

Your World First

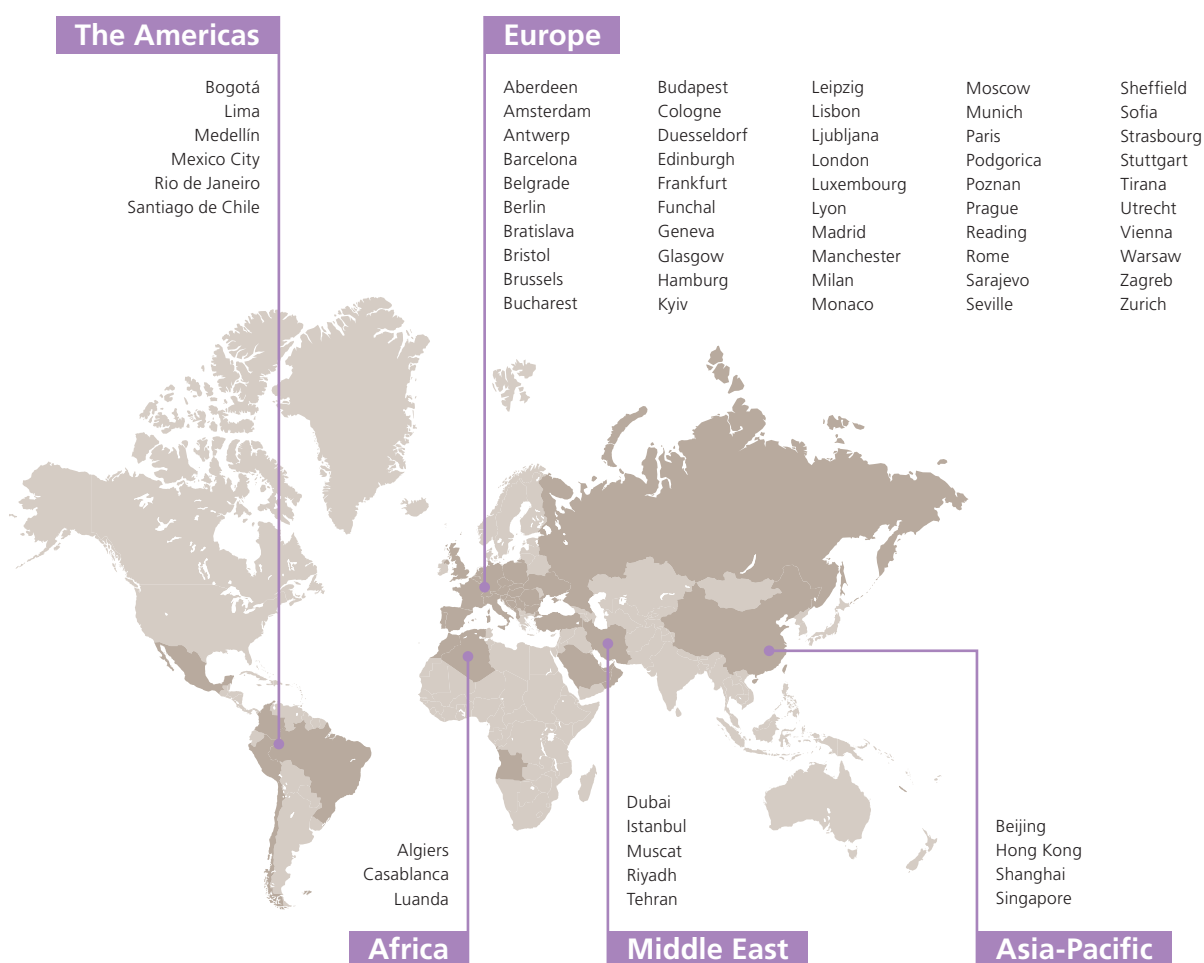
C/M/S/

Law.Tax

Top developments and predictions for the TMT Sector in China

2017-2018

CMS facts and figures



- **74 offices**
- **68 cities**
- **> 1,000 partners**
- **> 4,500 lawyers**
- **> 7,500 total staff**
- **Combined annual turnover:**
EUR 1.05bn (2016)*
* when currency fluctuation is removed
- **42 countries**

European countries

Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, France, Germany, Hungary, Italy, Luxembourg, Monaco, Montenegro, the Netherlands, Poland, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Switzerland, Turkey, Ukraine and United Kingdom

Outside Europe

Algeria, Angola, Brazil, Chile, China, Colombia, Hong Kong, Iran, Kingdom of Saudi Arabia, Mexico, Morocco, Oman, Peru, Singapore and United Arab Emirates

Overview

As the new year begins, you may be reflecting on what your business can expect to face, both in terms of opportunities and challenges, in the fast pace and evolving sector of TMT in China. 2017 witnessed many significant developments in the sector, including a couple of global firsts with the introduction of the Cybersecurity Law and Internet Court.

We have taken a look back at the top 10 developments of 2017 and also looked ahead to 2018 with our top 10 predictions for you and your business operating in China.

Over the next 12 months, we will be closely monitoring these ongoing developments and providing you with regular updates on them through our free eAlert service, Law-Now, and also WeChat 'CMSAsia'.

For now, we hope you find our reflections and predictions of interest and help to your business as you plan for the year ahead.

If you would like to discuss any of the developments with us, please do let me know.



Nick Beckett

Managing Partner, Beijing Office

T +86 10 8527 0287

M +86 186 1842 8030

E nick.beckett@cms-cmno.com

Follow us on **WeChat** to keep up-to-date on the latest legal developments, events and news from CMS.



Top 10 developments



- 1. Cybersecurity:** The PRC Cybersecurity Law took effect from 1 June 2017. Several important draft implementation rules and technical standards (e.g. special requirements for critical information infrastructure operators and requirements concerning cross-border transfer of data) have been published to solicit public opinions. Regulators are enforcing these requirements actively. For many network operators, online services providers and network products manufacturers, compliance with the Law has become a top priority.



- 2. Sharing economy:** The government published the Guiding Opinions on Promoting the Development of Sharing Economy in July 2017 to boost the continuous growth of China's sharing economy. This year saw the implementation of administrative measures to encourage data sharing, clarify responsibilities among participants, strengthen privacy and IP protection, and introduce tax incentives. Sharing economy is a thriving business model. China's bike-sharing market has grown from 33 million RMB in the third quarter of 2016 to 3.9 billion RMB in the second quarter of 2017.



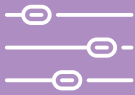
- 3. Online Content:** The online generation and distribution of content and information has been subject to increasingly strict regulation during 2017. A series of new requirements governing online news services, audio and visual programs, BBS, and public subscription accounts have been published. These regulations target the qualifications of content generators, the responsibilities of distribution platforms, and the true-identification registration of users. The overall object is to prevent the distribution of illegal or inappropriate content and to foster a healthy online environment.



- 4. Fight against Cybercrimes:** China has paid great attention to its fight against cybercrimes. In October 2017, the Supreme People's Procuratorate published the ninth batch of guiding cases elaborating the specific activities and circumstances that might constitute cybercrimes. To target illegal infringement of personal data, the Supreme People's Court provided a detailed explanation on the crimes of "illegal sale or provision of personal data" and "illegally obtaining personal data". With around 750 million online users, China is determined to combat cybercrimes and illegal activities in the cyberspace.



- 5. ICO:** The People's Bank of China issued a circular in September 2017 and banned token offerings (including initial coin offers "ICO") entirely. Token offering is now considered as illegal public fundraising, illegal distributions of securities, a form of financial fraud, and a form of illegal activity.



6. FinTech: In 2017, significant business models in the FinTech industry, such as third party payment and P2P lending, have faced stricter regulation. While recognising the new opportunities brought by innovations and technology, the government has started to focus more on regulating market players and preventing financial risks. In mid-May, the People's Bank of China announced the establishment of a FinTech Committee, which will be responsible for the research, planning, coordination and administration of the FinTech industry.



7. Artificial Intelligence: The State Council published the Development Plan for the New Generation of Artificial Intelligence in July 2017. The Plan sets out the strategic targets, key areas, and governmental support for AI development. In the second half of 2017, implementation rules and related policies have been formulated to guide the practice. Alibaba, Tencent and Baidu have already started to lay out their AI roadmap. Start-ups focusing on AI hardware and algorithms are becoming increasingly attractive to investors.



8. E-commerce: To protect online shopping consumers, the State Administration of Industry published a new regulation in January, granting consumers the right to return goods within seven days without the need to provide any reasons. To encourage the development of cross-border ecommerce, the government has decided to extend the transitional period for implementing the new customs duty and clearance rules for another year and to expand the cross-border ecommerce pilot zone to cover five more cities. Cross-border e-commerce transactions can enjoy the favourable duty rates and administrative procedures until the end of 2018.



9. Internet Court: The world's first court designated to handle internet-related cases (e.g. online shopping disputes, online IP infringements) opened in Hangzhou this year. The court exercises the same procedures as normal trials but implements all procedures via the internet on an online portal. The court expects to utilise big data, cloud computing, artificial intelligence and other advanced technologies in the future. The successful launch of the court is considered to be a significant milestone in the informatisation reform of China's judicial system.



10. China Uniform Reform: As one of the three telecom giants in China, China Unicom announced in August 2017 its plans to raise approximately 77.9 billion RMB through an ownership reshuffle. This is in line with China's strategy to revitalise State Owned Enterprises through the introduction of private capital. For China Unicom, there are more than 10 investors lining up, including the main technology and "Internet+" companies such as Alibaba, Tencent, Baidu, Suning and JD. This reform is also expected to diversify the co-operative models between traditional telecom service operators and new technology companies.

Our top 10 predictions...



1. Artificial Intelligence: Following the Three-year (2018-2020) Action Plan for the Development of a New Generation AI Industry in China, the government will implement more favourable policies and economic incentives to facilitate the manufacturing of intelligent hardware, the development of algorithms and the application of AI technologies in various sectors. Adopting AI technologies in businesses will become the top priority of more business operators. 2018 will see the start of AI's explosive growth in China.



2. Data Transfer: Critical information infrastructure operators will need to take necessary measures to comply with data localisation requirements and carry out security assessments for cross-border transfer of data. The requirements might expand to cover all network operators and online services providers. If so, companies engaged in international business must adjust their data management plans and IT structures accordingly.



3. Privacy Policy: Personal data protection will continue to be in regulatory focus. It is critical to implement privacy policies that can effectively inform users of how their personal data will be collected, processed and used and to obtain their consent. It is also critical to maintain the policies in accordance with the latest legal developments.



4. Cyber Incident Response: Following the establishment of a cooperative framework among relevant government authorities to monitor and cope with cyber incidents, the regulatory focus will likely shift to business operators, who will need to formulate cyber incident response plans, take necessary remedial measures after incidents and fulfil reporting and notification obligations in time.



5. Connected Devices: With the development of the "Internet of Things" and the implementation of the PRC Cybersecurity Law, we can expect more technical standards and certification mechanisms to be designed to ensure that connected devices are secure and controllable in order to protect the overall security of the cyberspace.



- 6. 5G:** China will start the third phase of 5G technical tests in 2018. More efforts will be made to accelerate the tests on networks, systems, chips and other products of the industrial chain, which will help lay a solid foundation for China to gain a lead in the race to commercialise 5G.



- 7. Intelligent Cars:** Following the issuance of general guidelines setting out the ambitious development of intelligent cars in China, we expect to see increased R&D activities and trial projects from both traditional car manufacturers and new technology companies. More draft regulations and standards concerning product quality, manufacturer qualifications, road tests, facilities centres and driving safety might be published to guide the practice.



- 8. Ecommerce:** The Draft E-commerce Law has gone through its second review and the final version is expected to be published in 2018. A comprehensive regulatory framework governing ecommerce platform operation, seller's qualification, consumer protection, online advertising and reviewing, will be established to facilitate the continuous development of ecommerce in China.



- 9. Cloud Computing:** As a foundation for various big data, IoT, and AI projects, cloud computing services are likely to be subject to more comprehensive regulation concerning operation licensing and cybersecurity. Governmental departments and operators in critical or sensitive industries might face additional requirements of selecting secure and reliable cloud services.



- 10. Live Streaming:** China is likely to continue to be the largest market for live streaming in 2018. A value chain surrounding the unique tipping models (e.g. sending virtual gifts to popular live-stream personalities) will gradually mature. Requirements for streaming platform operators to review content distributed and supervise the interaction between viewers and personalities will likely be more strictly enforced to guide the healthy development of the industry.



Law. Tax

Your free online legal information service.

A subscription service for legal articles
on a variety of topics delivered by email.
cms-lawnow.com



Law. Tax

Your expert legal publications online.

In-depth international legal research
and insights that can be personalised.
eguides.cmslegal.com

CMS, China
Beijing Representative Office
Room 1909, China Youth Plaza
No.19 Dongsanhuan North Road
Chaoyang District, Beijing, 100026
China

T +86 10 8527 0259
F +86 10 8590 0831

CMS, China
Shanghai Representative Office
2801 Plaza 66 Tower 2
1266 Nanjing Road West
Shanghai
200040
China

T +86 21 6289 6363
F +86 21 6289 9696

CMS Hasche Sigle,
Hong Kong LLP 27/F,
8 Queen's Road Central Central,
Hong Kong S.A.R.

T +852 3758 2215
F +852 3758 2235

CMS Legal Services EEIG (CMS EEIG) is a European Economic Interest Grouping that coordinates an organisation of independent law firms. CMS EEIG provides no client services. Such services are solely provided by CMS EEIG's member firms in their respective jurisdictions. CMS EEIG and each of its member firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS EEIG and each member firm are liable only for their own acts or omissions and not those of each other. The brand name "CMS" and the term "firm" are used to refer to some or all of the member firms or their offices.

CMS locations:

Albania, Algeria, Angola, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Chile, China, Colombia, Croatia, Czech Republic, France, Germany, Hungary, Iran, Italy, Kingdom of Saudi Arabia, Luxembourg, Macedonia, Mexico, Monaco, Morocco, Montenegro, the Netherlands, Oman, Peru, Poland, Portugal, Romania, Russia, Serbia, Singapore, Slovakia, Slovenia, Spain, Switzerland, Turkey, Ukraine, United Arab Emirates and United Kingdom.

cms.law

1801-0039229-5