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China
Artificial Intelligence

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This country-specific Q&A provides an overview of artificial intelligence laws and regulations applicable in China.

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China: Artificial Intelligence

1. What are your countries legal definitions of "artificial intelligence"?

Currently, there is no specialized definition of "artificial intelligence" in the laws and regulations within Mainland China. Only some recommended national standards and guidelines provide their own interpretation, such as "the research and development of the mechanisms and applications related to artificial intelligence systems [1]" and "the use of computers or devices controlled by them to simulate, extend, or expand human intelligence through environmental perception, knowledge acquisition, and deductive reasoning." [2]

Furthermore, a subset of AI, "generative AI technologies," has been defined in the *Interim Measures for the Management of Generative Artificial Intelligence Services* as "models and related technologies capable of generating text, images, sounds, videos, and other content."

Footnote(s):

[1] "Information Technology – Artificial Intelligence – Terminology 信息技术 人工智能 术语 " GB/T 41867-2022 Section 3.1.2.

[2] Cybersecurity Standard Practice Guideline – Guidelines for the Prevention of AI Ethical Security Risks 网络安全标准实践指南——人工智能伦理安全风险防范指引 , Section 2.1.

2. Has your country developed a national strategy for artificial intelligence?

Yes, China's ambitions in Artificial Intelligence are outlined in the comprehensive "*New Generation Artificial Intelligence Development Plan*" (Development Plan), issued by the State Council of the PRC in 2017.

- This roadmap details a three-step strategy for propelling China to the forefront of AI innovation, with milestones in 2020 for solidifying China's status as an innovative nation, by 2025 for leading-edge breakthroughs, and by 2030 for achieving top-tier innovation and integration in economic and social spheres[3].
- Moreover, the Development Plan specifies the key tasks to achieve the aforementioned milestones, including but not limited to (1) building open and coordinated AI science and technology innovation systems; (2) fostering a high-end, highly efficient smart economy; (3) constructing a safe and convenient intelligent society; (4) strengthening military-civilian integration in the AI domain; (5) building a safe and efficient intelligent infrastructure system; and, (6) planning major scientific and technological projects for the new generation of AI[4].

Footnote(s):

[3] **2020 Milestone:** The overall technology and application of AI are expected to reach a level comparable to global standards, with AI emerging as a new important economic growth point and improving public welfare. This is aimed at solidifying China's status as an innovative nation and supporting the comprehensive development of a moderately prosperous society.

2025 Milestone: China aims for significant breakthroughs in AI basic theories, with some technologies and applications leading the world. AI is expected to be a main driving force in industrial and economic transformation, and social intelligence is anticipated to show positive advancements.

2030 Milestone: China's AI theories, technologies, and applications are expected to achieve world-leading levels, making China the world's primary AI innovation center, achieving visible results in intelligent economy and intelligent society applications, and laying an important foundation for becoming a leading innovation-style nation and an economic power.

[4] New Generation Artificial Intelligence Development Plan (新一代人工智能法发展规划), Article 3.

3. Has your country implemented rules or guidelines (including voluntary standards and ethical principles) on artificial intelligence? If so, please provide a brief overview of said rules or guidelines. If no rules on artificial intelligence are in force in your jurisdiction, please (i) provide a short overview of the existing laws that

potentially could be applied to artificial intelligence and the use of artificial intelligence, (ii) briefly outline the main difficulties in interpreting such existing laws to suit the peculiarities of artificial intelligence, and (iii) summarize any draft laws, or legislative initiatives, on artificial intelligence.

Yes. China has implemented a series of rules and guidelines on artificial intelligence, including but not limited to:

Key AI-related regulations

- ***Administrative Provisions on Recommendation Algorithms in Internet-based Information Services***, effective since March 1, 2022, focus on technologies underlying recommendation algorithms used in providing Internet services, many of which are AI-related, such as generation and synthesis algorithms and decision-making algorithms.

The regulations aim at creating a transparent and equitable algorithmic environment. It requires the related AI or Algorithms service providers to be open about the logic driving their algorithms, to provide users with the ability to tailor or decline algorithmic suggestions, to establish processes for detecting and mitigating any inherent biases within their algorithms, and to fill for algorithm recommendation services with public opinion attributes or social mobilization ability, among other requirements.

- ***Administrative Provisions on Deep Synthesis in Internet-based Information Services***, effective since January 10, 2023, are designed to govern internet information service providers (and technology supporters) utilizing advanced deep synthesis technologies, encompassing deepfakes and various AI-generated materials that have the potential to obscure the distinction between actuality and artificial constructs. These regulations are meticulously designed to exert stringent control over content generation, aiming to eliminate user confusion or misidentification and to curb the propagation of illegal and misleading information. The requirements set out include but are not limited to prominent labeling of generated content, the establishment of a comprehensive rumor-refuting mechanism, and the emphasis on the obligation of algorithm filing.
- ***Interim Measures for the Management of Generative Artificial Intelligence Services ("Generative AI Measures")***, effective since August 15, 2023, establish rules to regulate those who provide generative AI capabilities to the public within Mainland China. These Measures encompass content safety, prohibition of discrimination, fair competition, and data quality, and connect existing regulatory requirements such as information content supervision, personal information protection, intellectual property, unfair competition, technology ethics, generation content identification, security assessment, and algorithm filing.
- **Technology Ethics Review Measures (Trial),** effective since December 1, 2023, require entities related to AI to establish a technology ethics (review) committee. It clearly stipulates that the development of algorithms, applications, and systems with the ability to mobilize public opinion and guide social consciousness needs to undergo a technology ethics review. The focus is on reviewing the compliance and safety of data processing activities, as well as the fairness, justice, transparency, reliability, and controllability of algorithms, models, and systems. Together with the ***Generative AI Measures***, it has preliminarily constructed the framework for Gen AI compliance.

Other recommended guidelines, including but not limited to:

- ***Cybersecurity Standard Practice Guideline – Guidelines for the Prevention of AI Ethical Security Risks*** released in January 2021, addresses potential ethical and safety risks associated with artificial intelligence, providing guidelines for the safe conduct of AI-related activities, including R&D, design and manufacturing, deployment and application, etc.
- ***Cybersecurity Standard Practice Guideline – Method for Content Identification in Generative Artificial Intelligence Services*** released in August 2023, provides methods for content marking by providers of generative AI services. This guideline applies when such providers use generative AI technologies to produce generated content for public consumption, including text, images, audio, and video.
- ***Basic Security Requirements for Generative Artificial Intelligence Service*** released on February 29, 2024, specifies the basic security requirements for generative artificial intelligence services. This guideline serves as an important reference in the security assessment process during the LLM launch filing and covers aspects such as training data security, model security, security measures, and criteria for security assessments.

Furthermore, it is noteworthy that, according to the 2024 Legislative Work Plan issued by the State Council of the PRC, the ***AI Act*** is scheduled to be submitted to the Standing Committee of the National People's Congress

for review. Although the draft of the AI Act has not yet been published, several proposals from scholars and experts are currently available, indicating that the forthcoming AI Law will likely emphasize legal compliance, ethical considerations, as well as national security, and explore regulatory methods of setting out different standards based on the classification and categorization of AI technologies.

4. Which rules apply to defective artificial intelligence systems, i.e. artificial intelligence systems that do not provide the safety that the public at large is entitled to expect?

Currently, China lacks explicit rules specifically addressing defective AI systems. The AI-related regulations, guidelines, and regulatory filing requirements are primarily designed with a preventative approach, requiring AI service providers to implement robust measures in system design and algorithmic workflows to mitigate the risks of algorithmic bias, information leaks, or systemic malfunctions. This underscores a clear focus on ensuring the safety and reliability of AI systems. Nevertheless, the existing AI-related regulatory framework does not yet encompass a definition or equivalent term for "defective artificial intelligence systems," nor does it provide criteria for assessment or specific protocols for addressing such issues.

More details please see Questions 5-7

5. Please describe any civil and criminal liability rules that may apply in case of damages caused by artificial intelligence systems.

In China, regulations related to algorithms and AI in China do not directly specify the liabilities for specific illegal or criminal activities. Instead, these regulations require penalties in accordance with other relevant laws and regulations such as the *Cybersecurity Law, the Data Security Law, the Personal Information Protection Law (*"***PIPL***"),* and the *Scientific and Technological Progress Law*. Furthermore, they emphasize that criminal liabilities should be pursued if the violation constitutes a crime.

- **Civil liabilities:** the damage caused by AI systems may infringe upon various legitimate rights and interests, including but not limited to privacy, personal information, portrait, reputation, and intellectual property rights. In cases related to AI voice and image copyright infringement, courts typically apply the principle of fault liability, obligating AI service providers to bear tort liability for any damages incurred within the scope of their fault[5].

Courts evaluate AI service providers' fault by examining their compliance with regulatory obligations regarding algorithms, such as setting up complaint mechanisms, disclosing potential risks, and clearly labeling AI-generated content.

Notably, Article 69 of the PIPL establishes fault-presumption liability in instances where a personal information handler infringes upon rights or interests through the processing of personal information. This requirement mandates that personal information handlers must assume liability for damages and other related tort liabilities unless they can prove that they were not at fault.

- **Criminal liabilities:** individuals who utilize artificial intelligence technology for criminal activities should be prosecuted under the Criminal Law. For instance, employing AI to fabricate and spread false information that disrupts social order may be charged as the "crime of fabricating or deliberately disseminating false information".[6] Using AI technology for bullying, intimidation, or threats may constitute the "crime of picking quarrels and provoking trouble"[7]. Moreover, using AI technology such as Deepfake to access other individuals' accounts or to steal personal information could be charged as the "crime of infringement upon citizens' personal information"[8].

Footnote(s):

[5] (2024) Yue 0192 Min Chu No.113

[6] Criminal Law, Article 291 (A)

[7] Criminal Law, Article 293

[8] Criminal Law, Article 253 (A)

6. Who is responsible for any harm caused by an AI system? And how is the liability allocated between the developer, the user and the victim?

In the absence of explicit regulations on defective AI systems, the responsibility for harm caused by an AI system is determined based on the principles of general civil tort law and the specific circumstances of each case.

According to *the Civil Code*, the party responsible for damage is determined based on the fault that caused the harm. This fault can be attributed to the developer, the deployer, and the user. If multiple parties contribute to the

damage, they are held individually liable for their respective share. In cases where determining individual responsibility is impossible, joint and several liability may be imposed. The victim's fault or events, such as force majeure, may partially or completely absolve the party responsible for the damage.

For instance, under the specific autonomous cars regulations[9], if an intelligent connected vehicle operating in autonomous driving mode causes damage in a traffic accident, and the responsibility is determined to be with the intelligent connected vehicle, the entity conducting the testing and application of the intelligent connected vehicle model shall bear the corresponding compensation liability according to law. If the car manufacturers, autonomous driving system development units, infrastructure and equipment providers, safety officers, and other relevant entities are at fault for the occurrence of the traffic accident, in that case, the entity may legally seek compensation from them. If a crime is committed, the responsible individuals shall be held criminally liable according to the law.

Footnote(s):

[9] Implementation Guidelines for Pilot Implementation of Intelligent Connected Vehicle Access and Road Traffic, Article 9; Regulations on the Management of Intelligent-Connected Vehicles in Shenzhen Special Economic Zone, Article 53.

Measures for the Testing and Application Management of Intelligent-Connected Vehicles in Shanghai, Article 43.

7. What burden of proof will have to be satisfied for the victim of the damage to obtain compensation?

Under current laws, there is no specific provision for AI, so general rules will apply. According to Article 67 of the Civil Procedure Law, parties are responsible for providing evidence to support their claims, and therefore the party seeking compensation bears the burden of proof. However, it is worth noting that there are instances of burdenshift. For example, under Article 69 of the PIPL, if processing personal information infringes on personal information rights and causes damage, and the personal information handler cannot prove they are not at fault, they shall bear liability for damages and other tort liabilities. In such cases, if the personal information handler cannot demonstrate that it was not at fault for the damage, it is presumed that the defendant was at fault in causing the damage, and it should bear the corresponding liability for compensation.

Furthermore, there are ongoing debates within the academic and practical communities regarding the liability for defective AI systems. Some argue that product liability under the *Product Quality Law* should apply, indicating that AI product developers should be held liable for damages caused by defects in their products, regardless of fault, unless they can demonstrate a legal exemption such as the defect being undetectable with current scientific and technical knowledge[10]. Others believe that the aforementioned approach may lead to an unlimited expansion of liability, potentially hindering technological innovation. As an alternative, they propose adopting a fault-based liability principle, holding AI system developers accountable for tort damages to others' civil rights only within the scope of their fault, with fault-presumption or strict liability applied only in exceptional circumstances as specified by law.

Footnote(s):

[10] Product Quality Law 产品质量法 , Article 41

8. Is the use of artificial intelligence insured and/or insurable in your jurisdiction?

Yes, the use of AI can be subject to insurance.

At present, there are insurance companies in China that provide artificial intelligence insurance. For example, when an AI product manufacturer sells its products to AI product users, the insurance company supports the performance guarantee of the AI product manufacturer. If the user finds that the actual performance of the product is lower than the guaranteed value, the user can receive compensation from the manufacturer. The insurance company will pay the compensation, and the insurance company will then charge the corresponding compensation fees to the manufacturer.

In addition, some local policies and regulations propose to encourage insurance to increase financial support for artificial intelligence enterprises[11]. Therefore, we anticipate that with the further development of artificial intelligence products, more insurance products targeting artificial intelligence will emerge in the future market.

Footnote(s):

[11] Guiding Opinions of Zhejiang Province on Accelerating the Development of Artificial Intelligence Industry, Article 6 (2).

Regulations on Promoting the Development of Artificial Intelligence Industry in Shanghai, Article 36.

Regulations on Promoting the Development of Artificial Intelligence Industry in Shenzhen Special Economic Zone, Article 56.

9. Can artificial intelligence be named an inventor in a patent application filed in your jurisdiction?

In China, artificial intelligence (AI) could not be named as an inventor in a patent application. This stems from two main reasons:

- Firstly, China's legal framework classifies patent-related rights as a form of civil right, which can only be held by natural persons or legal entities (such as corporations, associations, etc.). Consequently, an inventor enjoys certain rights, such as the right to be named on the patent, which AI cannot possess. This stance is supported by the China National Intellectual Property Administration (CNIPA) in its decision on Patent ZL20198006158.0, which addressed Dr. Stephen Thaler's attempt to list the AI system DABUS as the inventor. Dr. Thaler has made similar attempts in multiple jurisdictions worldwide, seeking to have AI recognized as an inventor.
- Secondly, Chinese patent legislation stipulates that an inventor must be a natural person. The patent law delineates an inventor as an individual who contributes creatively to the essential aspects of an invention.[12] While patent examiners may not rigorously ascertain whether the inventors listed meet this condition, the legal stipulation is explicit: inventors must be human. For example, it is not permissible to list an AI service or a model as an inventor.

Footnote(s):

[12] Article 14 of Rules for the Implementation of the Patent Law, "The inventor or designer referred to in the Patent Law is a person who has made creative contributions to the essential features of the invention."

10. Do images generated by and/or with artificial intelligence benefit from copyright protection in your jurisdiction? If so, who is the authorship attributed to?

In addressing this issue, China's legislative and judicial spheres are confronted with numerous ambiguities and debates. More cases and rules are needed to make things clearer.

- **From a legislative standpoint**, the Copyright-related Law is open to interpretation, defining a "work" as any original creation in the fields of literature, art, or science that can take a physical form. It must be a product of "intellectual activity", but the law doesn't explicitly say AI-generated images can't be copyrighted.
- **From a judicial standpoint**, a notable ruling by the Beijing Internet Court in November 2023[13] recognized an AI-generated image as a copyrightable work, contingent upon the involvement of human authorship by the user of the AI service.

- When assessing the work's eligibility under the Copyright Law, the court concentrated on two contentious criteria: (i) whether it emanates from an intellectual activity, and (ii) whether it exhibits originality.
    - On the threshold of "intellectual activity," the court first established that a work must embody the intellectual contributions of a human being. In this instance, the plaintiff was responsible for designing the characters' presentation, selecting and refining prompts, setting parameters, and ultimately choosing an output that aligned with his vision. **These actions represent the plaintiff's intellectual input, thus satisfying the first criterion.**
    - For the threshold of "originality", the court determined that a work eligible for copyright must be independently created by its author and display the author's unique expression. The court further clarified that "whether the use of AI to generate images can reflect the author's unique expression should be evaluated on a case-by-case basis." The court acknowledged that an author does not need to draw every line personally to create a copyrightable work. In this case, the plaintiff (i) comprehensively designed the character, structure, and elements of the image; (ii) provided over 150 prompts to generate the final image; and (iii) continually refined and added parameters to enhance the image's presentation. **The image reflects the author's personalized aesthetic preferences, as evidenced by these arrangements and adjustments, thereby meeting the second criterion.**

- **Concerning the authorship of the image, the court ruled that the service user, who was the plaintiff in this case, is the author of the AI-generated image.** This is because the image is a product of the plaintiff's intellectual endeavors and mirrors the

plaintiff's individual choices and arrangements. Additionally, as per the "CreativeML Open RATL++-M License" for Stable Diffusion, which is publicly accessible on GitHub, the model developers have waived any potential rights to the generated content, explicitly stating that they "hold no claim to the output content."

Footnote(s):

[13] (2023) Jing 0491 Min Chu No.11279. On February 24, 2023, the Plaintiff created several images utilizing Stable Diffusion, an AI-powered text-to-image service based in the United States. One of these images was captioned "Spring Breeze Brings Tenderness—AI Generated" and was shared on Xiaohongshu, a prominent Chinese social media platform focused on lifestyle content. Subsequently, the Defendant, a Chinese content creator, featured this AI-generated image in her article "Love in March, Among Peach Blossoms" without acknowledging the Plaintiff's authorship. The Defendant also omitted the Plaintiff's user ID and Xiaohongshu's watermark from the image. The Plaintiff has since initiated legal action against the Defendant for copyright infringement, alleging violations of his rights to originality and online distribution.

11. What are the main issues to consider when using artificial intelligence systems in the workplace?

With the development of generative artificial intelligence and algorithm technology, artificial intelligence systems have become common knowledge-based tools. The main issues to consider when using artificial intelligence systems in the workplace include:

- **Content compliance requirements.** Employees are not allowed to violate legal and regulatory requirements when using AI systems and are not allowed to create, copy, publish, or disseminate content prohibited by laws and regulations (such as content suspected of insult, defamation, discrimination, or other inappropriate content).
- **Personal information protection.** If the AI system processes personal data, the employee should comply with the requirements of the Personal Information Protection Law and other relevant laws and regulations. For example, processing activities should have a legitimate basis.
- **Protection of trade secrets.** The data uploaded to third-party AI system providers may not be confidential or secure. Employees should carefully input any confidential information when using AI systems, including but not limited to: 1) trade secrets; 2) technical secrets, and any other information, data, or documents subject to any confidentiality clause.
- **Accuracy and reliability.** Given the principles, characteristics, and current technological stage of AI systems, they may generate incorrect or misleading information, which may include unauthorized information, data, or third-party intellectual property, as well as reflect biases in training data. Employees should fulfill their duty of careful attention, conduct necessary reviews on the quality, accuracy, authenticity, and completeness of their generated content, and be responsible for any work results generated using AI systems.

12. What privacy issues arise from the use of artificial intelligence?

In China, privacy issues arising from the use of artificial intelligence are mainly including but not limited to

- **Unauthorized collection of personal information.** This risk may arise notably in AI applications that require substantial data inputs. The inadequacy of current data trading and circulation mechanisms exacerbates this risk, giving rise to illicit practices such as unauthorized data transactions on the dark web and the collection of personal information without obtaining the necessary consent.
- **Using personal information for training without consent.** AI service providers frequently collect user input data to continually enhance AI algorithm models through training and fine-tuning processes. However, when individuals are not adequately informed or fail to provide valid consent, there exists a risk of infringing upon the privacy rights as well as the personal information rights and interests of personal information subjects. Chinese laws and guidelines related to GenAI address these concerns with specific requirements. Specifically, the use of personal information for AI algorithm training should only proceed with consent or other legal bases.[14] Furthermore, AI service providers are encouraged to provide accessible options for users, such as user-friendly features or voice control commands, to opt out of having their input information used for training purposes[15].
- **Illegal cross-border transfer of personal information.** This risk may arise when the AI service provider is based overseas or the AI product is deployed on overseas systems or servers, thereby potentially involving the cross-border transfer of personal information. Under Chinese law, personal information handlers should adhere to Article 38 of the PIPL when

transferring personal information overseas, which includes applying for data export security assessment, concluding standard contracts for the export of personal information, or passing personal information protection certification. Furthermore, as stipulated by Article 39 and Article 55 of the PIPL, it is necessary to inform personal information subjects about the cross-border transfer of their personal information, obtain their valid and separate consent, and conduct a personal information protection impact assessment (PIPIA).

Footnote(s):

[14] Interim Measures for the Management of Generative Artificial Intelligence Services, Article 7.

[15] Interim Measures for the Management of Generative Artificial Intelligence Services, Article 7.

13. How is data scraping regulated in your jurisdiction from an IP, privacy and competition point of view?

From IP, privacy, and competition of view, data scraping is currently not completely prohibited.

- The court will comprehensively judge the nature of the scraped data, the legality of the scraping methods, the competitive relationship between the scraping party and the scraped party, the impact on the scraped website, and the purpose of using the scraped data to determine whether the data scraping behavior constitutes infringement[16] ; In addition, if the scraped data is protected by intellectual property rights, unauthorized use may constitute intellectual property infringement under the law (especially in the unauthorized disclosure of relevant data or the use of data for profit purposes).[17]
- In practice, the courts determine the legality of data scraping, mainly by comprehensively examining the following points:
    - Is there a competitive relationship in business between the scraper and the scraped party?
    - Whether the scraped data is public data, whether it involves personal information, copyright data, and other specially protected data, and whether it may constitute the data rights of the scraped party.
    - The legality of scraping methods. Generally speaking, taking technical measures to bypass access restrictions on scraped websites is considered illegal access, such as cracking payment restrictions, verification codes, IP access restrictions, etc.
    - Whether data scraping is allowed in the ROBOTS Protocol, user agreement, etc. of the crawled website.
    - The scale of the data scraped and whether it has caused improper impact or additional operational burden on the scraped website?
    - Does the use of scraping data cause an improper impact on data development and utilization, or cause harm to consumer interests?

Footnote(s):

[16] Anti-Unfair Competition Law, Article 2, 12.

[17] Civil Code, Article 123.; copyright Law, Article 49, 53.

14. To what extent is the prohibition of data scraping in the terms of use of a website enforceable?

For the terms of use regarding restrictions on data scraping set by websites, judicial practice follows the principle of reasonableness in determining their effectiveness and does not unconditionally recognize them. In some cases[18], courts believe that, given that the plaintiff has made a legal statement through the website prohibiting the unauthorized use of web scraping software to obtain and use the data in question, even if the data in question has been made public, it is not open data that can be obtained and used arbitrarily. Therefore, other entities should not indiscriminately scrape and use the data in question and should use it within the necessary limits in accordance with the principles of kindness and good faith. From this, it can be seen that even though the legal statements on relevant websites prohibit any scraper from accessing data, existing precedents still recognize access to publicly available data within reasonable limits.

Footnote(s):

[18] (2019) Zhe 0108 Min Chu No. 5049. The Unfair Competition Dispute between Hangzhou Alibaba Advertising Co., Ltd., Alibaba (China) Network Technology Co., Ltd., and Nanjing Mazhu Network Technology Co., Ltd.

15. Have the privacy authorities of your jurisdiction issued guidelines on artificial

intelligence?

The Cyberspace Administration of China (CAC) is the primary regulatory authority for both personal information protection and AI supervision within Mainland China. While it has not issued specific AI guidelines focusing on privacy considerations in AI services, several high-level privacy protection provisions exist within the three main AI-related regulations mentioned in the reply of Q3, including:

- Article 7 of the Algorithm Recommendation Regulations and Article 7 of the Deep Synthesis Regulations mandate providers of algorithm recommendation/deep synthesis services to establish management mechanisms and technical measures for data security and personal information protection.
- In the Generative AI Measures, Article 4 requires providers and users of generative AI services to respect others' privacy rights as well as personal information rights and interests. Article 7 stipulates that providers of generative AI services must obtain consent or have other legal bases when using personal information to train algorithms. Article 9 states that providers of generative AI services must assume the responsibilities of personal information handlers and fulfill obligations for personal information protection. Article 11 mandates providers of generative AI services to fulfill legal obligations to protect users' input information and usage records, and promptly handle and respond to requests related to personal information.

16. Have the privacy authorities of your jurisdiction discussed cases involving artificial intelligence?

Several cases related to AI have been enforced by local CACs, which are the primary regulatory authorities for both personal information protection and AI supervision within Mainland China. These cases primarily involve the following two aspects:

- **Publishing and disseminating illegal content** such as rumors generated by AI. For instance, AI-generated rumors were posted on a website, attracting significant attention and adversely affecting social order. Both the website operator and the publisher of the rumors were penalized by the local CAC and the Ministry of Public Security (MPS)[19].
- **Deep synthesis/GenAI service providers fail to fulfill their responsibilities,** which results in the generation of illegal content. For example, an AI writing tool produced illegal content because its provider failed to adequately review the AI-generated content. The local CAC issued an administrative warning and mandated a 15-day suspension of the AI algorithm's writing function, as well as updates to the website's information[20].

Footnote(s):

19
https://mp.weixin.qq.com/s/-94MYlZbTLvfA8iHRFipEQ

20
https://mp.weixin.qq.com/s/WdwArbLs8Gx4a-XhSdVTHg

17. Have your national courts already managed cases involving artificial intelligence?

Yes, Chinese national courts have addressed AI-related cases, focusing primarily on the following topics:

- **Intellectual property (IP) rights issues,** such as determining whether AI-generated content qualifies for copyright protection and addressing audio rights infringement. For the related cases, please refer to the responses provided for question 10.
- **Infringement of personal information rights.** For example, the courts have adjudicated a case involving AI face-swapping technology[21], where the defendant, a provider of an AI face-swapping application, was sued for using videos with the plaintiff's faces as templates for users to replace with their own images. The Beijing Internet Court determined that offering such a service constitutes an infringement of personal information interests.
- **"AI cheating" in the context of computer sabotage crimes.** In May 2024, a court in Jiangxi province presided over the first "AI cheating" case. The defendant was sentenced to three years in prison for profiting from unauthorized intrusion and manipulation of a computer system, which disrupted the operation of a video game. It was found that the defendant had used an "AI cheating" program to gain illicit access to visual data from several games, alter mouse data commands within those games, and introduce unauthorized features like "auto-aim" and "automatic shooting," thereby compromising the integrity of the gaming environment.

Footnote(s):

21
https://mp.weixin.qq.com/s/tSmtCARKjqg6mGHE70UDHw

18. Does your country have a regulator or authority responsible for supervising the use and development of artificial intelligence?

At present, China does not have a single unified regulatory body overseeing the application and execution of artificial intelligence. Instead, a coalition of regulatory authorities takes part in supervising different facets of AI utilization, which notably comprises the following:

- The Cyberspace Administration of China (CAC), is pivotal in formulating and enforcing internet-related regulations, including those impacting AI.
- The Ministry of Industry and Information Technology (MIIT), driving the integration of AI within industrial development and technological innovation.
- The Ministry of Science and Technology (MST), is instrumental in fostering AI research and development, as well as guiding the ethical and sustainable growth of AI technologies.
- The Ministry of Public Security (MPS), ensures the security aspects of AI applications and safeguards against their misuse in criminal activities.
- The National Development and Reform Commission (NDRC), plays a macroeconomic role, including the strategic planning and policy-making that influence AI's role in economic development.

This multi-faceted approach ensures a comprehensive regulatory framework that addresses the diverse and evolving nature of AI technologies.

19. How would you define the use of artificial intelligence by businesses in your jurisdiction? Is it widespread or limited?

In China, AI technology is extensively applied across various industries, significantly empowering sectors such as finance, healthcare, education, industrial manufacturing, and law.

- Within enterprises, AI technologies optimize production processes, predict maintenance requirements, and automate production lines, thereby effectively improving productivity and operational efficiency. Beyond internal applications, AI is also seamlessly integrated into a variety of electronic devices, household appliances, and industrial equipment, significantly enhancing the intelligence and functionality of these products and services.
- Specifically regarding publicly offered generative and synthetic algorithm services, there are currently over a hundred generative AI services registered with the Cyberspace Administration of China (CAC). Additionally, more than a thousand deep synthetic service algorithms have successfully passed the algorithm filing process. These technologies serve a diverse range of industries and are integrated into various applications, such as intelligent customer service, image generation, speech recognition, and digital humans.
- Notably, the government supports AI with policies such as the Ministry of Science and Technology's 2022 initiative to develop demonstration projects in smart farming, ports, mines, homes, education, driving, healthcare, legal systems, and supply chains. Cities like Shanghai are also promoting AI across various sectors to innovate and enhance urban services.

20. Is artificial intelligence being used in the legal sector, by lawyers and/or in-house counsels? If so, how?

Yes, AI is being used by lawyers and in-house counsels for various legal tasks. The main application scenario of AI in the Chinese legal industry is to provide intelligent contract review, legal consultation, legal document generation, legal knowledge retrieval, and legal text reading functions to lawyers and in-house counsels.

However, as stated in Question 11, legal professionals should pay attention to the accuracy and reliability of AI-generated content, as well as the confidentiality of customer information during the research process of legal issues, in order to use AI to assist legal work safely and effectively.

21. What are the 5 key challenges and the 5 key opportunities raised by artificial intelligence for lawyers in your jurisdiction?

Key Challenges:

- **Data Privacy**: AI's use in legal tasks carries risks like client data leaks. Lawyers must focus on safeguarding data, steering clear of entering sensitive client or firm information into AI systems.

- **Technical Learning**: AI is changing how lawyers work, necessitating substantial effort to learn AI tools for tasks like contract review and case retrieval.
- **Diminished Service Demand**: AI tools may automate routine legal tasks, possibly decreasing the demand for certain traditional legal services.
- **Reduced Industry Barriers**: AI could make the legal industry more transparent, potentially affecting lawyers' fees as clients become more informed.
- **Fact Verification**: AI's capacity to create convincing falsehoods complicates fact-checking, requiring lawyers to use advanced tools to verify information authenticity.

Key Opportunities:

- **Improve Efficiency**: AI tools can accelerate legal work, reducing time spent on legal research and allowing junior lawyers to quickly acquire professional knowledge.
- **Reduce Repetitive Work**: AI can streamline repetitive tasks like document comparison, enhancing accuracy and freeing lawyers to focus on more substantive work.
- **New Legal Demands**: AI's rise in new technologies creates fresh legal challenges and research directions, increasing demand for legal expertise.
- **Enhance Client Accessibility**: AI can lower legal service costs, making them more accessible to a wider client base.
- **Improve Service Quality**: AI enhances the precision of legal services, such as contract review and document proofreading, and helps lawyers understand new sectors, leading to more comprehensive and high-quality legal advice.

22. Where do you see the most significant legal developments in artificial intelligence in your jurisdiction in the next 12 months?

China is gearing up for significant legal and regulatory advancements in artificial intelligence within the next year. Here's a summary for reference:

- **AI-Specific Legislation**: The State Council has prioritized the ***AI Act*** in its legislative agenda for 2023 and 2024, indicating an imminent unveiling. Scholars have proposed drafts focusing on:
    - A negative list for tailored licensing and filing
    - Mandatory risk assessment and management for AI developers and service providers;
    - Demarcation of "key artificial intelligence" and "special field AI applications," which would be subject to heightened obligations;
    - Clear roles and responsibilities within the AI ecosystem;
    - Strong emphasis on intellectual property and privacy protection.
- **Ethics in Science and Technology**: The Measures for the Review of Sci-tech Ethics, effective from December 2023, require organizations involved in AI and ethically sensitive research to establish a Sci-tech Ethics Review Committee. The Ministry of Science and Technology is developing a comprehensive framework for ethical reviews, including regulations and expert review systems.
- **AI Data Processing Standards**: Authorities are creating national standards for AI, particularly for data training and annotation. These standards aim to guide AI enterprises in China and provide a framework for regulatory compliance and security assessments. Key standards include:
    - Security standards for AI pre-training and training data;
    - Data annotation security for AI;
    - General requirements, evaluation metrics, and
    - service capability assessments for pre-trained AI models.

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