

Legal Protection of Raw Data in China

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2/23/2022

Legal Framework for Data Protection

Policy

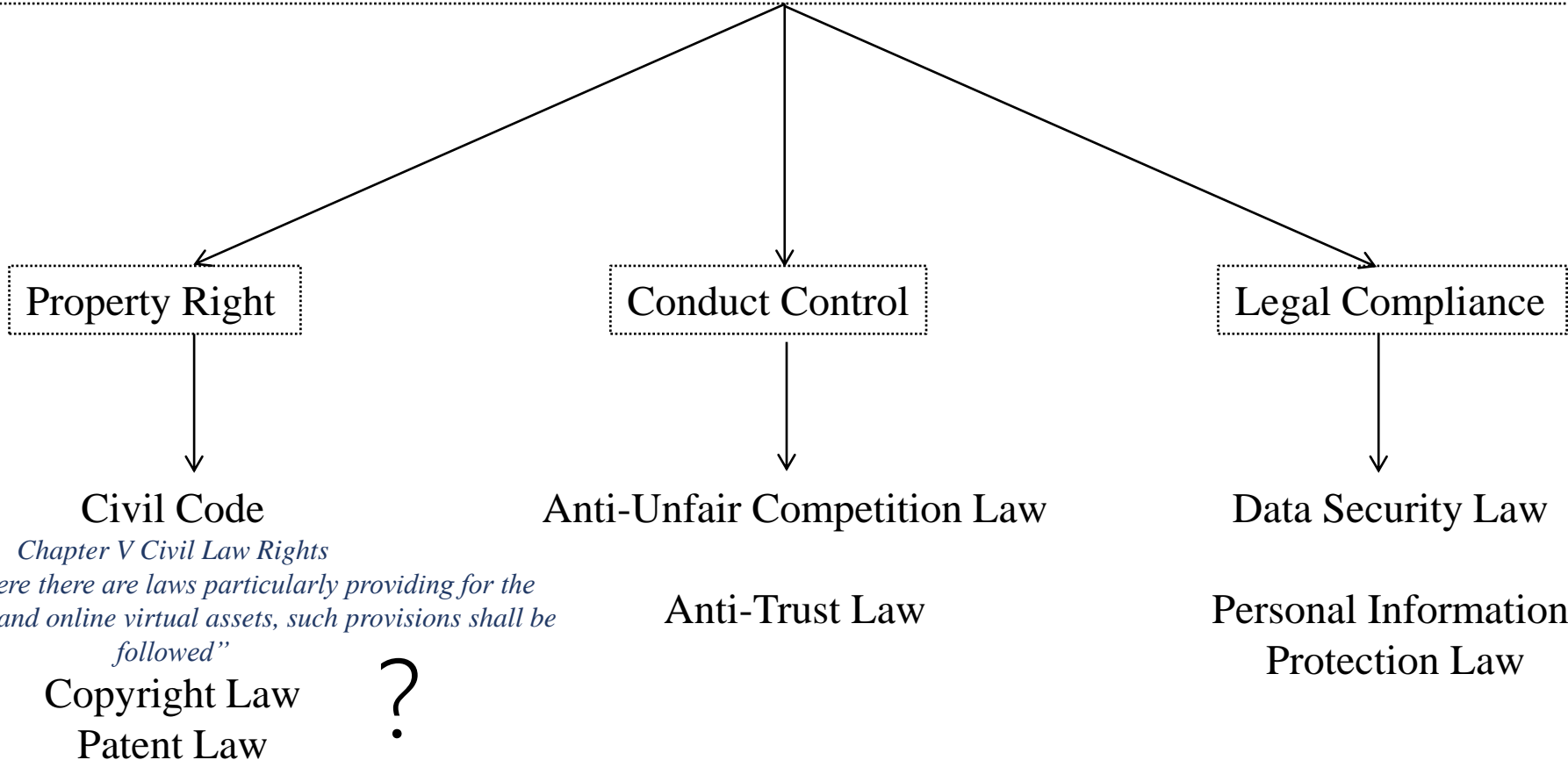
Opinions on Improving the Market-based Allocation Mechanism of Production Factors (March 30, 2020)
Outline of the 14th Five-Year Plan (2021-2025) for National Economic and Social Development and Vision 2035
of the People's Republic of China (March 13, 2021)

Chapter 18 A Healthy Digital Ecosystem

I. Data protection regulation

A balance will be achieved between data development and utilization, privacy protection and public security, and basic systems and standards concerning data rights, transactions, circulation, cross-border transmission and security protection will be developed at a faster pace. Sound mechanisms for data rights trading and industry self-regulation will be put in place and well-regulated data trading platforms and business entities will be fostered.

Law



Anti-Unfair Competition and Anti-Trust Law

Anti-Unfair Competition:

Trade Secret: *Article 9*

Other circumstances: the general rules (*Article 2, good faith, business ethics*) and/or the internet-related acts of unfair competition (*Article 12*)

*Article 12 “A business entity engaged in production or distribution via the internet shall abide by the provisions of this Law. A business entity shall not, by using technical means to interfere with users’ choice or otherwise, commit any of the following acts that affect or sabotage the normal operation of any online product or service lawfully provided by another business entity :
...”*

Numerous cases: Data resource as an important competitive advantage

The defendant should not crawl/scrape massive user data on a social media platform and utilize the data with matching technology in order to promote its own services without the consent of users and the platform.

Anti-Unfair Competition and Anti-Trust Law

Anti-Trust Law:

Anti-monopoly Guidelines on Platform Economy (2021): targeting anti-competitive behaviors in the Internet industry

The factors, including the ability to process data and the difficulty of obtaining access to data, are used to analyze anti-competitive behavior.

The legal liabilities for anti-competitive behaviors may include mandatory data sharing.

The first civil antitrust litigation involving data sharing (2021):

A data mining company has accused a Chinese social media platform of harming its business model by refusing to grant it access to data

Thank you

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