

A world map is shown in the background, overlaid with several vertical bands of color: red, orange, purple, green, blue, and dark blue. The text is centered over the map.

# **Personal Information Protection and Cross-Border Privacy Rules : APEC and China E-commerce Perspective**

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# Agenda

- APEC and China Cross-border e-commerce development
- Does Privacy or personal information matter?
- What APEC do on privacy protection?
- Personal information protection in China
- Challenges and concerns



# Cross-border E-commerce: China and APEC



## ■ China's cross-border e-commerce (B2C)

- 30 billion USD, 2015 with growth of 30%
- 1.4% of China's total export

## ■ APEC region

- 66 billion USD, 2015 est.

## ■ Global

- 90 billion USD, 2015 est.

### KEY PLAYERS:

- Alibaba
- Amazon
- ASOS
- DHL
- eBay
- FedEx
- Harper's Bazaar
- Kirkland Signature & Unisa
- Macy's Inc
- PayPal
- S.Oliver
- Tmall
- UPS

- aliexpress
- Apple
- Casino Guichard-Perrachon S.A
- Dogeared
- esco PLC
- Fly London
- Jd.com
- Liberty Interactive Corporation
- Otto GmbH & Co KG
- Rakuten
- Suning Commerce Group Co. Ltda
- Ulmart
- Wal-Mart

# Does Privacy or Personal Information Matter?



- Privacy: "right to be let alone" (Warren & Brandeis, 1890)
  - Privacy, is it a right?
    - Right of personality
    - Right of property
  - E-commerce and Personal Information/data protection
    - the collection, use, processing and dissemination of personal information
    - "individuals want to be left alone and to exercise some control over how information about them is used"
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# Why Personal Information/Privacy Protection Becomes Even More Important for E-commerce?



- The age of big data
  - Value creation is from the collection, use, processing, and dissemination of personal data
  - Privacy protection has positive effect on information disclosure, data flow, and trust/confidence on e-commerce
  - Global business rules for the digital/information age
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## What Does APEC Do on Privacy Protection?



- Data Privacy Subgroup(DSP) was established in 2003 under ECSCG (Electronic Commerce Steering Group)
  - APEC Privacy Framework endorsed by Ministers in 2004
  - The Framework sets out nine Information Privacy Principles:
    - 1) Preventing harm 预防伤害; 2) Notice 通知;
    - 3) Collection limitations 收集限制; 4) Uses of personal information 个人信息的使用; 5) Choice 选择性原则;
    - 6) Integrity of personal information 个人信息的完整性;
    - 7) Security safeguards 安全保障; 8) Access and correction 查询及更正; and 9) Accountability 问责制
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## How APEC Enforce the Cross-border Implementation of the Privacy Framework?



- **Individual Action Plan** 信息隐私单边行动计划
  - To update and report legislative, administrative, industry self-regulatory or a combination of these methods

成员经济体应当尽力实施隐私框架，用最适合经济体的各种方法确保个人（信息）隐私保护，包括法律、行政、行业自律或者以上方法的集合

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# How APEC Enforce the Cross-border Implementation of the Privacy Framework?



- The APEC Cross Border Privacy Rules (CBPR) System 跨境隐私规则体系
  - APEC Data Privacy Pathfinder 数据隐私探路者计划
  - APEC Cooperation Arrangement for Cross-Border Privacy Enforcement (CPEA) 跨境隐私执法合作协议

Privacy Enforcement  
Authority

Accountability  
Agent



# APEC Data Privacy Pathfinder

## 数据隐私探路者计划



### ■ Nine interrelated projects:

- Self-assessment guidelines for organizations 企业的自我评估指南;
- Private and public sector accountability agent recognition criteria 公私部门问责代理认定标准;
- Compliance review process of CBPRs CBPR体系的合规审核程序;
- Directories of compliant organizations and contact information of organizations and accountability agents for use by consumers 合规组织名录以及企业、问责代理联系信息以备消费者查用;
- Contact directories for data protection authorities and privacy contact officers within economies, as well as with accountability agents 数据保护机构联络名录以及经济体隐私事务联络官以及问责代理机构名单;
- Templates for enforcement cooperation arrangements 执法合作协议模板;
- Templates for cross-border complaint handling forms 跨境投诉受理表格模板;
- Scope and governance of the CBPR system CBPR体系的范围和治理方式, and;
- A pilot program to test and implement the results of the projects leading to the testing of a complete system 测试和实施所有以上项目结果的试点计划, 以最终对整个体系进行测试.

# APEC Cooperation Arrangement for Cross-Border Privacy Enforcement (CPEA) 跨境隐私执法合作协议

- **Bilateral or multilateral arrangements that include the following:**
  - Mechanisms for promptly, systematically and efficiently notifying designated public authorities in other member economies of investigations or privacy enforcement cases that target unlawful conduct or the resulting harm to individuals in those economies 针对其他经济体内的不法行为或由于不法行为对该经济体内的个体造成伤害的情况，建立进行调查或隐私执法活动的迅速、高效、系统的通知机制；
  - Mechanisms for effectively sharing information necessary for successful cooperation in cross-border privacy investigation and enforcement cases 有效分享必要的信息以实现跨境隐私调查和执法案例的成功合作的机制；
  - Mechanisms for investigative assistance in privacy enforcement cases 在隐私执法案例中对相关调查给予援助的机制；
  - Mechanisms to prioritize cases for cooperation with public authorities in other economies based on the severity of the unlawful infringements of personal information privacy, the actual or potential harm involved, as well as other relevant considerations 根据非法侵犯个人信息隐私的严重性、涉及的实际或潜在的坏处以及其他相关考虑，对相关案例进行优先排序以与其他经济体的公共机构进行合作的机制； and
  - Steps to maintain the appropriate level of confidentiality in respect of information exchanged under the cooperative arrangements 在此合作协议下，就信息交换维持适当的保密级别的措施。

# APEC隐私执法合作协议的参与者和管理者



CPEA Administrator	Economies	CPEA participant		CPEA participant	
		Yes	NO	Yes	NO
Yes	APEC Secretariat(Not an Economy)	■		■	
	Australia	■			
	New Zealand	■			
	The United States	■			
No	Canada	■			
	Hong Kong, China	■			
	Japan	■			
	Mexico	■			
	Republic of Korea	■			
	Brunei Darussalam		■		
	Chile		■		
	Chinese Taipei		■		
	Indonesia		■		
	Malaysia		■		
	Papua New Guinea		■		
	People's Republic of China		■		
	Peru		■		
	Russia		■		
	Singapore		■		
	Thailand		■		
The Philippines		■			
Viet Nam		■			

# Current Membership of APEC CBPR System



- The United States
  - Mexico
  - Japan
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# Personal Information Protection in China



- **Legislative methods**
    - No uniformed law on privacy/personal information protection
    - There are relevant laws and regulations, such as constitution, civil law, criminal law, tort law, administrative law, procedural law, etc.
  - **Administrative laws and regulations**
    - Such as online trading, banking, telecommunication, information service, medical service, etc.
  - **Enforcement authorities**
    - The State Internet Information Office
    - Ministries
    - Associations
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# Personal Information Protection in China



- Some self-regulatory agents (potential accountability agents)
    - 中国软件评测中心(China Software Testing Center)
    - 公安部信息安全等级保护评估中心(The Ministry of Public Security Classified Protection of Information Security Evaluation Center)
    - 公安部信息安全产品检验中心(The Ministry of Public Security, Information Security Product Testing Center)
    - 中国互联网协会信用评价中心(Chinese Internet Association Credit Evaluation Center)
    - 中国电子商务协会诚信评价中心(China Electronic Commerce Association Credit Evaluation Center)
    - 国富泰信用平台(CIECC Guofutai Credit Platform)
    - 网上交易保障中心([www.315online.com.cn](http://www.315online.com.cn))
    - 大连软件行业协会(Dalian Software Industry Association)
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# Personal Information Protection in China: One step forward



- Decision of the Standing Committee of the National People's Congress on Strengthening Information Protection on Networks 全国人大常委会关于加强网络信息保护的決定
    - Enacted on 28, Dec, 2012
  - China's E-commerce Law (drafting)
    - The right to be protected
    - Legitimate use the personal data
    - Preventing harm
    - Notice
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# Challenges and Concerns?



- Uniformed code and laws or self regulation?
- How to enhance privacy awareness and understanding among the APEC economies?
- What steps we should take to participate in the APEC Cross-Border Privacy Rules System?
- A new rule or an obstacle for cross border e-commerce?



# Thanks



- Jian Wang (王健)



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