

Research on the Realization Path of Consent Withdrawal Right in Personal Information Protection

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Keywords: Personal information; Consent to withdraw right; Implementation path; Research problems

Abstract: With the comprehensive popularization of big data technology, the protection of personal information has gradually become a major challenge that all sectors of society must face. Although the Personal Information Protection Law promulgated by the state and relevant departments provides an objective basis for the protection of citizens' personal information and can protect citizens' legitimate rights and interests, from the present situation, especially for the protection of Internet information, there is still a lack of perfect laws and regulations, which leads to the dead angle of personal information protection and affects the effectiveness of personal information protection. Based on this, this paper focuses on the right of consent withdrawal in the protection of personal information, expounds the present situation of the authorization mode of personal information consent in personal information processing, and analyzes the existing problems. It is hoped that through the research of this paper, we can achieve the effect of attracting jade, and provide reference for the further improvement of relevant laws and regulations.

1. Introduction

According to "Personal Information Protection Law", the authorization of personal information consent is a necessary prerequisite for citizens' legal use of personal information. On the basis of consent, the possibility of consent withdrawal has been extended. Consent and withdrawal show citizens' right to dispose of personal information, and withdrawal of consent means revocation of this behavior at the legal level. In the process of using personal information, individuals have the right to cancel authorization at any time, and the users of personal information should also inform individuals that they have this right, and have the obligation to provide them with more convenience and convenient ways to withdraw their consent. Those who fail to obtain the consent of individuals, and at the same time, do not provide them with the way of consent, are regarded as the category of using personal information without consent. To some extent, this regulation does guarantee personal information security, but from another angle, there are still some defects in the current "inform-agree" mode, which will inevitably affect the protection effect of personal information. Therefore, it is necessary to conduct a more detailed and in-depth study on this defect to ensure the perfection of personal information protection measures.

First, the authorization of personal information consent and the defects of the existing model

2. The basic concept of personal information consent authorization

The core idea of seeking personal consent is to provide individuals with the power to process personal information. This power includes two levels: consent and refusal to use personal information, in which consent can be refined into two powers: selective consent and subject participation.

Consent means that when using or processing personal information, you should clearly point out the basic information such as the purpose, way and scope of use to the individual, so as to seek the individual's consent. That is to say, you need to inform the subject of personal information in advance before it actually affects the security of the user's personal information, so as to respect the user's right of prior consent and information processing^[1].

Subject participation means that after the actual use or processing of personal information, individuals can also directly access, correct, delete and withdraw their personal information. It is the law that gives individuals the freedom to process information, and this is the key to personal information protection.

The right of withdrawal is the derivative right of an individual's information processing, which has a strong personality interest characteristic. In nature, the right of consent to withdrawal belongs to the right of formation. Therefore, it is only necessary for the subject of personal information to make a statement or explain the intention of withdrawal to the user of personal information, and the right of consent to withdrawal belongs to the right of revocation. Therefore, the subject of personal information can also stop the cross-border behavior of the user or processor of information through subsequent withdrawal, and protect their legitimate rights and interests. "Consent", as a barrier to information security, not only protects against personal information security violations, but also clarifies post supervision's management power. However, at present, there are still some defects in the informed-agreed information acquisition mode, which will inevitably affect the effectiveness of personal information protection^[2].

3. The main drawbacks of the authorization mode of personal information consent at this stage

3.1 The information subject and the user have a large information gap.

At present, in the process of processing and using personal information, most of them follow the "inform-agree" mode. In this mode, the information subject and the user generally have a large information gap. As the user or the user who wants to process personal information often has more resources, he will make use of this feature in the actual use of information, which leads to the information subject relying too much on the content provided by the information user and the processor, and lacking the freedom to express his consent independently. The most intuitive and common case is that in the process of registering mobile APP or other account information, users are generally required to check the consent user agreement, while the processing and use of personal information are often included in the relevant agreements. Many users lack the awareness of personal information protection and agree to the information processor's personal information use request without their knowledge. This mode is obviously unreasonable^[3].

3.2 The rights and interests of the information subject in the later period are difficult to protect.

The disadvantages of poor information for personal information protection are mainly reflected in users' right to choose consent, that is, it is difficult for users to stop illegal information infringement in the early stage, so they need to rely on the withdrawal of personal information consent to protect their rights and interests. Even if an individual has a strong sense of security, can

do a good job in the management of information consent, and deliver the information to a trusted processor, the dynamic changes of information application scenarios lead to the information processor using personal information through other unauthorized processing methods, which will also lead to the infringement of personal information security rights. For example, taking account information registration of mobile APP as an example, some enterprises add clauses such as irrevocable user consent authorization into user agreements in order to increase user stickiness when setting relevant specifications^[4]. Such agreements lead to great difficulties for individuals to maintain their own information security, and this overlord clause, once authorized, is valid for life, which is the chief culprit that leads to the mere formality of the withdrawal right of individuals' late consent.

3.3 There is a big legal vacancy in the withdrawal of personal information consent.

Whether the information subject can be withdrawn at any time or arbitrarily is not clearly stipulated in the laws of our country, which also makes it difficult for the individual subject to find an effective legal basis in the process of maintaining his own information security, thus affecting the use of the individual's right to withdraw. In the 2022 edition of "Personal Information Security Specification (Draft)", it is specifically stipulated that the information processor shall not require the personal information subject by bundling products or various business functions, and various unreasonable conditions shall not be set to infringe the personal information security rights and interests through various overlord clauses. On the one hand, however, this is only a national recommended standard, and it has no legal effect. In addition, there are big loopholes in other laws and regulations related to citizens' personal information, which leads to the difficult phenomenon of safeguarding the rights and interests of personal subject information. On the other hand, the stipulation that unreasonable conditions should not be set also reveals a message to information processing, that is, personal information processors can set conditions for withdrawing consent, as long as the conditions are "reasonable", they are legal and compliant. This is obviously in conflict with the original consent to withdraw personal information. Even if the individual discovers the improper use of the information processor in the follow-up, as long as the set conditions are "reasonable", it will be difficult for the individual to really authorize the withdrawal of personal information due to the obstruction of these conditions.

From these three aspects, the notification of personal information authorization-the same mode has many defects, but because its process is relatively simple, it can reduce the energy that individuals use for information in practical application. Therefore, from the present point of view, we should start with the exercise of the right to withdraw the notification-consent, do a good job in eliminating the previous overlord clause and information gap, and at the same time, we can make the authorization of personal information "forbidden" so as to truly ensure the security of personal information.

4. A brief account of the ideas on the reform of the right to consent to withdrawal.

4.1 Strengthen personal information security awareness.

The improvement of personal information security awareness can effectively improve the problem of poor information between personal information subjects and information processors, and solve the problem of personal information security from the root. However, as mentioned in the previous article, the application scenarios of personal information are dynamic, so it is impossible to truly protect personal information comprehensively and effectively only by the improvement of personal information security awareness^[5].

4.2 Improve the "unequal" agreement

At present, under the impetus of the state, major Internet vendors have put the withdrawal of personal information on the bright side, but for small and medium-sized enterprises, these problems still exist due to lack of management. Therefore, through further improvement of laws and regulations, it is necessary to clear the way for personal information subjects to maintain personal information security, not only to avoid the appearance of "unreasonable" regulations, but also to avoid the layers of overweight of information processors, so that the exercise of personal information subjects' consent to withdraw power can be unimpeded^[6].

4.3 Exploration of the new withdrawal mode of consent.

In the future, China can also explore a brand-new mode of consent withdrawal according to the development of the Internet. For example, the exercise of consent withdrawal right can be unified through the online database of relevant government departments, and the personal information subject can agree to unified jurisdiction over his personal information only by operating through online channels, which is undoubtedly convenient for the personal information subject to comprehensively manage personal information^[7]. However, due to the immature technology at this stage, there is still much room for development.

5. Conclusion

With the development of Internet, the problem of personal information security has been put in front of the public again. While enjoying the convenience brought by Internet technology to our life, we should also pay attention to the timely follow-up of relevant laws and regulations, strengthen citizens' awareness of information security, and do a good job of double guarantee of early consent and late withdrawal. In this way, we can standardize the processing and application of Internet information and ensure the information security of citizens.

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