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Privacy & Security Law Report®

August 5, 2013

China Finalizes Telecom Data Protection, Real-Name Telephone Identity Regulations

by Michael Standaert

SHENZHEN, China—China's telecommunications authority recently issued finalized regulations for protecting personal data of internet and telecommunications users, as well as a final regulation concerning real-name identity registration of telephone users, including registration for cellphones and subscriber identification module (SIM) cards, as part of its overall crafting of data protection principles.

China's Ministry of Industry and Information Technology (MIIT) released final Rules on the Personal Information Protection of Internet and Telecommunication Users and Rules on the Real Identity Registration of Telephone Users July 19.

The data privacy regulation for internet and telecommunications users dictates how individual data from those users can be collected, used, and stored. The regulation on real-name identity registration of telephone users stipulates how they must register fixed and mobile phone services with the government.

Both regulations are scheduled to take effect Sept. 1.

The regulations will require domestic companies to meet internationally accepted data protection standards for the first time, but foreign companies doing business in China will not likely have to change their already established privacy best practices, experts told BNA.

Minor Changes From April Drafts

The final versions of the rules include some minor changes from the draft regulations that were released in April (12 PVLR 698, 4/22/13).

Daniel F. Roules, a partner at Squire Sanders LLP, in Shanghai, told BNA July 31 that the main change between the draft of the data regulation for internet and telecommunications users and the final version is a more specific definition of personal information in Article 4 of the regulation, which now includes user addresses, telephone numbers, account information, and passwords.

Provincial governments will probably issue implementation guidelines, or local implementing regulations, for the new regulations, Manuel Maisog, a partner with Hunton & Williams LLP, in Beijing, told BNA July 31.

Roules agreed, noting that such local regulatory activity would be more likely in larger cities and that any local guidance would likely follow closely the national regulations.

Compliance Burden Predictions

The regulations for the first time will make companies based in China follow standards that are essentially international, Maisog said.

In China, many of the issues covered by the new regulations have been domestic concerns, and so companies may have had limited prior exposure to international standards, Maisog said. The new regulations will require a learning and training effort by domestic service providers, he said.

Maisog noted that when the regulations were announced, a surveillance officer from the Political and Legal Bureau of MIIT set a general tone that suggested the ministry “is serious in its intentions for implementation and enforcement of the regulations.”

Roules predicted that the new rules will likely not affect most foreign companies operating in China, as those “companies coming out of [the European Union or the United States] usually have fairly high expectations for compliance” with global data privacy best practices.

Although China does not have an overall data privacy law, the issue of increasing data privacy requirements has been on the radar of foreign companies operating there for some time, he said. Roules said his international clients have mainly been “expressing interest about staying informed of developments” but have generally not expressed great concern about the regulations.

The latest regulations are likely being driven more by “unhappiness over the volume” of spam emails and telephone solicitations in China, Roules said, rather than by data privacy concerns.

The new regulations will restrict the ability of people to share or sell personal data from telecom services users, he added. But penalties for violating the regulations are “not very high,” he said. The regulations provide for maximum penalties of ¥30,000 yuan (\$4,900), as well as public naming of companies that violate the regulations, he noted.