

Development of China's Personal Information Protection in the Internet Age

Jiang Qiang, Supreme People's Court of China

Main Content

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Features of China's Internet Development and Necessity of Personal Information Protection

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Brief History of Personal Information Protection Legislation in China

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Basic Principles and Features of China's Personal Information Protection

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Future Trend of China's Personal Information Protection

Features of China's Internet Development

Prominent development trend of the Internet +

High integration of content, social media, and e-commerce

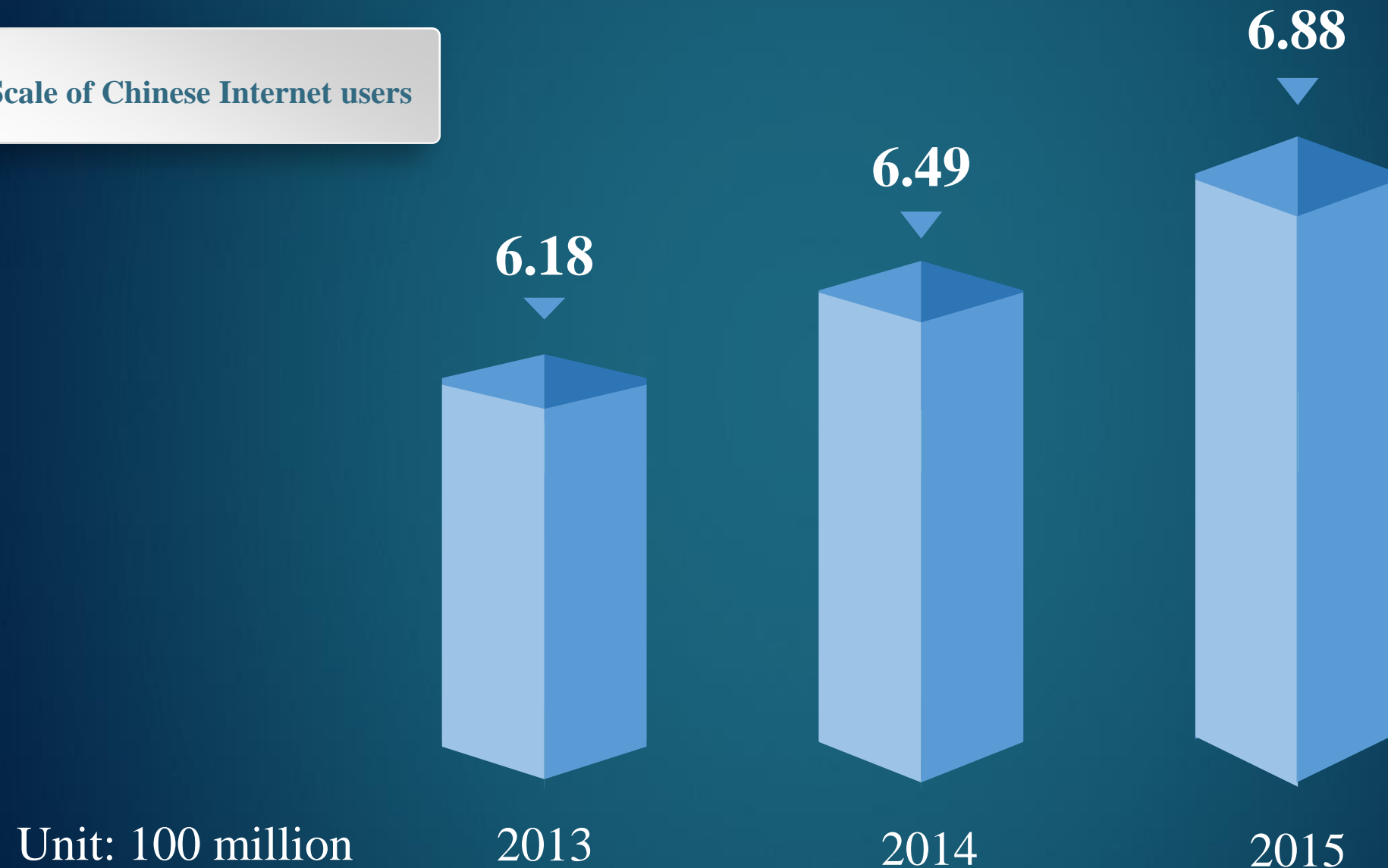
The mobile Internet and its technology develop quickly

Big data and its technology increasingly become core competency of the Internet technology



Huge number of Internet users in China

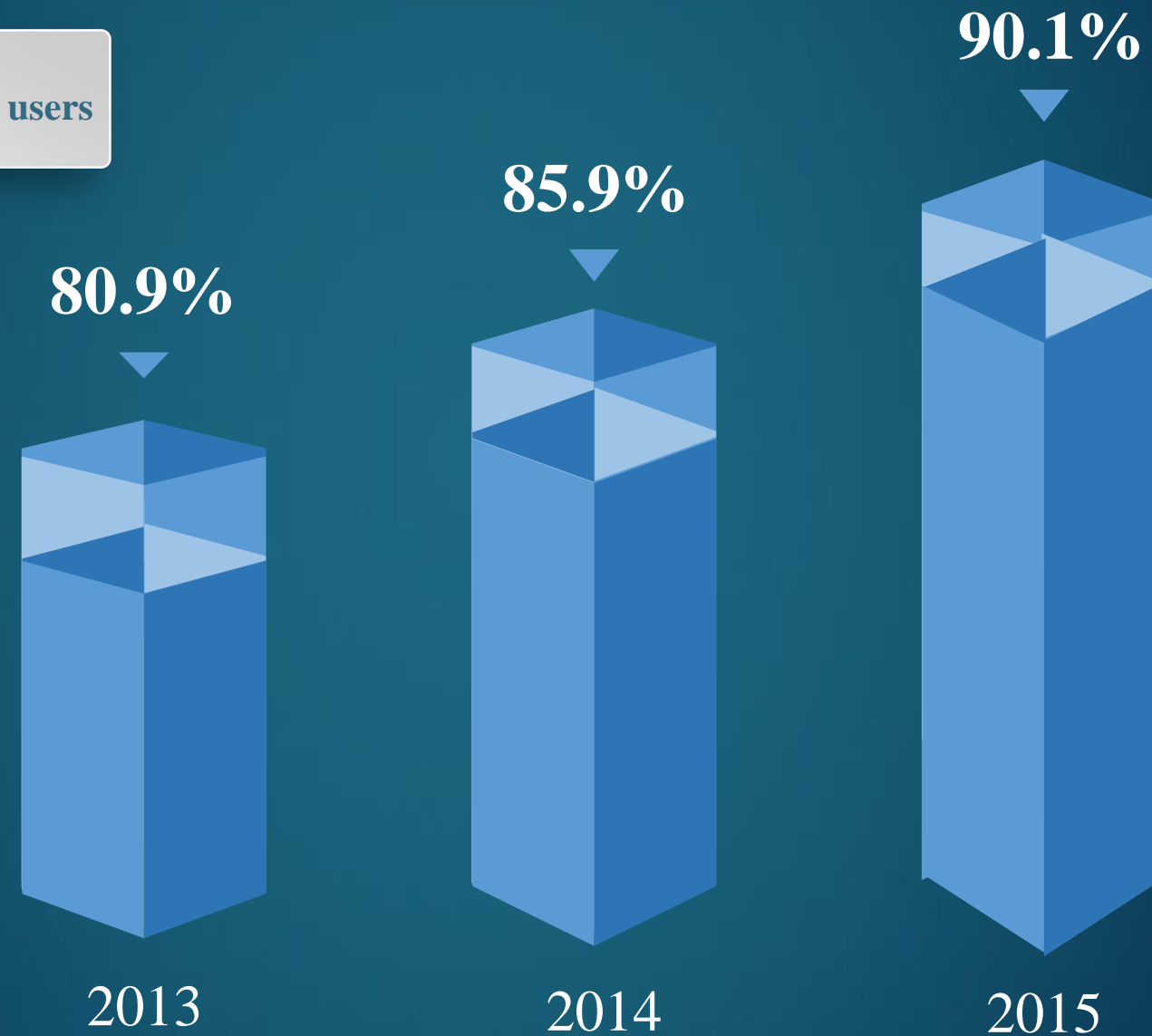
Scale of Chinese Internet users



Source: CNNIC

The mobile Internet develops quickly

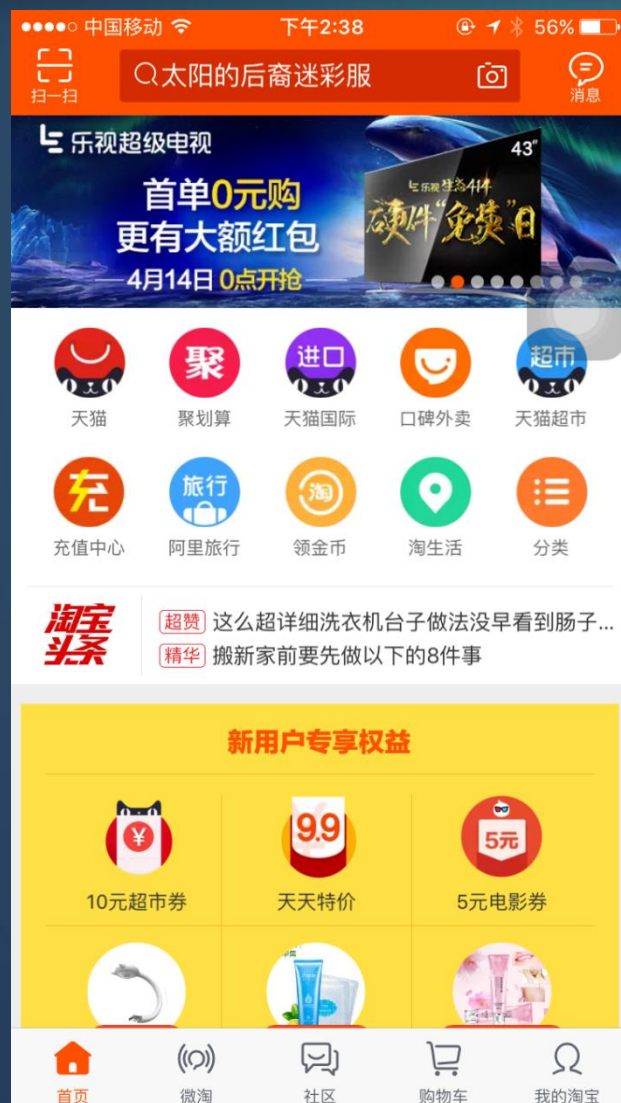
Scale of Chinese mobile Internet users



Source: CNNIC

Internet + Possibility and necessity of the use of personal information increased greatly

Internet + retail industry



Internet + tourism



Internet + financial industry



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Development of Personal Information Protection Legislation in China

Law

Regulatory rules

Personal Information Protection Legislation in China: Law

I. Article 36 of the *Tort Liability Law*

**Internet service providers shall be liable for
infringement under three circumstances**

- Internet service providers directly infringe rights and interests of personal information
- Internet service providers fail to take necessary steps such as deleting, blocking and disconnecting links upon receipt of notice
- Internet service providers are aware of others infringing the rights and interests of personal information

Personal Information Protection Legislation in China: Law

II. Decision of the Standing Committee of the National People's Congress on Strengthening the Network Information Protection (2012)



Types of personal information



Principles of collection and use



Security assurance obligations to be assumed by Internet service providers

Personal Information Protection Legislation in China: Law

III. *Law on the Protection of Customer Rights and Interests* (amended in 2013)



Applicable to all operators, not limited to Internet service providers



Rules to be followed by operators in collecting and using personal information



Confidentiality obligations of operators as to personal information

Personal Information Protection Legislation in China: Law

IV. *Criminal Law* (amended in 2015)

Crimes of infringing personal information of citizens

Sale or provision of personal information of citizens to others

Crime of refusing to perform obligations of security management of information network

Aiming to the failure of Internet service providers in performing their obligations of security management of network that leads to leakage of information and thus causes serious consequences

Personal Information Protection Legislation in China: Law

V. Other Laws

- *Social Insurance Law* (2010)
- *Tourism Law* (2013)
- *Entry and Exit Control Law* (2013)

...

Personal Information Protection Legislation in China: Regulatory rules

- *Notice of the People's Bank of China Concerning Personal Financial Information Protection of Banking Financial Institutions (2011)*
- *Credit Reporting Industry Regulations of the State Council (2012)*
- *Provisions on Protecting the Personal Information of Telecommunications and Internet Users of the Ministry of Industry and Information Technology of China (2013)*
- *Measures for Penalties Against Infringement of Consumer Rights and Interests of the State Administration for Industry and Commerce of China (2015)*

...

Judicial Protection on Personal Information in China





Provisions of the Supreme People's Court on Several Issues concerning Law Application in Trying Civil Dispute Cases of Infringement on Personal Rights and Interests through Information Network (2014)

Article 12: Distinguishing reasonable use of personal information from infringement

Established judicial standards for personal information protection through a series of cases

Brief History of Personal Information Protection Legislation in China

Conclusion

-  The personal information protection in the context of the Internet captures unprecedented attention
-  Legislation path from general law to special law
-  All-round legislative, administrative, and judicial protection on personal information
-  Personal information protection has been improved greatly

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Principles and Features of China's Personal Information Protection

Definition of personal information

**Information by which an individual identity can be recognized,
alone or together with other information**

Principles and Features of China's Personal Information Protection

Classification of personal information

Sensitive information

Sensitive information: means any personal information that will cause adverse impact on the personal information subject so identified once being disclosed or changed. ID card number, mobile number, race, political views, religion, gene, and fingerprint.

Non-sensitive information

Static information

Static information: Such as user name, name, birthday, and telephone number, etc.

Dynamic information: Such as time and place when and where the user uses service.

Dynamic information

Original information

Derivative information: means the information indicating some situation of any specific person and arising from processing and analyzing the original information such as personal consumption habits and investment willingness.

Derivative information

Principles of China's Personal Information Protection

#1. Principle of specific objective

When collecting and using personal information, an Internet service provider must have specific, express, and reasonable objectives and may not expand the application scope of such personal information, nor shall it change the objective of collecting and using such personal information without knowledge of the personal information subjects.

#2. Principle of necessity

Least and enough:
The Internet service provider must collect and use the least information related to its objective and delete the same as soon as possible after realizing its objective.

Principles of China's Personal Information Protection

#3. Principle of publicity and notification

The Internet service provider must specify the purpose, mode, and scope of collecting and using personal information, and perform the obligations of informing, explaining, and warning.

#4. Principle of express consent

The consent of the person from which the personal information is collected. The consent can be made in an express or implied manner. The scope must include the mode and means of collecting personal information, specific content, preservation duration, usage scope, protective measures, possible risks, possible consequence of not providing such personal information, and compliant channels.

Principles of China's Personal Information Protection

#5. Principle of quality assurance

The Internet service provider has the obligation to ensure the accuracy, integrity, and availability of personal information and provide information subject with channels for raising objections or changing information.

#6. Principle of security assurance

The Internet service provider must take proper management measures and technical means commensurate with the possibility and severity of damage that would be caused to personal information, so as to ensure the security of personal information and prevent personal information subject from being infringed.

Principles of China's Personal Information Protection

#7. Principle of performance in good faith

An Internet service provider must collect personal information according to agreement or laws and may not continue to process any personal information after the intended objective is achieved.

#8. Principle of definite responsibility

The Internet service provider must take necessary security assurance measures in each process of collecting and using personal information, specify the responsible subject, and record the process of collection and use of personal information so as to facilitate traceability.

Principles and Features of China's Personal Information Protection

Conclusion



Insisting on the balance between the use of personal information and personal information protection



Emphasizing all-round protection on the use of personal information



Coordinating the synchronous development of personal information protection and the Internet technology

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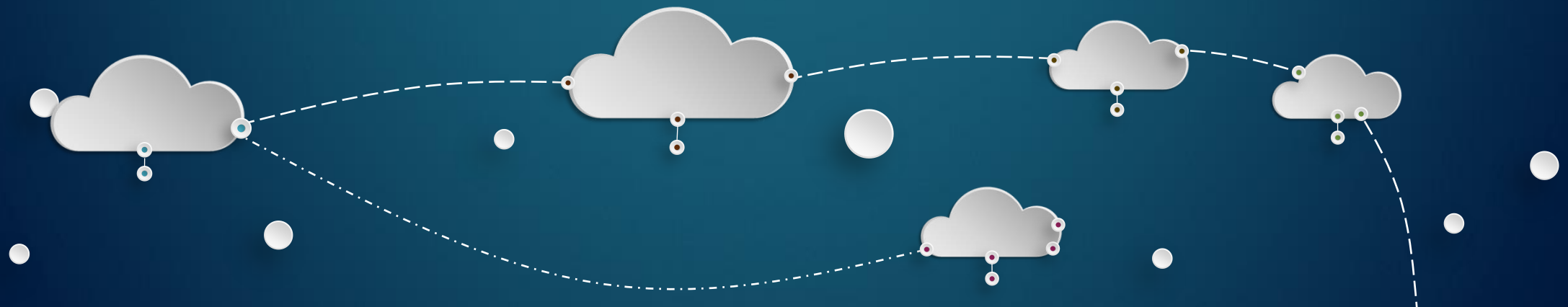
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Future Trend of China's Personal Information Protection

Outlook of China's Personal Information Protection

- The civil code of China being formulated would possibly develop specific provisions on personal information and, therefore, lay down the foundation for the basic law of specific personal information protection.
- China is formulating a specific personal information protection law to improve the personal information protection as a whole.
- Consumer public-welfare litigation is likely to be an important litigation means for personal information protection.



Thank you!

