

News Reference Material on the Implementation of Mainland China's Cybersecurity Law

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1. Mainland China's Cybersecurity Law was passed on November 7, 2016, and officially came into effect on June 1, 2017. The related key points are as follows:

(1) Adoption of a "Real name system" for network usage and granting supervision permission to relevant departments

Article 24 of the law stipulates that network users should provide real identity information and are prohibited from using networks anonymously (the network "real identity system"). Under Article 12 and Article 48, network users may not use networks to engage in activities that endanger the security, reputation, and interests of the nation, or release or transmit electronically or by software information of which the authorities prohibit the release. Additionally, Article 50 empowers the relevant departments to require network operators to stop transmission and store records of any information if it is discovered that the release or transmission of such information is prohibited by the authorities.

(2) Obligating network operators to protect security

Article 21 of the law delegates network operators and critical information infrastructure operators the responsibility and obligation to protect security. Article 28 further stipulates that network operators should provide technical support and assistance to public security organizations and national security authorities for lawful activities to safeguard national security and investigate crimes. Article 37 stipulates that personal information gathered by critical information infrastructure operators during operations within the Mainland territory shall not be transmitted outside the country without the permission of the competent authority.

(3) The competent authority may adopt early warning monitoring measures and may even take measures to restrict network communications in certain regions to safeguard national security

Article 54 of the law stipulates that, when the risk of network security incidents increases, relevant departments shall strengthen monitoring of the network security risks. Article 56 further stipulates that network operators shall adopt measures according to the requirements of the relevant units. Article 58 states that, to fulfill the need to protect national security and social public order, as well as respond to major social security incidents, temporary measures may, with State Council approval, be adopted to restrict network communications in certain regions. The provisions apply indefinite legal concepts such as "increased risk," "national security," or "public order" to grant the executive branch with wide latitude in judgment, as well as the power to sever networks and take other coercive measures.

2. Scholars and businesspeople note that the operation of the law may infringe trade secrets, personal privacy, and freedom of speech. It could also give rise to criminal responsibility. The people of Taiwan should pay close attention.

The law has attracted close attention and great concern in the international community. Many foreign companies and the foreign media believe that provisions of the law regarding the restriction of external transmission of information, supervision and examination of speech by network users, the increased obligations of network operators to monitor internet security, and related fines and criminal responsibilities for violation of the law could establish internet trade barriers, increase operating costs, increase unpredictable risk, and infringe personal privacy, freedom of speech, trade secrets protections.

The MAC will continue to pay attention to related information. It also reminds the people of Taiwan to be aware of the risk that their personal information may be monitored or infringed when using related network platforms operated in mainland China or when transmitting information with mainland China.

3. The MAC appeals to mainland China to understand that security administration and the protection of human rights are equally important and to avoid affecting cross-Strait exchanges

Exchanges between people on both sides form an important basis for promoting peaceful and stable development across the Taiwan Strait. Mainland China should consider the negative

impact of related measures on contact between the people of the two sides. The MAC also calls on the Mainland to protect the people's rights and interests and respect the people's right to freedom of speech and network usage in the legislation of measures to cope with internal and external security challenges.