

# Exploring the Power and Regulation of Platform Enterprises

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## ABSTRACT

In the age of information civilization, digital platform enterprises are developing vigorously. At the same time, power is generated based on the algorithm. These information giants, based on their power to control data and privacy, exercise the power of punishment, and participate in the collection, distribution and maintenance of public resources and public interests. The nature of this kind of behavior is highly similar to that carried out by the administrative subject. At present, the regulation of platform enterprises is not perfect, which is mainly restricted through data method. But it is difficult to cover their participation in public services. The defining feature of administrative disputes lies in the public nature of the actions involved, rather than the identity of the actors. As private entities and their behaviors increasingly assume a public dimension in the information age, a shift in regulatory approaches is warranted. In the future, the scope of administrative litigation could be expanded to include platform enterprises that hold significant power, thereby providing a framework for regulation.

## KEYWORDS

Platform Enterprises; Power; Public Nature; Regulation.

## 1. THE GENESIS OF POWER IN PLATFORM ENTERPRISES

### 1.1. The Temporal Foundation of Platform Enterprises

Law is a product of its time, with different eras and social contexts generating distinct demands for legal regulation. In the era of agricultural civilization, the focus was on kinship politics, where dispute resolution primarily occurred within families through the judgment of a patriarch who administered justice. In such contexts, there was little to no concept of modern legal principles. During the industrial civilization era, geographical and kinship ties were severed, and people began living in urban environments devoid of a familial hierarchy. As disputes arose, reliance shifted to formal legal institutions, preferring public authorities for conflict resolution. The primary role of administrative law at this time was to regulate the powers of public authorities, preventing overreach and misuse.

At present, China is transforming from industrial civilization to information civilization. In the information age, information giants -- platform enterprises have emerged. Such enterprises do not directly provide products or services, but use the Internet as a platform to provide docking services for both supply and demand. While promoting operational efficiency, platform-oriented enterprises use the network effect to indirectly realize their own interests. Such private subjects generate power based on information algorithms, showing their publicity, and participate in the collection, distribution and maintenance of public resources and public interests, which has a new impact on the administrative law rules. Currently, China is transitioning from an industrial to an information civilization, marked by the emergence of information giants-platform enterprises. These companies do not directly offer products or services but rather function as intermediaries, connecting supply and demand through internet-based platforms. While enhancing operational efficiency, platform

enterprises utilize the network effects generated by their information algorithms to indirectly achieve their own interests. As private entities, these enterprises wield power derived from information algorithms, demonstrating a public nature by engaging in the aggregation, distribution, and maintenance of public resources and interests. This poses new challenges to administrative legal frameworks.

## **1.2. Manifestations of Power in Platform Enterprises**

### **(1) Control over Data and Privacy**

Currently, platform enterprises can be broadly categorized into two types. The first type is the "native" platform, such as Tencent, Alibaba, and JD.com, which emerged in the internet age and operate based on extensive digital capabilities. The second type is the "transformative" platform, such as Haier, Huawei, and Vanke, which are traditional companies that have successfully transitioned by adopting platform-based operational models. Both types share a common characteristic: they use information and data to permeate various aspects of daily life. For example, e-commerce platforms like Taobao have detailed knowledge of our shopping habits, ride-hailing apps like Didi and Meituan track our movements in real-time, and food delivery services are well aware of our dietary preferences. Transaction platforms may even know our social networks better than we do. In the age of big data and the Internet of Things, platform enterprises use technology to create user profiles, resulting in the concept of the "quantified self," where individuals are characterized by data, enabling them to be computed, categorized, and predicted.

Such enterprises not only act as a transit role in information transmission, but also play their own technical advantages, collect, process and analyze information, promote the proliferation of information, and then explore the potential value of information and form interests. Every action by a user is monitored, creating a searchable database. For instance, search engines like Google store every search query, IP address, and account name, recording every step a user takes after logging into their personal account. This data, when systematically analyzed, reveals patterns of development, giving the holder the capacity to foresee societal trends and even predict the future, thereby exerting a substantial influence on societal progress. Platform enterprises in the information age hold enormous power by mining data to control social dynamics.

### **(2) Punitive Actions in Transactions**

In contemporary society, the coercive power of social groups over their members, or even non-members, can sometimes exceed that of the state. This trend has become more pronounced in the era of big data, particularly regarding the punitive authority held by platform enterprises over users. Such power is initially intended to enforce behavioral norms among their members. For instance, Taobao, an online shopping platform, has established several rules for managing prohibited information and dealing with violations, such as the "Rules for Managing Prohibited Information on Taobao" and the "Taobao Marketplace Management and Violation Handling Standards." These rules involve measures like imposing fines, deducting points, restricting buying and selling activities, closing accounts, and suspending trading privileges on the platform. These are akin to administrative penalties, such as fines, license revocations, and downgrading of qualifications imposed by administrative bodies for illegal activities.

Through financial penalties, platform enterprises exercise economic control; through restrictions on trading behavior and control over transaction qualifications, they exert both physical and informational control; and through reputational penalties, they influence the social evaluation of platform users. Users bear significant exit costs, while platform enterprises, by leveraging their control over resources, form a power base that asymmetrically affects, influences, and controls the will of others.

### **(3) Participation in Social Governance and Public Services**

While companies may undertake social responsibilities, fundamentally, these activities are still profit-driven, as they significantly enhance corporate image and brand recognition, thus increasing business value. Social governance and public services are traditionally the responsibilities of administrative bodies, with a clear distinction between government and enterprises. However, in the digital era, the role of companies, especially platform giants like Tencent, Alibaba, and Facebook, has evolved. These companies have deeply embedded themselves in social governance and services, providing substantial convenience while also strengthening the ties between social governance and digital platforms. Governments increasingly depend on these enterprises to provide social services.

Firstly, the role of platform enterprises in social governance is evident in data-driven decision support. By comprehensively analyzing user behavior, market dynamics, and social trends, these companies can offer high-quality predictive models and recommendations. For example, in fields such as traffic management, urban planning, and environmental protection, platform enterprises can aid government and public institutions in formulating scientific and effective plans through intelligent data analysis. Secondly, the involvement of platform enterprises in public services is steadily increasing. Traditional public services are transitioning from face-to-face communication to digital platforms. For instance, the provision and payment of essential public utilities such as water and electricity can be facilitated through government collaboration with platform enterprises, utilizing digital interfaces for seamless execution. With their advanced technology and resource integration capabilities, platform enterprises offer efficient solutions for public services. In the healthcare sector, for example, they can enhance the precision of diagnosis and treatment through big data analysis and artificial intelligence. Thirdly, platform enterprises play a vital role in emergency management and social safety. By monitoring and analyzing big data in real time, they can quickly identify and warn of societal risks, such as natural disasters and public health emergencies, assisting governments in taking timely and effective measures to ensure social stability.

As platform enterprises increasingly contribute to social governance and public services, the challenges they pose are also growing. Beyond issues of data privacy and information security, a more critical concern is that of "power balance." As these enterprises expand, they may gradually transform into "Leviathans." Massive data resources serve as unique digital assets and powerful bases of authority. If these enterprises convert public digital resources into private assets and use their technological advantages and resulting monopolies to restrict competition in their fields, it will inevitably disrupt social development and even influence government behavior, thus endangering social governance. However, digitalization is an inevitable trend of the times; the development of platform enterprises should not be suppressed but should be guided and regulated properly.

## **2. OPTIMIZATION OF REGULATORY APPROACHES FOR PLATFORM ENTERPRISES**

The government's approach to regulating enterprises has generally followed a path of "wild growth followed by governance." In the context of the industrial era, this model for enterprise development was relatively uniform, and an empirical approach to governance often yielded effective results. However, the information age differs significantly. With rapid advancements in big data, the Internet of Things, and artificial intelligence, every innovation has the potential to cause disruptive changes. In the past, technological innovations were objective extensions of human capabilities, much like extending one's hands or feet. In contrast, new technologies represented by artificial intelligence are more subjective and cannot be simply classified as tools of convenience. The traditional regulatory approach of "wild growth followed by governance" may no longer be applicable in this context and may even risk losing control. A proactive policy response is required.

## **2.1. Actively Promote Data Compliance within Platform Enterprises**

Platform enterprises should place high importance on data compliance, integrating it into their development plans and management systems.

First, they should establish compliance policies for consumer information protection based on the "Cybersecurity Law," "Data Security Law," and "Personal Information Protection Law." Dedicated compliance departments or positions should be established, staffed with professional teams responsible for formulating and implementing data compliance policies.

Second, there should be a focus on enhancing management in all aspects of data collection, use, and processing. Regarding data collection, companies need to establish stringent review mechanisms to ensure that the scope and frequency of information collection comply with legal requirements, avoiding excessive collection of consumer data. In terms of data usage and processing, companies should employ advanced technical means such as data encryption, de-identification, and anonymization to ensure effective protection of consumer information during transmission, storage, and use. Furthermore, companies should implement clear access control policies to ensure that only authorized personnel can access and use sensitive data.

Third, platform enterprises should establish a comprehensive data security risk management mechanism, conducting regular evaluations and audits of their data security status. By developing data breach response plans and tracking mechanisms, companies can respond quickly to data leaks, mitigate the impact on consumers, and identify those responsible. Additionally, enterprises should strengthen the management of external partners, ensuring that they have legitimate data usage purposes and rigorously reviewing their compliance status to prevent the misuse of consumer information. Finally, platform enterprises should maintain proactive communication with regulatory bodies, stay informed of and comply with the latest legal requirements, and take the lead in setting and improving industry data compliance standards, collaboratively enhancing data security across the industry.

## **2.2. Empower Consumers to Counter "Algorithmic Power"**

The European Union's General Data Protection Regulation (GDPR) grants data subjects rights such as the right to be informed, the right of access, the right to rectification, the right to data portability, and the right to restriction, objection, and erasure. These provisions can serve as valuable references for establishing similar frameworks in China.

First, consumers should be granted the right to be informed about data processing. Platform enterprises should provide clear and understandable information explaining the purposes of data collection, how the data will be used, and the potential impacts. Moreover, companies should allow consumers to choose whether to participate in certain uses of their data and to withdraw their consent at any time.

Second, consumers should have greater control over their data. In the traditional model of data processing, once consumers agree to the platform's privacy policy, they lose control over their data. To counter this asymmetry, platform enterprises should offer consumers more autonomy over their choices. For example, companies could set data use preferences, enabling consumers to decide which data can be collected, which data can be used for personalized recommendations, or even opt-out of personalized recommendations altogether. Additionally, consumers should have the right to view, modify, and delete their data records and request data portability to other platforms, thereby breaking data monopolies and promoting market competition.

Third, empowering consumers is not merely a technological change but also a legal and policy guarantee. Government and regulatory agencies play a crucial role in this process. Through the enactment of strict laws and regulations, governments can compel platform enterprises to adhere to

principles of fairness and transparency in data collection and algorithmic applications. Laws could require companies to avoid discriminatory decisions when using algorithms and provide effective channels for appeal in the event of bias or misjudgment by algorithms. Simultaneously, governments could promote the establishment of industry standards to ensure that platform enterprises comply with uniform norms in data processing and algorithmic applications, thus protecting consumers' fundamental rights.

By continually improving the framework that safeguards consumers' rights as data owners and enhancing the empowerment of consumer data within platform enterprises, it is possible to counter the "algorithmic power" of super-platform enterprises and gradually enhance private remedies for consumer rights.

### **2.3. Incorporate "Power" Actions of Platform Enterprises into the Scope of Administrative Litigation**

Currently, the regulation of platform enterprises primarily focuses on private remedies, with public power regulations mainly involving administrative inspections and administrative interviews. Administrative inspections are considered the most severe measure in platform regulation, while administrative interviews are the most widely used tool in constructing China's regulatory state.

In recent years, frequent safety incidents in the operation of ride-hailing services have prompted the Chinese government to conduct administrative inspections and interviews to mitigate the social risks posed by ride-hailing platforms. However, these measures are insufficient to address the social problems posed by platform enterprises. At present, or in the foreseeable future, regulatory measures targeting information giants remain primarily focused on data privacy and information security, advocating for regulation through government enforcement or consumer self-protection, while lacking recognition and response to the overall "power" held by platform enterprises. Thus, we should move beyond viewing platform enterprises merely as private entities and focus on the public nature they display in the information age. By expanding the scope of administrative litigation to include actions by platform enterprises that involve the aggregation, distribution, and maintenance of public resources and interests, we could significantly enhance remedial effectiveness.

From the consumer's perspective, using the example of ride-hailing platforms, prices generated by algorithms may vary for different individuals over the same distance, largely due to the platform's user profiling. Similarly, hotel prices may differ significantly based on a user's consumption habits and level, sometimes varying by hundreds of yuan, and hotels near exam venues often see sharp price hikes during peak periods. Such practices are not effectively addressed through consumer protection channels; some may not even realize they have been infringed, while others, due to urgency, may have no choice but to accept. If these behaviors by platforms are included within the scope of administrative litigation, it could increase transparency from the outset, ensuring greater consumer awareness, and remove the burden of proof from consumers, as they would not need to assume an excessive evidentiary burden. This would significantly favor the protection of consumer rights.

From the perspective of workers, this could also significantly protect labor rights. Taking ride-hailing drivers as an example, the management rules imposed by ride-hailing platforms severely violate labor law standards. The platform's order allocation rules are not based on proximity but rather on driver scores, which depend on the time worked. First, there is a minimum weekly time requirement; the longer the hours, the higher the score. However, if there is any break in service, the score will rapidly decline in a stepwise fashion. Thus, to receive more orders, drivers must accumulate long hours and maintain consistent activity, or else their scores will drop, resulting in fewer orders and forming a vicious cycle that eventually leads to a complete lack of income. While this model may enhance enthusiasm, it also significantly intensifies competition, leading to exploitation and completely undermining labor laws designed to protect workers' rights. In an equal footing dispute resolution scenario, ride-hailing platforms can easily dismiss drivers' claims by invoking voluntary participation.

Moreover, the relationship between the two is not inherently equal; the control exercised by platform enterprises over drivers is very similar to public authority. Their actions can be seen as equivalent to those of administrative bodies, except in name. Including platform enterprise behaviors within the scope of administrative litigation could regulate their management practices. As analyzed from the consumer perspective, it could push platform enterprises toward fairness and transparency rather than ruthless exploitation, providing an additional low-burden avenue of redress for platform enterprise workers, such as ride-hailing drivers.

Thus, for platform enterprises that are private entities with public characteristics, how can they be included in the regulatory framework designed for public entities? This requires legislative techniques that expand the scope of administrative litigation. Instead of an exhaustive list that emphasizes the identities and actions of entities, a rule-by-exclusion should be applied, focusing on the public nature of actions—specifically, the aggregation, distribution, and maintenance of public resources and interests. Any disputes arising from such public actions, whether by administrative bodies or public-like actions by platform enterprises, should be included in the scope of administrative litigation for resolution. However, this idea may be challenging to implement in the current context of clear distinctions between public and private entities. Further exploration and construction are required to demonstrate its reasonableness and feasibility in the future, thereby effectively regulating platform enterprises.

### 3. CONCLUSION

As Viktor Mayer-Schönberger and Kenneth Cukier have observed, "Just as the invention of the printing press revolutionized social self-management, big data does the same. It compels us to confront long-standing challenges through new approaches and to address emerging risks by drawing on fundamental principles." The power derived from data by platform enterprises in the information age cannot be effectively controlled through current regulatory measures. The goal of administrative litigation is to resolve administrative disputes, which fundamentally arise from the aggregation, distribution, and maintenance of public resources and interests. Therefore, regulation of platform enterprises with public attributes can be approached from this perspective.

By extending the legislative techniques of administrative litigation beyond the current scope, shifting from an enumerative approach based on entities and actions to an exclusionary approach that focuses on the nature of the behavior rather than the public-private distinction, certain actions by information giants related to public resources could be included within the regulatory scope of administrative litigation. This would better protect weaker parties in such disputes.

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