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Provisions on the Cyber Protection of Children's Personal Information

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The Provisions on the Cyber Protection of Children's Personal Information, adopted upon deliberation at the executive meeting of the Cyberspace Administration of China, are hereby promulgated, effective October 1, 2019.

Director: Zhuang Rongwen

August 22, 2019

Provisions on the Cyber Protection of Children's Personal Information

Article 1 These Provisions are formulated in accordance with the Cyber Security Law of the People's Republic of China, the Law of the People's Republic of China on the Protection of Minors and other laws and regulations to ensure children's personal information security and promote the healthy growth of children.

Article 2 The term "children" as mentioned in these Provisions refers to minors under the age of 14.

Article 3 The Provisions shall apply to the collection, storage, use, transfer and disclosure of children's personal information via the network within the territory of the People's Republic of China.

Article 4 No organization or individual may produce, release or disseminate the information that infringes upon children's personal information security.

Article 5 Children's guardians shall correctly fulfill their duties of guardianship, educate and guide children to enhance children's awareness and capability of personal information protection, and protect children's personal information security.

Article 6 Internet industry organizations are encouraged to guide and promote network operators to formulate the industry norms and code of conduct for the protection of children's personal information, strengthen industry self-regulation, and fulfill social responsibilities.

Article 7 Any network operator collecting, storing, using, transferring or disclosing children's personal information shall follow the principles of properness and necessity, informed consent, explicit purpose, security assurance and lawful use.

Article 8 Network operators shall establish special rules and user agreements for the protection of children's personal information, and designate persons to take charge of the protection of children's personal information.

Article 9 To collect, use, transfer or disclose a child's personal information, any network operator shall inform the child's guardians in a noticeable and clear manner, and shall obtain the consent of the child's guardians.

Article 10 Network operators shall, upon seeking consent, provide the option of rejecting the application and explicitly inform of the following matters:

- (I) the purpose, method and scope of collection, storage, use, transfer and disclosure of the personal information of children;
- (II) the place and term of storage of children's personal information and the way of disposal after the expiration;
- (III) measures for guaranteeing the security of children's personal information;
- (IV) the consequences of refusal; and
- (V) channels and ways of complaints and reports; and
- (VI) channels and methods for correcting and deleting children's personal information; and
- (VII) other matters that shall be informed.

In case of any substantial change in the informed matters set forth in the preceding paragraph, consent shall be obtained from the child's guardians again.

Article 11 Network operators shall not collect children's personal information unrelated to the services they provide, nor shall they collect children's personal information in violation of the provisions of laws and administrative regulations and the agreements reached by both parties.

Article 12 Network operators shall not store children's personal information beyond the time limit necessary for the purpose of collection and use of such information.

Article 13 Network operators shall store children's personal information by taking such measures as encryption so as to ensure information security.

Article 14 Network operators' use of children's personal information shall not violate the provisions of laws and administrative regulations and the purpose and scope agreed upon by the two parties. If it is really necessary to use such information beyond the agreed purposes and scope due to business needs, consent shall be obtained from the child's guardians again.

Article 15 Network operators shall strictly set the information access authority for their staff in the principle of minimal authorization, and control the scope of children's personal information access. Staff's access to children's personal information shall be examined and approved by the person in charge of the protection of children's personal information or the manager authorized thereby who shall record the access and take technical measures to avoid illegal copying or downloading of children's personal information.

Article 16 Where a network operator entrusts a third party with the processing of children's personal information, it shall conduct security assessment of the entrusted party and the acts of entrustment, sign an entrustment agreement, specifying responsibilities of both parties, matters to be handled, handling period, nature and purpose of the handling. The entrustment shall not exceed the scope of authorization. The entrusted party as prescribed in the preceding paragraph shall perform the following obligations:

- (I) process children's personal information according to the provisions of laws and administrative regulations and the requirements of the network operator;
- (II) assist the network operator in responding to applications filed by children's guardians;
- (III) take measures to ensure information security, and timely give feedback to the network operator when children's personal information is divulged; and
- (IV) delete children's personal information in a timely manner upon rescission of the entrustment relationship;
- (V) no transfer of entrustment; and
- (VI) other obligations of protecting the personal information of children that shall be performed in accordance with the law.

Article 17 Where network operators intend to transfer children's personal information to a third party, they shall carry out security assessment by themselves or entrust a third party institution to do so.

Article 18 Network operators shall not disclose the personal information of children, except for the information that shall be disclosed as required by laws and administrative regulations or may be disclosed as agreed with the guardians of children.

Article 19 In the case of discovery of any error in a child's personal information collected, stored, used or disclosed by a network operator, the child or his/her guardians have the right to require the network operator to correct such error. The network operator shall take measures to make corrections in a timely manner.

Article 20 Where a child or his/her guardians require a network operator to delete the child's personal information collected, stored, used and disclosed thereby, the network operator shall take measures to delete such information in a timely manner, including but not limited to the following circumstances:

- (I) where the network operator collects, stores, uses, transfers or discloses the child's personal information in violation of the provisions of laws and administrative regulations or the agreement reached by and between the Parties;
- (II) where the network operator collects, stores, uses, transfers or discloses the child's personal information beyond the scope of purposes or the necessary time limit;
- (III) where the guardians of the child withdraw the consent; or
- (IV) where the child or his/her guardians terminate the use of products or services by means of deregistration or otherwise.

Article 21 Any network operator who finds out that the personal information of children has been or may be divulged, damaged or lost shall immediately initiate the contingency plan and take remedial measures; where a serious consequence has been caused or is likely to be caused, the network operator shall immediately report the same to the relevant competent authority, and inform the affected children and their

guardians of the relevant situations by mail, letter, telephone, push notice, etc., and if it is difficult to inform them one by one, the network operator shall take reasonable and effective measures to release the relevant warning information.

Article 22 Network operators shall cooperate in the supervision and inspection conducted by cyberspace administration and other relevant authorities in accordance with the law.

Article 23 Where a network operator ceases the operation of products or services, it shall immediately cease the collection of children's personal information, delete the children's personal information it holds, and inform the children's guardians of the cessation in a timely manner.

Article 24 Any organization or individual that finds any practice in violation of the Provisions may report the same to the cyberspace administration and other relevant authorities. Upon receipt of relevant reports, the cyberspace administration and other relevant authorities shall timely handle the same according to their respective duties.

Article 25 Where a network operator fails to fulfill the responsibility for children's personal information security management, resulting in a greater security risk or occurrence of a security incident, the cyberspace administration shall, according to its duties, conduct an interview with the network operator, which shall take timely measures to make rectification and eliminate hidden dangers.

Article 26 Violations of the Provisions shall be handled by cyberspace administration and other relevant authorities ex officio in accordance with the Cyber Security Law of the People's Republic of China, the Administrative Measures for Internet Information Services and other relevant laws and regulations; if a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 27 Where legal liability is pursued for violation of these Provisions, the violation shall be recorded in the creditworthiness files pursuant to the provisions of the relevant laws and administrative regulations, and shall be announced to the public.

Article 28 Where information is automatically processed or retained through the computer information system and it is impossible to identify that the retained or processed information is children's personal information, other relevant provisions shall apply.

Article 29 These Provisions shall come into force as of October 1, 2019.

《儿童个人信息网络保护规定》已经国家互联网信息办公室室务会议审议通过，现予公布，自2019年10月1日起施行。

2019年8月22日

儿童个人信息网络保护规定

第一条 为了保护儿童个人信息安全，促进儿童健康成长，根据《中华人民共和国网络安全法》《中华人民共和国未成年人保护法》等法律法规，制定本规定。

第二条 本规定所称儿童，是指不满十四周岁的未成年人。

第三条 在中华人民共和国境内通过网络从事收集、存储、使用、转移、披露儿童个人信息等活动，适用本规定。

第四条 任何组织和个人不得制作、发布、传播侵害儿童个人信息安全的信息。

第五条 儿童监护人应当正确履行监护职责，教育引导儿童增强个人信息保护意识和能力，保护儿童个人信息安全。

第六条 鼓励互联网行业组织指导推动网络运营者制定儿童个人信息保护的行业规范、行为准则等，加强行业自律，履行社会责任。

第七条 网络运营者收集、存储、使用、转移、披露儿童个人信息的，应当遵循正当必要、知情同意、目的明确、安全保障、依法利用的原则。

第八条 网络运营者应当设置专门的儿童个人信息保护规则和用户协议，并指定专人负责儿童个人信息保护。

第九条 网络运营者收集、使用、转移、披露儿童个人信息的，应当以显著、清晰的方式告知儿童监护人，并应当征得儿童监护人的同意。

第十条 网络运营者征得同意时，应当同时提供拒绝选项，并明确告知以下事项：

- （一）收集、存储、使用、转移、披露儿童个人信息的目的、方式和范围；
- （二）儿童个人信息存储的地点、期限和到期后的处理方式；
- （三）儿童个人信息的安全保障措施；
- （四）拒绝的后果；
- （五）投诉、举报的渠道和方式；
- （六）更正、删除儿童个人信息的途径和方法；
- （七）其他应当告知的事项。

前款规定的告知事项发生实质性变化的，应当再次征得儿童监护人的同意。

第十一条 网络运营者不得收集与其提供的服务无关的儿童个人信息，不得违反法律、行政法规的规定和双方的约定收集儿童个人信息。

第十二条 网络运营者存储儿童个人信息，不得超过实现其收集、使用目的所必需的期限。

第十三条 网络运营者应当采取加密等措施存储儿童个人信息，确保信息安全。

第十四条 网络运营者使用儿童个人信息，不得违反法律、行政法规的规定和双方约定的目的、范围。因业务需要，确需超出约定的目的、范围使用的，应当再次征得儿童监护人的同意。

第十五条 网络运营者对其工作人员应当以最小授权为原则，严格设定信息访问权限，控制儿童个人信息知悉范围。工作人员访问儿童个人信息的，应当经过儿童个人信息保护负责人或者其授权的管理人员审批，记录访问情况，并采取技术措施，避免违法复制、下载儿童个人信息。

第十六条 网络运营者委托第三方处理儿童个人信息的，应当对受委托方及委托行为等进行安全评估，签署委托协议，明确双方责任、处理事项、处理期限、处理性质和目的等，委托行为不得超出授权范围。

前款规定的受委托方，应当履行以下义务：

- (一) 按照法律、行政法规的规定和网络运营者的要求处理儿童个人信息；
- (二) 协助网络运营者回应儿童监护人提出的申请；
- (三) 采取措施保障信息安全，并在发生儿童个人信息泄露安全事件时，及时向网络运营者反馈；
- (四) 委托关系解除时及时删除儿童个人信息；
- (五) 不得转委托；
- (六) 其他依法应当履行的儿童个人信息保护义务。

第十七条 网络运营者向第三方转移儿童个人信息的，应当自行或者委托第三方机构进行安全评估。

第十八条 网络运营者不得披露儿童个人信息，但法律、行政法规规定应当披露或者根据与儿童监护人的约定可以披露的除外。

第十九条 儿童或者其监护人发现网络运营者收集、存储、使用、披露的儿童个人信息有错误的，有权要求网络运营者予以更正。网络运营者应当及时采取措施予以更正。

第二十条 儿童或者其监护人要求网络运营者删除其收集、存储、使用、披露的儿童个人信息的，网络运营者应当及时采取措施予以删除，包括但不限于以下情形：

- (一) 网络运营者违反法律、行政法规的规定或者双方的约定收集、存储、使用、转移、披露儿童个人信息的；
- (二) 超出目的范围或者必要期限收集、存储、使用、转移、披露儿童个人信息的；

(三) 儿童监护人撤回同意的；

(四) 儿童或者其监护人通过注销等方式终止使用产品或者服务的。

第二十一条 网络运营者发现儿童个人信息发生或者可能发生泄露、毁损、丢失的，应当立即启动应急预案，采取补救措施；造成或者可能造成严重后果的，应当立即向有关主管部门报告，并将事件相关情况以邮件、信函、电话、推送通知等方式告知受影响的儿童及其监护人，难以逐一告知的，应当采取合理、有效的方式发布相关警示信息。

第二十二条 网络运营者应当对网信部门和其他有关部门依法开展的监督检查予以配合。

第二十三条 网络运营者停止运营产品或者服务的，应当立即停止收集儿童个人信息的活动，删除其持有的儿童个人信息，并将停止运营的通知及时告知儿童监护人。

第二十四条 任何组织和个人发现有违反本规定行为的，可以向网信部门和其他有关部门举报。

网信部门和其他有关部门收到相关举报的，应当依据职责及时进行处理。

第二十五条 网络运营者落实儿童个人信息安全管理责任不到位，存在较大安全风险或者发生安全事件的，由网信部门依据职责进行约谈，网络运营者应当及时采取措施进行整改，消除隐患。

第二十六条 违反本规定的，由网信部门和其他有关部门依据职责，根据《中华人民共和国网络安全法》《互联网信息服务管理办法》等相关法律法规规定处理；构成犯罪的，依法追究刑事责任。

第二十七条 违反本规定被追究法律责任的，依照有关法律、行政法规的规定记入信用档案，并予以公示。

第二十八条 通过计算机信息系统自动留存处理信息且无法识别所留存处理的信息属于儿童个人信息的，依照其他有关规定执行。

第二十九条 本规定自2019年10月1日起施行。

来源：网络传播杂志、网信中国，原标题《国家互联网信息办公室发布<儿童个人信息网络保护规定>》。
http://www.jyb.cn/rmtzcg/xwy/wzxw/201908/t20190824_254948.html