

China Action Plan Targets Enhancement of Digital Economy

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On January 31, 2021, China's State Council issued an "Action Plan for Constructing a High-Standard Market System" (Action Plan). While the document enumerates development goals throughout the economy, including strengthening property rights, reducing local protectionism, improving competition policy, and increasing efficiency of resource allocation, it confirms the Chinese leadership's focus on emerging technologies and the digital economy heading into the 14th Five Year Plan period. In the 14th Five Year Plan Recommendations issued in November, the Communist Party of China's (CPC) leadership emphasized that achieving technological self-reliance should be seen as a key underpinning of national strategy.

Following that lead, the Action Plan directs authorities to:

- "Accelerate cultivation and development of the market for data inputs," including by "establishing a basic system and standards regarding data resource property rights, transaction and distribution, and the security of cross-border transfers, to promote development and utilization of data resources."
- "Expand investment in new infrastructure construction to promote 5G mobile communications, the Internet of Things (IoT), the industrial internet and other network communications infrastructure; artificial intelligence, cloud computing, blockchain and other new technology infrastructure; and data centers, smart computing centers and other computing power infrastructure."
- "Support the development of platform enterprises," including "promoting development of online medicine, online education, third-party logistics, just-in-time delivery, online workspace,

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online service, and other new service platforms.”

While China has sought to develop high-tech and digital industries on an international scale, it has simultaneously maintained closed-internet policies like the Great Firewall and has promoted a vision of cyber sovereignty that permits significant restrictions on the flow of data and information across borders. The Action Plan appears to address this conflict by calling for a narrow scope of free cross-border information flows for certain commercial purposes by way of “a special-use international internet data channel and special-use internationalized data information channel that are safe and convenient.”

The United States has become increasingly concerned regarding the economic impact of restrictions on the cross-border flow of information. The U.S. International Trade Commission recently initiated a Section 332 factfinding investigation on censorship as a non-tariff barrier to trade, where parties will have an opportunity to call issues like these to the government’s attention.

For additional information, please contact one of the attorneys listed on this alert.