment, both the importance and complexity of regulating digital platforms are increasing. For example, traditional pricing criteria of market dominance are difficult to apply to digital platforms, which often provide free services to users, while profiting from the sale of data and advertising. From 2020, the Chinese leadership has changed its attitude toward the rapid development of large technology companies and their digital platforms and has begun to strengthen supervision in the digital market. In December 2020, the Central Economic Work Conference highlighted "fighting monopolies and disorderly capital expansion" as one of the country's top priorities [Xinhua, 2020].

Establishing a clear definition of digital platforms is also problematic in terms of building a predictable and transparent regulatory regime. The PRC's new conceptual approach to regulating digital platforms attempts to address this challenge as well, creating a foundation for ex-ante regulation. Finally, the penetration of digital solutions into the economic activities and daily lives of citizens, including through the use of digital platforms, is expanding the range of risks associated with the security of government, commercial, and personal data, which is also a critical area of regulation for the Chinese government.

The topic of regulation of digital platforms in the PRC has been addressed in many research papers. S. McKnight and M. Kenney [2023] examined the role of state regulation in the digital environment in the formation of a new type of economy in China, concluding that the growth of major Chinese platforms and the development of state regulation proceeded simultaneously and were determined by the goals of the party-state policy to maintain sociopolitical stability and economic growth and to strengthen technological self-sufficiency. Yu. Kharitonova and L. Sannikova [2021] analyzed the processes of economic and public administration platformization in China. The authors concluded that the strengthening of legal mechanisms to protect the rights

and interests of citizens is a necessary consequence of the development of platforms and the gradual transition of services to the digital environment.

This article presents the results of monitoring the key decisions of the Chinese leadership in the framework of changes in the model of regulation of digital platforms in recent years, as well as the analysis of the PRC's policy in the field of regulation of digital platforms in three key areas—competition protection, formation of ex-ante regulation, and protection of consumers and personal data.

Protection of Competition and Strengthening of Antitrust Tools for Platforms

The Chinese authorities have faced the need to strengthen antitrust regulation in the digital market due to the rapid development of the digital component of the country's economy and the increasing influence of digital platforms in driving economic growth. In the past few years, developing new approaches to regulating competition in digital markets has become one of the main tasks of the Chinese government.

The foundation of competition regulation in China is laid down in the Antimonopoly Law of the PRC. In 1994, the Standing Committee of the National People's Congress included the adoption of the Antimonopoly Law in its legislative plan [Meng, 2018]. However, the PRC's Antimonopoly Law was not enacted until 2007 and did not contain specific provisions for digital market companies.

In later years, Chinese regulators did not seek to restrict the growth of digital companies, which was becoming an increasingly important factor in the country's economic development. However, in 2020–21, the Chinese government changed its previous stance on the active development of large technology companies and their digital platforms and began to strengthen oversight due to serious concerns about the virtually unchecked growth of digital market capitalization [Xiao, 2022]. Specifically, in 2021, DiDi listed its shares on the New York Stock Exchange without complying with the Regulations on Enhancing Privacy and Records Management Related to the Issuance and Listing of Securities Abroad. Another prominent example was ANT, an Alibaba-owned app for financial transactions, particularly online payments, that sold financial products and provided deposit services to retail banks. In 2020, ANT worked with more than 100 large companies, had more than one billion users, and a balance of 1.7 trillion yuan in consumer loans issued [ANT Group, 2020]. At the same time, the services provided were virtually unregulated, forming a gray area with significant systemic financial risks.

In this regard, the Chinese government has begun to tighten regulation of the digital market, including anti-monopoly measures. In December 2020, the Central Economic Work Conference was held, following which "efforts against business monopolies and indiscriminate capital expansion" were named as one of the top priorities of China's regulatory policy in 2021. In parallel, the Antimonopoly Commission of the State Council of the People's Republic of China and the State Administration of Market Regulation submitted a draft of the Guidelines on Antimonopoly Regulation in the Platform Economy. In February 2021, just three months after the submission of the draft, the final version of the guidelines was published. The Guidelines on Competition Regulation in the Platform Economy provide detailed principles for competition supervision. It consists of five parts: general rules, monopoly agreements, abuse of a dominant market position, economic concentration, and abuse of administrative power that resulted in the exclusion or restriction of competition.

The general rules contain principles for competition authorities in the digital marketplace, among which are protecting fair market competition, implementing reasonable and effective regulation, fostering innovation, and protecting the legitimate interests of all parties. The section on monopoly agreements in the guidelines indicates that, in addition to agreements in writing or made orally, actions with substantial coordination and consensus, enforced through data, algorithms, platform rules, and other methods, may also be considered infringing with respect to horizontal agreements; the guidelines refer to situations in which a platform asks operators to provide equal or better terms than competing platforms (the guidelines characterize the approach as most-favoured-nation treatment). It is noted that such agreements may constitute anti-competitive practices (in particular, hub and spoke collusion) and abuse of a dominant market position.

The section on abuse of market dominance establishes interchangeability analysis as the main method for determining the relevant situation in the digital sector. Given the multilateral nature of both supply-side and demand-side platforms, both unilateral and bilateral interchangeability analysis can be applied.

To determine whether a platform has market power, the guidelines provide for the analysis of several key factors, such as the platform's market share, its ability to control the market, the role it plays in the market (how much the platform operators who supply goods or services on the

internet platform depend on it), the financial position and technical characteristics of the platform, and the structure of the relevant market and the ability of new firms to enter it.

The guidelines list the following typical actions as indicative of abuse of market power: unfair pricing, selling below cost, refusal to deal, restraint of trade, tying (or imposing unreasonable trading conditions), differential treatment, and discriminatory pricing using big data. When selling below cost, the focus is on whether the platform's intention is to exclude its competitors from the market and whether it is possible to raise prices to obtain improper benefits or harm fair competition in the market and the legitimate rights of consumers after excluding other competitors. Discounts within a reasonable period in order to open up a new market and attract new users are considered permissible. These rules are seen as a tool to deter price wars between platforms when competing for users (an example in China is the price competition between DiDi and Uber platforms).

In relation to no-trade, the guidelines identify key factors that should generally be considered when deciding whether to impose a duty on platforms to engage with competitors. These factors are the data possessed by the platform, its substitutability, the ability to develop alternative platforms, and the dependence of users on the platform. With respect to restraint of trade, tying and unreasonable trading conditions, and differential treatment, the guidelines generally consider such conduct to be anticompetitive.

The section on concentration and merger control provides a detailed calculation method for determining the turnover of a platform in a proposed merger. For platforms that provide their services in exchange for commissions or other fees, turnover is calculated on the basis of fees charged and other platform revenues.

The section on abuse of administrative power prohibits any unreasonable government action that impedes the free movement of goods or funds or leads to unequal treatment of different companies. The guidelines were the first to regulate antitrust activities with respect to digital platforms and cover the main aspects of possible monopolistic behaviour [Cheng, Yumeng, 2021].

The process of developing antitrust regulation for the platform economy in the form of enshrining in laws the basic principles of proper behaviour of platforms continues. The latest step in this process to date is the amendment of the PRC's Antimonopoly Law, which came into effect on 1 August 2022. For example, the "General Provisions" section notes that "an enterprise shall not engage in any monopolistic behaviour prohibited by this Law by utilizing data and algorithms,

technology, capital volume advantages, platform rules and other tools." The section on "Abuse of Market Dominance" states that "an enterprise with a dominant position in the market shall not abuse such position, as stated in the previous paragraph, by utilizing data and algorithms, technology, platform rules and other tools" [Chen, Fu, 2022]. The enactment of these amendments is seen as an important step in shaping the regulation of digital platforms, as it is not traditionally accepted in China that a law establishing a general legal framework, like the Antimonopoly Law, provides for the application of provisions to a specific industry. Thus, the introduction of these amendments demonstrates the Chinese government's continued focus on anti-competitive behaviour in digital markets.

Specific decisions by the regulator also confirm the drive to strengthen supervision of anti-competitive practices by major digital platforms. On 14 December 2020, the State Administration of Market Regulation imposed administrative penalties in three cases of illegal business concentration, including Alibaba's investment in the acquisition of shares in Yintai Commercial, Yuewen's acquisition of Xinli Media, and Fengchao's acquisition of Zhongyouzhidi. This marked the first time China's antitrust authority has imposed an administrative fine for operator concentration in the digital economy. In April 2021, the State Administration for Market Regulation imposed a RMB 182 billion fine on Alibaba for forcing sellers to sell exclusively on its platform. In addition, the administration has made a number of decisions regarding anti-competitive mergers. For example, in July 2021, it ruled against the merger of streaming platforms Huya and Douyu that Tencent was planning. This was the first case of banning a merger-acquisition deal of internet platforms in China.

On 24 July 2021, the administration issued a ruling on illegal concentration in Tencent's acquisition of China Music Corporation, ordering Tencent and its affiliates to take measures to restore competition in the relevant market, notify the authorities of any concentration cases in accordance with the law, and pay a fine of RMB 500,000. This was the first illegal merger case to be adjudicated to force the restoration of competition in the market in more than 13 years of the PRC's Antimonopoly Law. Overall, the period from 2020 is characterized by a significant strengthening of antitrust regulation of digital platforms. The Guidelines on Antimonopoly Regulation in the Platform Economy and the amendments to the Antimonopoly Law set the framework for a new phase of greater attention and enhanced supervision by the Chinese government over the operation of platforms as the core of the country's digital economy. Thus, on

5 March 2023, Li Keqiang, President of the State Council of the People's Republic of China, noted at the annual session of the National People's Congress that "vigorously developing the digital economy, enhancing the level of normalized supervision, and supporting the economic development of platforms" is a priority of the government's work [Government of the PRC, 2023].

Formation of Ex-Ante Regulation

As part of the further development of platform regulation, the State Administration of Market Regulation issued the Classification Guidelines for Internet Platforms and the Guidelines on the Implementation of Entity Responsibility for Internet Platforms in October 2021. The PRC's Antimonopoly Law and the Guidelines on Antimonopoly Regulation in the Platform Economy are elements of ex-post regulatory supervision. The Draft Guidelines on Classification and Guidelines on Responsibility Implementation have become elements of ex-ante regulation. The documents mainly focus on classifying digital platforms based on their business scale and popularity among users to identify their main responsibilities (broadly similar to the approach taken in the European Union (EU) under the Digital Markets Act (DMA)). An important element of the proposed regulation is the special duties for ultra-large platforms.

The classification manual defines a "digital platform" as a platform that uses Internet technology to connect people and goods, services, information, entertainment, finance, and computing power to provide trading, social, entertainment, information, finance, computing, and other functions. The document defines six types of platforms according to the different types of functions and services they provide: (i) an online sales platform "connects" people and goods and provides trading services; (ii) a service platform "connects" people and goods and provides trading services; (iii) social entertainment platform "connects" people to each other; (iv) information platform "connects" people to information; (v) financial services platform "connects" people and financial services; (vi) computing services platform "connects" people and computing power. These six categories are subdivided into 31 subcategories.

Based on the number of active users per year, the scale of the business, the value of the company, and the ability of the platform to limit or impede the ability of sellers to reach consumers, the classification guide divides digital platforms into ultra-large (superplatforms), large, and medium/small, as shown in Table 1.

Table 1. Types of Platforms According to the Classification Guide for Internet Platforms

Platform Type	Basis for Classification	Criterion
	Ultra-large user reach	At least 500 million active users in China last year

Ultra-large platforms (superplatforms)	Ultra-large scale business	The core business includes at least two types of platform businesses
	Ultra-high market value	The market value last year is at least one trillion yuan (about $140 billion)
	Ultra-large possibility of limitations	Extremely strong ability to restrict access of sellers to consumers (users)
Large platforms	Large user coverage	At least 50 million active users in China last year
	Core business	Core business demonstrates outstanding performance
	Large market value	The market value last year is at least 100 billion yuan (about $14 billion)
	Greater possibility of limitations	Strong ability to limit the access of sellers to consumers (users)
Medium/small platforms	Average user coverage	Less than 50 million active users in China last year
	Core business	Core business demonstrates strong performance
	Average market value	The market value last year is less than 100 billion yuan
	Average possibility of restrictions	Average ability to limit the access of sellers to consumers (users)
Source: Compiled by the authors.		

The document shows that China plans to introduce very strict standards for platform classification. The market value threshold is much lower than in the EU (100 billion yuan ($14 billion) for large platforms versus 75 billion euros or $600 billion). The user reach threshold (50 million users vs. 45 million in the EU) is higher in absolute numbers but lower in terms of population share (10% according to the EU Digital Services Regulation). The number of sellers on the platform and its annual turnover are not taken into account.

The Draft Guidelines on the Implementation of Entity Responsibility for Internet Platforms stipulate that Internet platform operators shall protect national interests, social public interests, life, health, and safety of people's property; shall comply with the principles of voluntariness, equality, fairness and integrity, laws, and regulatory provisions and principles of business ethics and public order and customs; shall adhere to the goals of open innovation development and fair participation in market competition; and shall fulfil legally binding obligations in good faith. A platform is defined as a form of business organization that creates value through networked information technology in which interdependent bilateral or multilateral entities interact according to rules established by a specific platform operator.

The document provides a number of general principles of behaviour for superplatforms and large platforms, both in relation to supporting competition and in other areas. In particular, "when an operator or user on a platform accesses, registers, logs in or receives the platform services it requires, the use of services provided by other linked platforms should not be a prerequisite." Superplatform operators should promote the interoperability of services provided by them with

those provided by other platform operators, provided that they respect the principles of security and the protection of the rights and interests of the entities concerned.

Unless the platform operator has legitimate grounds for refusal, it should ensure that other qualified operators and users have access to the services it provides. Operators of large platforms should establish and improve mechanisms for data security checks and internal controls, as well as data handling related to the processing of users' personal information and cross-border data flows (cross-border data transfers require regulatory consent). These aspects affect the interests of the state and society and relevant actions should be carried out in strict compliance with the law to ensure data security. Without the user's consent, operators of online platforms may not combine personal data collected through the platform's services with personal data from their other services or third-party services. These requirements are very similar to the EU DSA provisions on ensuring a fair and transparent digital environment.

Platform operators should conduct an assessment at least once a year to identify, analyze and evaluate the risks that may arise from the services they provide, including the dissemination of illegal content; infringement of the legitimate rights and interests of consumers; and failure to provide platform services normally, resulting in disruption of normal public order, public interests and threats to national security. Internet platform operators shall, in accordance with the characteristics of the platform itself, establish an effective content management system to avoid the dissemination of illegal information. Platform operators who discover information that violates regulations, public order, or negatively affects the ecology of the network shall, depending on the circumstances, take measures such as warning, restriction of publication, cessation of transmission, destruction of information, suspension of updates until account deletion, and keep relevant records and report to regulatory authorities. The platform must create a quick and easy system for users to report and complain about content. These requirements are very similar to the EU Digital Services Act (DSA) provisions on risk management for VLOPs (very large online platforms) and VLOSEs (very large online search engines).

Also, according to the draft guidelines, Internet platform operators must comply with antitrust laws and regulations and must not engage in monopoly agreements, abuse their dominant market position, or engage in other actions related to the risk of monopolization. Internet platform operators shall fulfil their reporting obligations in accordance with applicable laws and regulations prior to implementing operator concentration and shall not implement concentration until they

receive approval from the relevant authorities. Internet platform operators may not use technical means to compete unfairly by influencing user choice or by other means. Operators may not disseminate false or misleading information to the detriment of competitors' business reputation.

Internet platform operators shall comply with the laws and regulations related to pricing in the course of their commercial activities, shall not use the rules and data of the platform, algorithms, and other technical means to carry out price discrimination, price increases, dumping, or other abusive price measures. Internet platform operators shall also protect the legitimate rights of consumers and shall not deceive or mislead consumers. They should establish convenient and effective online dispute resolution mechanisms to help consumers protect their rights and interests. Operators must establish a system of internal supervision and verification of goods and services and undertake appropriate security obligations to protect consumers' personal data and property [Brown, Korff, 2021]. These requirements are very similar to the EU DSA provisions on creating fair and non-discriminatory conditions and requirements for online platform providers.

An important innovative aspect addressed by the PRC's regulatory measures in the digital sphere is the use of generative artificial intelligence (AI). In April 2023, the State Internet Information Office of the PRC released the draft Measures for Generative Artificial Intelligence Services [Office of the Central Cyberspace Affairs Commission of the PRC, 2023a]. The measures are intended to govern generative AI products such as ChatGPT and set out the basic rules to be followed by generative AI services (including digital platforms), including the type of content that is allowed to be generated by AI. The draft measures also outline areas of regulation of particular importance to the Chinese government in relation to the use of generative AI, such as content moderation, distortion and misuse of information, the creation of algorithmic bias and inequality, and ensuring transparency of AI mechanisms. The draft document included a requirement to remove problematic content within three months, as well as fines for digital platform operators.

In July 2023, Interim Administrative Measures for Generative Artificial Intelligence Services were published, effective 15 August 2023 [Adaltys Avocats, 2023]. Unlike the draft, the interim measures do not emphasize fines and content removal requirements for digital platform operators. Instead, they emphasize the need for safe and secure chips, software, tools, algorithms, and data sources. Chinese AI developers are enjoined to set their own standards and promote technological exchange, giving digital service providers more rights to develop products and content [Office of the Central Cyberspace Affairs Commission of the PRC, 2023b].

The Classification Guidelines for Internet Platforms and the Guidelines on the Implementation of Entity Responsibility for Internet Platforms are only the first step toward a full-fledged, ex-ante regulatory regime for digital platforms. Perhaps due to the diversity of regulated entities, the services provided by platforms and the complexity of assessing anticompetitive behaviour, as of April 2024, the State Administration for Market Regulation has still not released the final version of the two documents reviewed, although their drafts were published as early as 2021. In addition, the drafts presented only provide a general framework for the classification of platforms and the basic principles of operation of those platforms whose activities pose the greatest risks (superplatforms). Specific measures to implement these principles, monitoring mechanisms, and measures of liability for violations will obviously be developed at the next stages of the regulatory system formation, after the adoption of the two draft guidelines in their final version.

Consumer and Personal Data Protection

With the ongoing discussion of ex-ante regulation aimed specifically at digital platforms, various aspects of their activities, in addition to competition policy, continue to be regulated under existing legislation. For example, the Law on Electronic Commerce, which entered into force on 1 January 2019, forms a comprehensive framework for regulating e-commerce markets, including by protecting consumers and preventing the sale of counterfeit products on online markets. The law establishes requirements for digital platforms to ensure consumer rights, defining e-commerce platform operators as legal entities or other organizations that provide online business opportunities, transactions, information dissemination, and other services to two or more parties to an e-commerce transaction.

The e-commerce platform operator shall require the entity that applies to enter the platform to sell goods or provide services to provide address, contact information, administrative license, and other real information, as well as verify and register them, create a registration file, and regularly verify and update it. Platform operators shall transmit the identification information of entities to market regulators and tax authorities. They shall take technical and other necessary measures to ensure the security of their network and stable operation, prevent illegal acts or crimes on the Internet, effectively respond to Internet security events, and ensure the security of e-commerce transactions. The e-commerce platform operator should develop an Internet security contingency plan. The operator of an e-commerce platform shall record and store information on goods, services, and transactions that is published on the platform and ensure the completeness,

confidentiality, and availability of such information. Information on goods, services, and transactions must be retained for at least three years from the date of the transaction. Operators should develop the platform's service agreement and transaction rules in accordance with the principles of openness, fairness, and impartiality, which should provide for rights and obligations regarding entry and exit from the platform, goods, and services, quality protection, consumer interests, and personal information.

Platform operators must not take advantage of their service agreement, transaction rules, technology, or other means to impose unreasonable restrictions or conditions on transactions within the platform, price such transactions, or charge unreasonable fees to sellers. If an e-commerce platform operator conducts any independent business on its platform, it must clearly distinguish its business from business conducted by other entities and must not mislead consumers. An e-commerce platform operator has the civil liability of a seller of goods or a service provider for any business it marks as independent (that is, without the involvement of business users of the platform). An operator who knows, or should know, that the goods or services sold on the platform do not meet the requirements for personal and property security or otherwise infringe upon the legitimate rights and interests of consumers but fails to take the necessary measures, shall be jointly and severally liable with the entities offering them in accordance with the law.

Operators should not remove consumer comments about goods sold or services provided on their platforms. They should also establish rules to protect intellectual property rights (IPR), strengthen cooperation with IPR owners and ensure legal protection of IPR. If the operator knows, or should know, of any IPR infringement by the subjects on the platform it must take necessary measures such as removing, blocking, disabling links, and terminating the transaction and service and is jointly and severally liable with the infringer if it fails to take such necessary measures [E-Commerce Law of the PRC, 2018]. The law also provides for common requirements for all e-commerce operators (not only platforms) on licensing, prevention of illegal actions, protection of personal data, among other things, as well as fines for non-compliance of up to two million yuan (about $280,000) [Ibid., 2018].

On 13 December 2022, China's Ministry of Industry and Information Technology released the final version of the Measures on Data Security Management Measures for Industry and Information Technology. The measures, which took effect on 1 January 2023 as a "pilot" measure, outline data security requirements for companies operating in the industrial and information

technology sectors. One of the most important changes is the classification of different types of data into "industrial," "telecommunications," and "radio” data. Under the terms of the document, companies are required to sort and categorize these three data into three different risk categories: “essential,” “important” and “ordinary” data. They must then submit a catalog of the first two categories of data to the ministry's local office. Companies are required to take different protection measures when collecting, processing, transferring, and disposing of data depending on the risk level classification. In addition, companies wishing to export "master" or "sensitive" data abroad will have to undergo a security assessment [Ministry of Industry and Information Technology of the PRC, 2022].

With regard to taxation of large digital companies, China supports the Group of 20 (G20) and Organisation for Economic Co-operation and Development (OECD) collaborative process of developing harmonized international approaches. It emphasizes the unacceptability of unilateral tax measures, which are seen as a violation of the principles of equality and fair competition [Zhang, 2021]. In terms of labour law, new rules have been introduced to protect the rights of drivers, requiring platforms to provide them with social insurance. Digital platforms have also been notified to provide rest periods for delivery drivers in accordance with the legislation applicable to workers in traditional sectors [Zhou, 2020].

Chinese legislation also imposes heightened personal data protection requirements on large platforms. Under the Personal Information Protection Law of the PRC, a processor that provides an "important" internet platform service, has a large user base, and/or manages complex businesses must adopt a robust data policy compliance programme (including the preparation of a privacy compliance policy) and establish or designate an independent body to oversee its implementation. Such a processor must also actively monitor the behaviour of service or product providers on its platform that may violate any laws or administrative rules in conducting data processing operations.

On 16 March 2023, the National Technical Committee for Information Security Standardization issued draft certification requirements for cross-border transfers of personal data. This draft document, which was published for public comment until 15 May 2023, outlines certification standards for companies engaged in cross-border transfers of personal data.

Certification is one of three mechanisms available to companies to legally transfer personal data outside of China, as required by the Personal Information Protection Law of the PRC. The

other two mechanisms are to undergo a security assessment procedure conducted by the State Internet Information Office of the PRC or to sign a standard contract with an overseas recipient of personal data [National Technical Committee 260 on Cybersecurity of Standardization Administration of the PRC, 2023].

On 3 August 2023, the State Internet Information Office of the PRC released a new set of draft measures, the Measures for the Management of Personal Information Protection Compliance Audit, which proposes that companies processing personal data of subjects in China conduct regular compliance audits. The audits will assess companies' compliance with personal data protection requirements as well as other supporting measures and regulations. The draft audit measures stipulate that companies processing data of more than one million individuals must undergo a compliance audit at least once a year. All other companies processing personal information must undergo a compliance audit at least once every two years.

Provisions on the protection of personal information are also provided for in the Temporary Administrative Measures for Generative AI services. The document, which entered into force in August 2023, includes an article on public data requests (Article 19), which provides for the supervision of services using generative AI by inspection authorities and obliges digital service providers to cooperate and comply with rules regarding the sources, scale, type, and labelling of data for AI training. In addition, providers must ensure that the mechanisms of their algorithms are transparent and provide the necessary technological and information support and assistance to the reviewing authorities. A number of requirements have also been introduced regarding the lawful use of personal data in AI training algorithms [Office of the Central Cyberspace Affairs Commission of the PRC, 2023b].

Conclusion

The antitrust legislation update and the drafting of ex-ante regulation of large digital platforms over the past few years confirm the trend of the Chinese government moving from a "supportive" and "leadership" to a "regulatory" approach. After a long period of encouraging the growth of domestic Internet companies to maintain their global competitiveness, the PRC government is faced with a situation in which the largest companies have gained significant market power and have come to control a substantial part of the Chinese economy, while conducting a substantial part of their activities outside the regulatory perimeter [McKnight, Kenney, 2023]. In general, the PRC is transitioning to a comprehensive, but more flexible, model of regulating digital platforms.

A distinctive feature of this model is the requirement to ensure interoperability of large platforms. This requirement should, according to the PRC authorities, largely solve the problems of monopolization of the digital services market. Thus, interoperability between social networks and mobile payments has already been achieved, a framework for regulating the use of artificial intelligence by platforms has been introduced, and three-way interaction between AI developers, platform operators, and inspection authorities has been ensured.

In contrast to the previous period of uninterrupted growth, China's digital market saw a slight decline in 2022, which some researchers attribute to increased regulatory burdens [Ministry of Industry and Information Technology of the PRC, 2023]. In the face of the need to sustain post-pandemic economic growth, Chinese authorities identified the technology sector as an important pillar of the national economy and pledged to promote the development of the digital market [Pang, 2022]. By 2022, after nearly two years of aggressive fines, merger rejections, and forced restructuring as part of antitrust enforcement, the government discourse on platforms had softened from "strengthening antitrust regulation" to "strengthening the fight against unfair competition" while shifting to "prioritizing stability and progress" [McKnight, Kenney, 2022, 2023].

However, this does not mean abandoning the policy of serious supervision, especially of possible anticompetitive behaviour of digital platforms. While the question of the effective dates of the classification guidelines and the Guidelines on the Implementation of Entity Responsibility for Internet platforms remains open, it is clear that they will be an important tool for "increasing the level of standardized supervision" along with the Antimonopoly Law and regulations in other areas, including consumer protection, taxation, protection of personal data, and labour rights of employees on platforms. Once the two guidelines come into force, we can expect the development of clarifying documents defining specific measures to be taken by major platforms, mechanisms for monitoring their implementation, and liability for non-compliance. In parallel, it will be necessary to take into account a number of potential problems that emerge when comparing the PRC's draft regulation with similar laws in other jurisdictions, such as the EU.

First, the draft guidelines do not identify relevant markets in which significant market power may exist, but rather provide an exhaustive list of all platforms. This categorization may suggest that all platforms have the potential to misuse market power and lead to excessive deterrence of competition between platforms. Second, the parameter thresholds for categorizing platforms as ultra-large and large are relatively low. This may place a large number of platforms

under the burden of additional regulation. Meanwhile, while the classification guidelines set different thresholds for super and large platforms, the Guidelines on the Implementation of Entity Responsibility, as far as can be gleaned from the original Chinese text, do not provide any regulatory distinction for these two types of companies. This approach may create risks of over-regulation. Third, the implementing guidelines provide several types of obligations with respect to anticompetitive practices, but do not fully specify each of them. These include a ban on using business users' data to compete with them, a ban on self-preferencing practices, interoperability obligations, and a ban on conditioning the use of one service on the use of another. Compared to the EU and the U.S., China's draft law is still less specific in its obligations, which may lead to difficulties in enforcement and require the adoption of clarifying rules, as noted above.

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