



China's Personal Information Protection Law



Disclaimer

A word from our lawyers: Nothing stated here is legal advice. It is provided for your information and convenience. We strongly encourage that you work closely with legal and other professional advisors to determine exactly how the China Personal Information Protection Law applies to you.

Background of the PIPL:

On November 1, 2021 a new data protection law came into effect in China - the Personal Information Protection Law ("PIPL"). Together with the already existing China Cybersecurity Law and the recent China Data Security law, the PIPL is part of the comprehensive framework for data protection being established in China.

The PIPL bears many similarities to the EU's GDPR. It applies to the processing of personal information of natural persons within China (not just Chinese nationals) and similar to the GDPR it also has an extraterritorial scope (for example where the activities conducted outside of China are intended to provide domestic individuals with products/services; or where their activities are analyzed). Therefore, even companies outside of China doing business in China will need to be aware of and comply with the law.

Scope of Application:

The definition of Personal Information under the PIPL is broad and includes information related to identified or identifiable natural persons recorded by electronic or other means. Anonymized data has been specifically excluded.

The primary obligations under the PIPL are on the "personal information handlers" which is akin to the GDPR's data controller. Data processors under the GDPR are called "entrusted parties" under the PIPL. Under the PIPL, AppsFlyer would be considered an entrusted party.

Cross border transfer

One of the more spoken about issues covered under the PIPL relates to cross border transfers of personal data. Since AppsFlyer operates its servers in the EU where its processing complies with the most stringent data protection laws including the GDPR, customers of AppsFLYer will need to take the necessary steps to ensure they are able to transmit data to AppsFlyer.

Fortunately, under the PIPL, several frameworks and conditions have been provided to allow personal information to be sent and processed outside of China. This development enables companies operating outside of China to continue to provide services in China.

The core condition for cross border processing is the need for the personal information handler to provide specific notice and obtain specific consent from its end users to transfer data outside of China. Customers of AppsFlyer should be sure to provide such notice and obtain the necessary consent.

In addition, the transmission of personal information outside of China will need to be covered by one of the frameworks provided under Article 38 of the PIPL:

1. Security assessment and approval by the Cyberspace Administration of China (CAC) for:
 - a. those handlers that transfer important data, or the transfer of personal information by a 'critical information infrastructure operator' (CII);
 - b. a processor processing data of more than 1 million individuals or
 - c. transfer of personal information of either more than 100,000 individuals, or sensitive personal information of more than 10,000 individuals within one calendar year;
2. Certification by approved bodies (applicable to intra-company transfers, or cross-border transfers by those processors subject to the PIPL under its extraterritorial application); or

3. Concluding [Chinese SCC's](#). Parties may negotiate additional provisions, to be attached as an annex to the SCCs. The SCCs themselves need to be filed with the CAC within 10 days of coming into force and may only be used as a method of transfer if the data handler does not need to perform a Security Assessment.

The cross-border transfer must also be self-assessed with a prepared Personal Information Impact Assessment (PIIA) which is to be submitted to the CAC. The CAC evaluation will be valid for a period of 24 months, upon which the data handler will need to seek re-approval.

Guide to compliance in respect of using AppsFlyer:

Customers of AppsFlyer are deemed the personal information handlers under the PIPL and will have the primary responsibility for ensuring their compliance with the PIPL.

Customers will first need to establish a lawful basis to collect personal information from their end users. Some of the lawful bases covered under the PIPL are similar to those under the GDPR – for example, to conclude or perform a contract to which the individual is a party; to perform legal duties; health emergencies; and public interest.

However, the most appropriate lawful basis to cover a customer's use of AppsFlyer will likely be consent. This is due to the fact that the PIPL does not have a GDPR like "legitimate interest" lawful basis. As a result customers will need to make sure to obtain appropriate consent from their users in respect of their collection of personal information.

In order to obtain appropriate consent, customers will also need to provide their end users with proper notice of their data collection and use practices. Customers may view [AppsFlyer's Terms of Use and documentation](#) to gain a broader understanding of the categories of data processed by AppsFlyer on behalf of customers. Note that since AppsFlyer is an overseas recipient, customers will need to notify their end users of the third party entities (subprocessors) where data will be stored on AppsFlyer's behalf, in accordance with the Chinese SCCs.

AppsFlyer's DPA and data processing

Customers can feel confident that AppsFlyer will continue to process personal data in accordance with the stringent requirements of the PIPL and other global laws. Besides AppsFlyer operating as an entrusted party and not using the personal data for any purpose other than to provide the services requested by the customer, AppsFlyer provides a [Data Protection Addendum](#) to cover its processing of personal data.

This DPA covers a range of issues such as AppsFlyer's commitment to implement appropriate technical and organizational measures to protect personal data, to assist customers with their compliance needs including by cooperating in respect of data protection impact assessments, individual rights request (such as the right of deletion), breach notification requirements and more.

We also note that the nature of the data AppsFlyer needs to receive in order to provide the services does not include any sensitive or direct personal information and is limited to personal data that is pseudonymised by nature (e.g. advertising device ID's, IP's). Therefore, we are confident that our existing measures will be sufficient to ensure complete compliance with PIPL requirements. Indeed, customers will need to also assess any additional laws applicable to them based on their own products, since certain unique industry specific obligations may apply to them in addition to the PIPL.

Individual Rights

Once data is transmitted to AppsFlyer, AppsFlyer enables customers to comply with their obligations under the PIPL in respect of individual rights - specifically, AppsFlyer provides the [OpenDSR framework](#) to enable customers to automatically submit individual deletion and data access requests.

AppsFlyer is also committed to maintaining appropriate internal management systems and operating procedures as well as appropriate technical security measures to protect customer data. For more information on such measures please visit our [Trust Hub](#).

Future Compliance

As a final note, the PIPL is a comprehensive law and has a broad set of obligations - for example requirements to appoint special data protection officers, perform data protection assessments (including for profiling related to targeted ads), rules regarding automated decision making and more. Therefore it is important that every customer assess the PIPL with their legal advisors, taking into consideration the nature of their own services and take the necessary steps to ensure compliance. AppsFlyer is here to assist you in ensuring such compliance.

Be assured that AppsFlyer is continuously monitoring the developments around the PIPL, its enforcement and the cross border frameworks and is working diligently to ensure that customers will be able to continue to use AppsFlyer in full compliance with the PIPL and other global laws.