AmCham China

QUARTERLY

Issue 3
2021

Executive insights, interviews, and intelligence for business in China

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Facebook's Jayne Leung on a Decade of Tech Teachings

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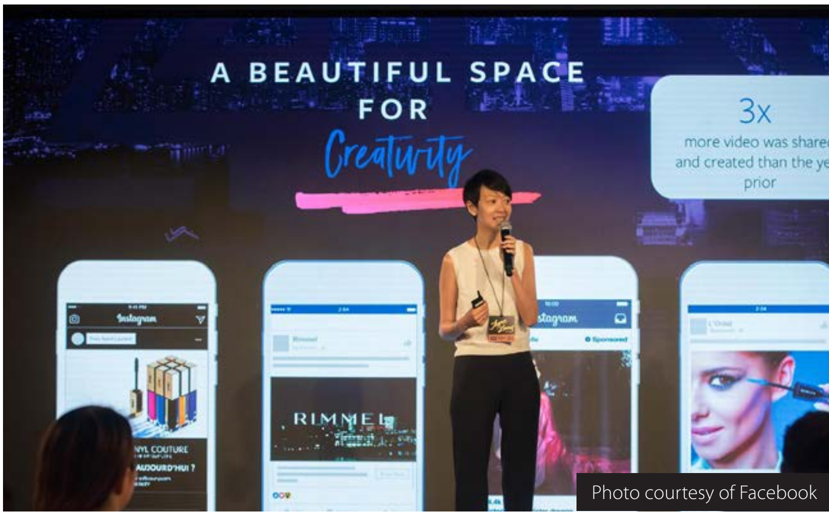

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THE NEXT HUNDRED YEARS

The American Chamber of Commerce in the People's Republic of China

AmCham China Leadership

AmCham China's success is rooted in the vision, hard work, and dedication of its members. Through their efforts, these volunteer leaders make it possible to provide the information and intelligence, business services, networking opportunities, and events that benefit all members and the advocacy initiatives that help shape the business environment in China. At AmCham China's national level, the chairman, two vice chairs, and 11 governors comprise the organization's Board of Governors. Additionally, AmCham China's three Chapters each have their own local executive committee to ensure they are responsive to the needs of local AmCham China members.

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Offering Constructive Encouragement

The US-China relationship is at a crossroads. More than three years after the first reciprocal rounds of tariffs came into effect, the US continues to analyze its relationship with China, and it's been positive to see constructive discussions of late between Ambassador Tai and her counterpart Vice Premier Liu He.

Those discussions have paved the way for a virtual meeting between Presidents Biden and Xi, which looks likely to happen before the end of the year and provides room for further encouragement. As those discussions continue to evolve, we want to help the US business community define the nature of the bilateral relationship and ensure that the Chamber plays a central role in keeping commercial opportunities alive and vibrant.

It does appear that there will be a certain degree of decoupling – driven by both sides – but we will work hard to keep that appropriately within bounds. It is also important to note that many of the areas defined in what became known as the Phase One trade agreement, as well as the many concerns originally set aside for later negotiations, remain a priority for us. We will continue to raise those issues, but we will do so with a positive spirit, remaining hopeful that the relationship can grow stronger into the future.

In this magazine, you will find a particular focus on technology – one of the thorniest elements of the US-China relationship, but also one of the most important, with articles on the future of the US-China tech rivalry (*pages 18-20*) and another on China's recent campaign of crackdowns and reforms on the domestic tech industry (*pages 29-31*). As with other areas of the relationship, we have been working closely with our member companies to keep the commercial part of the tech sector as wide as possible, and limiting the more sensitive areas as much as we can.

We recently held our 4th annual Technology and Innovation Summit, which for the first time in our history, was held as a wholly online event. More than 500 people tuned in both during the event and to watch on-demand afterwards, and we received many positive comments from you about the strong line-up of 30+ speakers.

I'm also pleased to see that we have features in the *Quarterly* with the China heads of three of our Chairman's Circle companies, including Facebook's Greater China Head Jayne Leung (*pages 24-27*), Walmart China's CEO Christina Leung (*pages 12-14*), and ConocoPhillips China President Bill Arnold (*pages 32-35*). I would strongly urge any of you looking to deepen your company's China engagement to consider joining this unique group.

Greg Gilligan
AmCham China Chairman

AmCham China Chairman's Circle

AmCham China Chairman's Circle is a select group of premium membership holders that provide the chamber with exceptional support and leadership. The current Circle members are:

How Strong Digital Foundations Pave the Way to Success

Joe Bao serves as President of Microsoft China. In this capacity, he leads Microsoft's high performing enterprise sales, technical support, and global partner and consulting organizations, helping to enable the digital transformation of Microsoft's vast network of customers and partners.

Bao is a 17-year veteran leader at Microsoft, bringing a rich blend of experience in operational areas of sales, marketing, and strategy at both Microsoft Corporate HQ and the Greater China Region. Prior to this role, he was the Chief Strategy Officer & VP of Global Partner Solutions for Greater China, responsible for developing long-term strategy, as well as leading a robust organization to support commercial customers, partners, developers, and digital communities in their innovation and transformation.

Bao has been recognized for his professional performance and achievements within Microsoft, winning the Circle of Excellence Platinum Award – the highest level of honor that Microsoft employees worldwide can receive. He also cares deeply about public welfare, serving on the boards for non-profit organizations specializing in rural education.

Photo courtesy of Microsoft China

In an exclusive piece for the AmCham China Quarterly*, Joe Bao, President of Microsoft China, shares his insights on the connection between sustainability and productivity, the impact of the shift to hybrid work, and how data has become the new currency of digital transformation.*

By Joe Bao

Improving operational efficiency and service delivery is at the heart of digital transformation and, in many ways, this is what Microsoft today is all about. But what our customers are really asking us for is digital acceleration. If the global pandemic has taught us anything, it's that the capacity to turn challenge into opportunity is built on a strong digital foundation. We've seen over and over again how organizations which had already begun their digital transformation journeys felt better equipped to respond to rapid and unpredictable change. They were prepared with the tools and platforms to shift to remote work, recalibrate supply chains for changing demands and unplanned interruptions, and transact with customers in new ways. Now, many of these organizations are thriving, and adapting faster than ever.

Peking University's Guanghua School of Management was already using Microsoft Teams, so at the beginning of 2020, they were able to quickly pivot from offline to online for their opening ceremony. More than 8,000 students from all over the country and around the world started online classes in the spring semester through Teams Live Events. Early investments like these to build a strong digital foundation makes a big difference, and the changing landscape has made it clear that "business as usual" will not be part of the new norm.

At the same time, the priorities of our customers have shifted over the past year. We have all become more conscious of our place as part of a global community. We're more aware of how our actions contribute to that community, and most organizations – 76% of them, in fact – now realize they have a responsibility to play a constructive role in society.

Sustainability Fostering Operational Efficiency

Many of us have re-committed to putting together a future that allows everyone to not just survive, but thrive, by harnessing the power of technology. Sustainability is a big part of that because the world is facing unprecedented simultaneous challenges of mitigating and adapting to changing climates, ensuring resilient water supplies, feeding a human population rapidly growing to 10 billion people, and stemming a catastrophic and ongoing loss of biodiversity and ecosystems.

We know that human society must achieve net-zero carbon emissions by 2050. But we need to begin operating in a manner that respects the limits of finite resources and fully takes advantage of renewable ones, while working to fix the damage that has already been done. This requires a new age of technology informed by sustainability.

Like many organizations, sustainability at Microsoft evolved from an operational-only focus, where we looked at making our offices and datacenters more efficient and sustainable, to work that spans the company, including products and services, customers and partners, policy, and, of course, our employees. We set our first carbon emissions reduction goal in 2009 and have accomplished some incredible things over the past decade in the sustainability space: from our carbon neutral program (100% carbon neutral + carbon tax in 2012, and goal of carbon negative by 2030), our renewable energy progress (70% by 2020, 100% by 2025), our commitment to building sustainable products and infrastructure (LEED Gold certified new datacenters, zero waste by 2030, building the Planetary Computer), and by relying on our principles of transparency and accountability in how we communicate our progress and outcomes.

We have also worked with customers to co-develop tools and solutions from AI for Earth as well as deploying APIs created through the program. For example, the US Department of Agriculture is testing some of our advanced agricultural AI work to boost crop yields and provide guidance on planting and sowing for farmers in the US, while international agriculture organization ICRISAT is doing the same in India.

Whether customers utilize our sustainability solutions or not, sustainability benefits are baked into both the software and hardware services from Microsoft. Envision Group is a great example. Their EnOSTM intelligent IoT operating system uses Azure IoT, machine learning and other services, because the Microsoft cloud not only provides comprehensive technical capabilities that can be deployed to all parts of the world quickly and compliantly, it also helps them accelerate toward zero-carbon, which helps them win more business. Their system is being used in urban energy management applications in Singapore, Thailand, France, and elsewhere.

AI to Empower Growth

There is no longer any question that AI can make a monumental difference within an organization, from solving big problems to completely evolving a business model. One example came through the partnership between Novo Nordisk's expertise and experience in

Above:
Joe Bao, on behalf of Microsoft China, accepting the award for Equality in Education at the 2021 China Social Impact Awards.

Photo courtesy of Microsoft China

diabetes care and Microsoft's Azure cloud platform and AI services. The two companies collaborated to deliver an AI chatbot with a smart, natural-language interface to help more Chinese diabetic patients improve their knowledge of the disease for better self-management. Both Novo Nordisk and Microsoft have made a commitment to a "healthcare + AI" model and are setting a new benchmark in AI-powered chronic disease management, driving critical advancements in healthcare.

But not every business has to start with such big ambitions. Putting AI into action isn't easy. It requires balancing a future vision with more immediate opportunities to improve and compete. It entails creating a culture that's data driven, curious, and committed to the responsible use of AI, then recognizing the technical capabilities you need to make implementation a reality. Most importantly, it means empowering everyone with AI – not just your technical teams.

Microsoft created the AI Business School two years ago to provide guidance on strategy, culture, responsibility, and other critical topics for key decision makers across industries. We partnered with experts and analysts and interviewed leaders across different industries to understand how to be successful and lead in the age of AI.

Data's Central Role in Digital Transformation

Data is the new currency of digital transformation. Whether providing new insights, improving decision making, or driving better business outcomes, enthusiasm for unlocking the power of data has never been greater. But as MNCs grapple with operating in many different countries with different regulatory regimes, while at the same time trying to maximize the benefit of a unified and consistent cloud architecture, it can get very complex – to the point that it scares some companies back into silos, which totally defeats the purpose.

Microsoft has long provided solutions for MNCs to manage compliance and still get all the performance benefits of our Azure cloud. Azure has more than 90 compliance certifications and more than 35 compliance offerings specific to the needs of key industries. Emerging compliance needs are covered, too, because Microsoft engages globally with governments, regulators, standards bodies, and NGOs. Azure has built-in compliance controls, configuration management tools, implementation and guidance resources, and third-party audit reports designed to speed up processes and save money.

But beyond the jurisdictional and compliance challenges we address with Azure, we also recognize that for organizations to have a data culture that empowers digital acceleration and innovation, data has to be open and available, democratized for your talent to work with it. We address this with Azure Data Bricks, which enables organizations to secure and monitor each layer from the application down to storage. We also recently launched Azure Purview to help with unified data governance that helps organizations manage and govern on-premises, multi-cloud, and discovery, sensitive data classification, and end-to-end data lineage that enables data consumers to find valuable, trustworthy data.

Today's Mixed Reality is Here

Mixed reality is the blending of the physical and digital worlds in ways that used to be the stuff of science fiction but are now present and practical. From construction sites to factory floors, from operating rooms to classrooms, mixed reality powered by AI, the intelligent edge and intelligent cloud are changing how we work, learn, communicate, and get things done. Microsoft is working to lead the way to empower businesses with mixed reality in three significant ways: our HoloLens mixed reality device, mixed reality applications in Microsoft 365, and mixed reality services in the Microsoft Azure cloud.

The maturity of this technology is undeniable and incredibly exciting, taking user experiences to the next level with a combination of truly stunning holographic representations of people, high fidelity holographic 3D models, and the real world around them, which yields real productivity and safety gains.

China National Petroleum Corporation's IT service and technical support unit, CNPC Richfit, is using HoloLens and Azure Kinect Development Kit to create an immersive training experience that integrates the physical and digital worlds. Employees use HoloLens to learn production equipment engineering, process, operation, and maintenance procedures and tasks using holographic images superimposed on the real world which provides more efficiency while being safer and more effective.

Hybrid Work Transforms Expectations

The past year has fundamentally transformed employee and customer expectations – and there's no going back. The shift to hybrid work is an opportunity to reconsider everything we've done before and question if it's the way to do it in the future, from the employee work experience to digital selling and hosted events.

The success of any hybrid model starts with people and whether they can thrive, and whether the company culture can flourish. So, everything from onboarding to upskilling on the job, fostering innovation, and employee wellness needs to be on the table. At Microsoft, we're finding the additional upside is that it helps us attract and retain diverse talent by giving people flexibility in how, when, and where they work.

Managers are very important in this, and we encourage managers to have discussions with their employees on what scenarios enable them to work the way they work best. For example, although we are giving employees the flexibility to work remotely up to 50% of the time, managers and employees can work together to develop individual norms for work schedules and set best practices for collaboration.

Interestingly, since China was first to experience COVID-19 and all of the various stages of reaction, rebuilding, and recovery, Microsoft China served as a prototype for hybrid work for Microsoft worldwide, and we did a lot of research around this. For example, as we are now largely in the recovery stage, we know in China that more than two-thirds of our employees prefer to maintain some sort of hybrid arrangement and 72% of them say they are at least as productive – if not more productive – in hybrid mode. Some things still work better at the office. They say the office is better for hosting visitors, social interaction, large meetings, learning from others, and when they need specialized equipment or a strong, stable network connection. Working from home is better for creative thinking and people appreciate being able to manage their home life better, but two-thirds found they worked longer hours from home and one-third found it more difficult to work with others and connect casually when they are remote.

So, we are working with managers to help them set clear goals and expectations for their teams through coaching and extending empathy, while helping them try different approaches and model healthy behaviors of hybrid working.

Making meetings inclusive and engaging for everyone is more complex in a hybrid model, with some participants together in a physical location, and others calling in remotely. To address this, we've created Microsoft Teams Rooms with high-quality hardware that ensures everyone can be seen and heard. They have multiple video screens to create dynamic views of participants, chat windows, whiteboards, content, and notes. Enhancements to in-room technologies help remote participants track and participate in the flow of the meeting.

And finally, there is the opportunity of hybrid process. Every process across the organization – from operations to engineering, sales, supply chain, and finance – needs to be reimagined to accommodate the shift to a digital workflow, and cloud-based infrastructure is critical for supporting that shift. Moving to the cloud is essential. The faster you get there, the faster you can empower your people for hybrid work and deliver great experiences that allow employees to be productive from anywhere, without compromising security. Employees can even use Power Apps to automate key business processes or build custom apps without leaving the Teams platform.

Microsoft China has been leading this evolution for Microsoft in many ways, providing this flexibility, accelerating learning and training, and experimenting with employee engagement as well as automating processes and creating new ways for people to collaborate inclusively. It's been essential for our team's success, but also for our customers. When Microsoft employees share lessons learned with the customers with whom they interact, it helps those customers navigate their own transitions to a hybrid work environment – and that is ultimately where we want to be: empowering customers.

Above:
Joe Bao speaking at the 2020 Tech & Innovation Summit.

Photo courtesy of AmCham China

Navigating Uncharted Waters: Walmart's China CEO on the Future of Retail

Xiaojing Christina Zhu is President and CEO of Walmart China. A customer-centric, digital-savvy, and innovative leader with a global mindset, she leads Walmart China to provide seamless omni-channel shopping experiences and superior customer service both online and offline across Walmart China's multi-format portfolio of hypermarkets and Sam's Clubs.

Prior to joining Walmart, Zhu served as President at Fonterra Greater China, leading all aspects of the company's consumer, food service, strategic accounts, and farming businesses. Under her leadership, the brands and products grew to be top sellers in many categories, through route-to-market transformation, digitalization, and constant innovation.

Zhu has also held various leadership roles in multinational companies such as Honeywell and McKinsey & Co. Her career spans across three continents – Asia, North America, and Europe – and covers a wide range of sectors. She is a fellow of the inaugural class of the Aspen Institute's China Fellowship Program, a member of the Aspen Global Leadership Network, and the Network's first Chinese moderator. Passionate about promoting women in leadership, Christina chairs Walmart China's Women and Inclusion Leadership Committee.

Photo courtesy of Walmart China

Retail giant Walmart Inc. has a storied history with five decades of operational success across the globe. The AmCham China Quarterly *spoke to Christina Zhu, who became China President and CEO last year, about transformational leadership lessons, the opportunities presented by omni-channel retail, and how to successfully localize a global brand.*

By Norris Tangen

Founded over 50 years ago in small-town Arkansas, Walmart Inc. has grown to become an instantly recognizable global brand. Today, Walmart is the world's largest private employer and an international retail giant, operating in 26 countries outside of the US. Since operations in China began in 1996, Walmart has opened over 400 locations, including 36 Sam's Clubs, with a forecast of 40 to 45 Clubs in China by the end of 2022.

While the brand's vision to be the most trusted retailer in China has remained constant, Christina Zhu, President and CEO of Walmart China, says the company has had to adapt its playbook. To this end, over the past year Walmart China has accelerated its omni-channel development with a particular focus on sustainable differentiation and end-to-end efficiency. This move is paying off – in the first quarter of 2021, the company saw the highest sales and profits in its history. Joining Walmart in 2020, Zhu has been at the center of the company's efforts to spearhead a move towards bolder business practices and organizational transformation that is anchored in a future-oriented strategy.

Transformational Leadership in Action

"At the CEO level, there are few things you actually do yourself," says Zhu. "But you need to focus on people. You lead by helping people grow. Building an organization where people can grow is the most valuable thing you do. The rest follows as a natural byproduct. Success is about finding the right talent and helping them unlock their potential."

Zhu's leadership philosophy follows this theme of collaboration and support. She likens leading to "sailing in uncharted waters, without a map, GPS, or weather forecast." She explains, "While previous experience can help to inform decision making, ultimately a leader is constantly chartering new territory. Our global CEO Doug McMillon told me that the best leaders create hope. Today's leaders need to engender a feeling of hope and optimism within an organization."

Unique China Challenges

China is the world's largest growth market and the most complex retail market, presenting its own set of unique challenges and opportunities. Zhu emphasizes the speed of change as a defining characteristic of the China market. "It can be dramatic, and it can be all of a sudden. The speed and scale of change is the most interesting thing about China."

She cautions that China is not a market for leaders looking to keep on a steady course, "But it's also not a good place for reactionaries trying to catch the latest fad." Zhu continues, "The rate of change is too fast for that. China is a testing market for leaders. You must constantly review your context, and adapt your playbook." She goes on to note that the real challenge for leaders in China is to balance the need for adaptation, while also sticking to a clear vision and maintaining core values and principles.

Localizing a Global Brand

Sam's Club, a subsidiary of Walmart, has been finding increasing success in China, but Zhu is quick to clarify: Sam's Club consumers are not "customers," they are "members." In this context, with the recent opening of the brand's flagship store – and largest in Asia – in Shanghai's Pudong area, and plans for at least four more stores within the next year, the brand is growing rapidly. She credits Sam's Clubs' success in part to its unique membership model. Zhu says that it allows the brand to focus and tailor offerings to their target audience. Significantly, the chain derives more revenues from its membership fees than from the margin it makes on products, allowing it to fully focus on tailoring its offerings to members' needs.

She points to three essential questions that determine these local offerings. First, who do you serve? Then, within that audience, what particular needs do you serve? Finally, and most importantly, she says, is "How do you deliver that final offering?" Zhu explains that it's at that question of "how?" where companies are forced to confront a set of choices and trade-offs. She defines strategy as "50% what you do, and 50% what you don't do." She continues, "Understanding that you can't do everything equally well is key to finding the strength of the offering."

In Walmart's case, they know where the value lies: a balance of quality for value, and the emotional sense of exploration that a shopping experience brings. Zhu is aware of the "conscious trade-off" in this situation. "We are highly selective of the SKUs [stock-keeping units] that make it on our shelves. You might not see as many choices at our clubs, but the products are highly curated to serve our members' needs and we push really hard on efficiency."

She points to Sam's Club's delivery policy as another such example of a conscious trade-off. "We offer delivery – one-hour delivery, next-day delivery

– but we do not try to compete with those guaranteeing something like a 28-minute delivery. We offer convenience at the right level." This trade-off is very much guided by a brand value system and confidence in their knowledge of the local consumers.

"We always say that we are a local business powered by Walmart," Zhu says. "And that's exactly how we operate. We leverage our supply chain, the know-how, and the advantages of being a global business, but we also understand our fundamental purpose: to serve local communities."

Retail as Both Art and Science

While Sam's Club, like most retailers, looks at sales and margins on a product when determining inventory, the first priority is member penetration. Zhu points to two main factors: "How many members actually came to the Club, showed interest and bought an item, and the repurchase rate."

One thing Zhu says she has learned about retail is, "It is a combination of art and science. Data matters, but it's also not the only thing. We capture customer data, do consumer research, analyze shopping behavior, all of those things, and we have even bigger aspirations for continued digitalization." But on the other hand, she warns against a tendency to be overly reliant on data, noting that it can hinder a merchant's ability to anticipate unmet market needs.

Zhu uses the case of Sam's Club's durian cakes. The product, made specifically for the China market, was a fantastic success, achieving a high customer penetration rate and spawning imitations from competitors. However, the company made the decision to pull it from the shelves. Originally, the durian cake was made from a mixed vegetable and dairy cream. But Zhu notes, "We knew that our members aspired to a better, healthier life. We knew that the margarine in this cake was not a healthy form of oil. We knew that dairy cream is healthier than vegetable cream." So, changes were made.

The relaunched version not only removed margarine from the ingredient list but upgraded the other ingredients. "When we relaunched this year, we added 50% more durian, increased the product's size, and used only pure dairy cream sourced from Europe. The price only increased from RMB 88 to RMB 128, but the size of the package went from 630 grams to one kilogram, so the value increase was enormous. It's a healthier, tastier, higher quality product." This type of foresight and commitment to deliver value to members, Zhu says, is what sets the brand apart.

Photo courtesy of Walmart China

Omni-Channel Opportunities

While online retail has become a main priority for many retailers, Zhu sees Walmart and Sam's Club's brick-and-mortar offerings as a huge asset of the brand, especially in China. Although she recognizes that a purely offline retail model would face challenges, she also points out that purely ecommerce businesses are experiencing a slowing of their active growth rate. "We think the ultimate battleground, and what the future needs to be, is omni-channel."

With this goal in mind, Zhu says Walmart is fully committed, and well positioned, to becoming the most trusted omni-channel retailer for urban consumers in China. To achieve this, leveraging technology is crucial. Walmart has recently begun a comprehensive review of its digital capabilities and is planning to further upgrade digital transformation in the business. In Zhu's analysis, "A lot of that will exist in the front-end ecommerce, but that's only a part of it. The biggest part is using technology to completely re-enable the business, improve efficiency, improve decision making quality and speed, and leverage data to engage with members."

Particularly in the case of Sam's Club, Zhu sees significant opportunity in being an omni-channel retailer as a means to serve the needs of one of their most important demographics: families. An omni-channel approach particularly suits this demographic, who might want to visit physical locations once or twice a month to sample products and browse, but would also engage more regularly if online ordering was an accessible option.

As part of Sam's philosophy of creating unique shopping experiences, the recently launched "Sam's X Plus" program aims to introduce inspirational lifestyles to members by offering differentiated products. "We introduced glamping equipment, high-end furniture, and pianos to Sam's Club. This inventory is kept in vendors' warehouses, but members can experience the product in the club, place an order on the app, and have the product delivered to their door." Assessing the brand's aspirations to successfully develop omni-channel shopping experiences, which will leverage the unique advantage of a physical in-club experience, and combine with the convenience of online shopping, Zhu says, "I think that's pretty unique."

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Consequences of a Mobile Future: Creating an Environmentally Conscious Life Cycle for Lead-Acid Batteries

Modern economies depend on the ability to transfer and store energy. The demand for batteries for both mobile storable energy and connectivity continues to grow. As the need for urgent and more intensive action against climate change is broadly recognized, an important part of the solution is the management and recycling of used led-acid batteries in a manner that prevents lead pollution and protects public health. This report from the Global Battery Alliance, in partnership with the World Economic Forum, offers recommendations for policy makers and describes best practices for the safe management of lead battery recycling.

By Mathy Stanislaus and Jonathan Eckart

In its September 2019 report, the Global Battery Alliance (GBA) sets forth a profound goal, expressed in the publication's title: A Vision for a Sustainable Battery Value Chain in 2030: Unlocking the Full Potential to Power Sustainable Development and Climate Change Mitigation. In it, the GBA states that a circular, responsible and just battery value chain is one of the major near-term drivers to realize the Paris Agreement goal of limiting the global temperature increase to below 2°C in the transport and power sectors. This lays out a course towards achieving the 1.5°C goal if complemented with other technologies and collaborative efforts.

As noted in the GBA report: "[A] vision of the battery value chain is incomplete without providing a perspective of the other large battery market segment: lead-acid batteries (LAB). In 2018, approximately 72% of the world rechargeable battery capacity (in GWh) was provided by LABs. ... LABs will be employed in cars, including [electric vehicles], for many years and the global market for them is expected to further grow ... LABs are, therefore, an integral part of the global battery market and will continue to be so for a long time."

Approximately 65% of the global demand for lead-acid batteries (LABs) is currently driven by automotive applications, with nearly every vehicle on the road requiring a LAB for starter, light and

> "The enormity of the contamination from informal or otherwise unsound ULAB recycling that has already occurred highlights the obligation to couple a transition to environmentally sound ULAB recycling with the remediation of previously contaminated sites."

ignition functions. The remainder of uses are as industrial batteries, with lead-based batteries popular for off-grid energy renewable storage. They are used especially in developing countries as a key enabling technology to deliver on Sustainable Development Goal 7: affordable and clean energy for all.

LABs are valued because they are affordable and highly recyclable. Nearly all materials used to construct LABs can be recycled to create new batteries of equal value. When the lead is contained within a manufactured battery, it presents no risk of exposure to the user. And properly managed recycling and manufacturing facilities present little risk of exposure to workers, bystanders or the environment. When considering the growing concerns over resource extraction and waste, LABs are a potential example of a closed-loop economy.

However, technical and regulatory challenges to recycling LABs in low- and middle-income countries exist. In these countries, used lead-acid batteries (ULABs) are often recycled in facilities without adequate pollution and workplace controls, or in the informal economy, where pollution controls are non- existent and severe pollution is common.

The primary threat from unsound ULAB recycling is the release of lead dust and the subsequent exposure of workers and the public, particularly children, to lead. Lead is a well-studied neurotoxicant. The World Health Organization states that no concentration of lead in children's blood is safe, noting that, "It is now quite clear that there are adverse neurodevelopmental effects at the lowest blood lead concentrations yet studied. ...There appears to be no threshold level below which lead causes no injury to the developing human brain." Children exposed to lead face permanent adverse health effects, including impaired brain development and nervous system damage that can be observed as measured decrements in IQ.

The July 2020 report by the non-profit organizations Pure Earth and UNICEF, The Toxic Truth: Children's Exposure to Lead Pollution Undermines a Generation of Future Potential, reveals that lead poisoning is affecting children on a massive and previously unknown scale. Approximately one in three children – up to 800 million globally – have blood lead levels at or above 5 micrograms per decilitre (µg/dL), a level the report says requires urgent action.

Lead comprises approximately 60% of a LAB's weight. ULABs need to be managed and recycled in a manner that prevents lead pollution, protecting workers and public health. They must be recycled in well-regulated facilities with prescribed design and safety equipment, worker health and safety procedures, and pollution controls. These requirements preclude the involvement of the informal sector in many activities such as metal smelting. However, efforts to simply shut down informal recyclers can be counterproductive, as these operations can easily move and reopen, creating additional contamination hotspots.

Even formal recycling operations can pose significant health risks to employees and local communities if safety and environmental protection standards are not adequate. The development of a safe, profitable and efficient ULAB recycling economy requires a coordinated approach to ensure that appropriate regulations, enforcement activities, technical assistance, market and tax incentives, as well as infrastructure are all in place and working to keep ULABs out of the informal recycling sector. Such an approach promotes environmentally sound recycling by enabling regulated operations that take the necessary steps to reduce potential exposures to lead.

Informal Sector

Addressing the informal sector's role in ULAB recycling must ensure the economic and social implications are fully considered. The informal sector has inherent strengths when activities are restricted to battery collection. Its high collection frequency solves the storage problem faced by the retailers, one of the major causes of non-compliance.

Informal sector collectors can often pay higher prices for ULABs than formal sector recyclers can pay because their operating costs are lower, including lower wages and no environmental or overhead costs. The regrettable consequence of this trade, however, is that these batteries are often then sent to informal smelters, ultimately the

	Key recommendations
1	Assess existing national ULAB recycling markets to understand their scope, roles, incentives and impacts on the economy, and to facilitate the design of a tailored national response.
2	Develop and implement national policy and regulatory drivers that ensure that battery producers are given significant responsibility – financial and/or physical – for the treatment, recycling or disposal of ULABs.
3	Create economic and social policies aimed at shifting the market forces to ensure used batteries stay in the formal supply chain. These include battery deposit systems and taxes/ subsidies to influence the market for ULABs.
4	Consider an appropriate division of labor between the informal and formal sectors so that certain non-smelting activities may be conducted by the informal sector, such as waste collection and sorting, while other activities, such as battery breaking and smelting, are limited to the formal sector.
5	Require informal recyclers to relocate to industrial estates and upgrade their operations to join the formal economy and adhere to regulatory standards, or enforce regulation to close them down and remediate any contaminated land.
6	Establish an effective regulatory framework that ensures that formal ULAB recycling facilities are licensed and operate to acceptable environmental and health and safety standards. Sites should be audited and permits only issued when the standards can be achieved. Licensing or permit conditions must stipulate what the facility should do to mitigate fugitive and point source lead emissions, as well as workplace exposures, and a regular monitoring process should be agreed and followed to ensure that the site continues to meet any pre-agreed limits. In addition, adopting regulations prohibiting the bulk sale of ULABs to recyclers other than those with a valid license or permit is needed.
7	Establish regulatory requirements for battery manufacturers to encourage the adoption of responsible sourcing practices, so that any lead- containing raw materials they require are only procured from recyclers who meet acceptable environmental and health and safety standards.
8	In low- and middle-income countries where formal recyclers are unable to compete with informal recyclers, address the competitive disadvantage of formal smelters by reducing the tax on ULABs. It is also necessary to establish a refundable tax on manufacturers so the price paid for ULABs to formal recyclers is greater than that paid to the informal sector. Finally, the importation of lead, along with a rigorous regulatory system, to increase the use of formal smelters, should be permitted.
9	Promote in-country recycling in countries with existing national standards that ensure environmentally sound recycling consistent with the Basel Convention. This enables the profitability of responsible local recyclers, rather than encouraging exports to other countries. It is critical to support the formalization of recycling rather than encouraging the informal sector to collect, break and sell the ULABs to foreign interests.
10	Establish a dedicated funding mechanism to identify and remediate former ULAB recycling sites that are contaminated with lead, focusing on sites adjacent to residential areas.
11	Educate communities about how to select appropriate batteries for energy access and how to return used batteries safely and responsibly.

major sources of the environmental pollution. The recycled lead resulting from this process is finally sold to local battery manufacturers, assemblers and reconditioners.

The price disadvantage in sourcing used batteries is a significant factor in formalized (licensed) recyclers and smelters having an inadequate supply of ULABs to operate competitively.

Cleaning Up Contamination

Communities that are already contaminated by poor-performing smelters will remain contaminated without adequate remediation. This will create exposures for generations to come, perpetuating a cycle of intergenerational poverty.

Lead remediation projects in both low- and middle-income countries, which include long-term monitoring and oversight to ensure that these areas are not disturbed in the future, have been shown not only to reduce exposures to lead and decrease the associated blood lead levels, but have also proven cost-effective using World Health Organization metrics.

Solutions to these challenges exist and are described in this document. Indeed, industry and policy-makers can take straightforward, affordable and profitable steps right now.

Optimizing Battery Usage

Around the world, people use LABs for tasks they were not designed to perform. For example, in some low- and middle-income countries, as many as 40% of the automotive LABs in circulation are used for domestic power storage. An automotive battery will typically last two years in the home. Alternatively, deep discharge LABs are designed specifically for such use and can provide 5 to 15 years of service in the home. The selection of the appropriate battery for the task at hand can reduce the turnover of LABs and consequently the total volume that is recycled annually. Other alternatives are also possible, such as second-use electric vehicle lithium-ion (Li-ion) batteries or other battery chemistries designed and deployed for affordable battery applications in mini-grid and off-grid solutions in low- and middle-income countries in areas so far lacking access to electricity.

To download this report in full from Global Battery Alliance, in partnership with the World Economic Forum, an AmCham China member company, please scan the QR code.

Past Is Prologue: Evaluating the US-China Tech war Through the Lens of Time

The AmCham China Quarterly *spoke to Nina Xiang, author of "China: US-China Tech War: What Chinese Tech History Reveals About Future Tech Rivalry", about the current US-China tech environment, the history of how we got to this point, and what happens next.*

Your book uses China's history as a framework to contextualize the current tech clashes between the US and China today. What have been the most significant flashpoints over the years between the two sides?

Nina Xiang: The narrative in the US that was popularized during the Trump administration that China's technological rise was a result of forced technology transfer and IP theft was misplaced. Forced technology and IP theft did take place in China, as it did in many other countries throughout history and presently, but it was far from being the primary driver of China's tech achievements.

The most fundamental engine of China's tech progress during the past four decades was China's integration into the global supply chain and the global economy, just as Japan and South Korea did before China. These countries entered the global supply chain from the lowest-value segment, and through learning, tech transfer, accumulated know-how, and persistent investment, they were able to rise toward the higher end of the supply chain.

Different from Japan and South Korea, the process of China's moving up the global supply chain was interrupted roughly mid-way by a US clamp-down. In addition, the US's strict export control of core high-end tech to China also hindered China's tech progress. Japan and South Korea were able to move up the value chain much easier without such strict controls by the US.

In terms of policy, what have been the most influential decisions – either positive or negative – that have led us to the present situation?

Nina Xiang: In the US, it's the ZTE and Huawei sanctions. Leading up to the sanctions, the Trump

Photo courtesy of Nina Xiang

Nina Xiang is an expert on the Chinese venture capital and technology sector with nearly 20 years of experience and Founder of FutureLogic. She is the author of two books: Red AI: Victories and Warnings From China's Rise In Artificial Intelligence (2019), and US-China Tech War: What Chinese Tech History Reveals About Future Tech Rivalry (2021).

After a career in journalism, in 2011 she founded China Money Network, an intelligence platform tracking China's smart investments and technology innovation. In the following decade, she interviewed hundreds of venture capital investors and entrepreneurs, visited tech companies across the country, and witnessed first-hand the rise of China tech from the dawn of mobile Internet to the boom of artificial intelligence.

She appears frequently in a range of international media, including the BBC and CGTN. She was part of the team winning an Excellence in Human Rights Reporting honor at the 2007 SOPA Awards. She is currently an agenda contributor for the World Economic Forum, and was named the Female Entrepreneur of the Year for 2019 at the ChinaBang Awards.

Author Nina Xiang's new book *US-China Tech War: What Chinese Tech History Reveals About Future Tech Rivalry* reviews the history of China's technology development and attempts to understand how it could shape the current and future tech rivalry between the United States and China.

The book focuses on the semiconductor industry, the epicenter of the current US-China tech rivalry. It dispels a number of myths about how China progressed technologically: the whole-nation model, forced technology transfer, and China's efforts to stimulate home-grown tech.

administration produced numerous reports to justify the trade tariffs and the sanctions. These reports created and popularized the idea that China "stole" its way to the top – of course, whether China is really "top" technologically depends on where you look. Nevertheless, these narratives were so deeply planted in public discourse that it has been the default explanation of China's tech development in the US. It also contributed to the general US public's deteriorating opinion towards China, which further worsened bilateral relations.

How inevitable is it that the malaise in the bilateral tech relationship will bleed over into other parts of the relationship? Is it realistic to draw lines and treat different issues or sectors differently?

Nina Xiang: Ironically, even though the quoted reasons for the Trump administration's tech clampdown on China was incorrect, or perhaps that the "theft" idea was just used as a pretext, Trump accurately recognized that China's technological rise posed real threats to the US's strategic positioning. Had Huawei's 5G equipment been widely installed across the Western hemisphere, China would have secured itself strong leverage against the US. Were the US to weaponize its tech strangleholds against China, China would have a powerful tool with which to hit back.

The US-China tech conflict is mixed up with geopolitical power struggles, with ideology and morality issues thrown into the mix, too, so it's sometimes hard to tell which field is bleeding into which. But it's definitely possible to draw lines and for both countries to try to work through many of their differences and conflict of interests. The US, for example, should restrain from levying more sanctions against Chinese tech companies using its operating systems such as Android or chip architecture like x86. Both should try to clear the channel for Chinese companies to list in the US again.

Of all the separate issues within the tech sector, what would you highlight as the most important one to watch over the coming years and how do you foresee things playing out in that area?

Nina Xiang: Semiconductors, operating systems, and tech regulation. Chips sit at the center of the current tech rivalry, and how China tries to build up a sanction-free semiconductor supply chain will be the most important thing to watch. I expect China will achieve certain success in mature nodes like 45nm, or one to two generations more advanced than 45nm, within five years. But it depends on US policy and how third-party countries act under pressure from the US.

Chinese companies are gaining momentum in chip design. If the US decides to place EDA software out of the hands of Chinese companies, then this whole segment of the Chinese semiconductor industry would face several years of severe disruption, like chip manufacturing faces today.

Speaking of semiconductors, you talk in the book about how China's strategy has been affected by short-term thinking. How exactly has that hindered China?

Nina Xiang: Policymaking in China may be long-term, but policy execution is in fact short-term. Government officials in charge of executing policies need concrete and quick political achievements for their own purposes. This is one reason why policies in China often fail to meet their objectives.

As you look towards the future, how optimistic are you that the two sides can have a healthy and competitive rivalry, without things spilling over into something more destructive?

Nina Xiang: It depends on who will be the next US President. If Xi continues to hold his leadership position after 2022, as is widely expected, then the biggest variable in bilateral dynamics is the next US President. Someone like Trump would add significantly greater uncertainty and unpredictability into bilateral relations. If it's someone similar to Biden, there is a better chance that any conflicts could be kept within a reasonable range. The probability of relations returning to a "healthy" state is quite small.

Do you believe decoupling will strengthen or cripple China's local semiconductor development? Is China's dominance over the rare earths supply chain an important factor here?

Nina Xiang: China's attempts to build a sanction-free semiconductor supply chain is an important aspect of this partial tech decoupling between the US and China. Whether Chinese tech can become stronger post-decoupling depends on where you look. In certain areas like 5G applications, AI applications, smart cities, and IoT, China will continue to be strong and will really lead in the future. But in other areas like chips, airplane engines, advanced manufacturing, and advanced materials, China will remain dependent on foreign tech for some time to come.

The difference with China's dominance over rare earths is that this supply is replaceable without great difficulty. The US's dominance over the semiconductor sector, however, is not replaceable. Therefore, the US leverage against China is potent, while China's leverage against the US on rare earths is not.

What does all of this mean for the major foreign players in the semiconductor space?

Nina Xiang: Major foreign players will face pressure from the US to cut business relations with China, but almost all major foreign players across the semiconductor supply chain are US allies, so they will probably yield to the US.

The Chinese government would prefer capital only flow into certain parts of the tech sector like semiconductors, AI, and robotics. What do you think are the major risks associated with this type of industrial policy for China's tech sector? Does it encourage or hinder foreign investment?

Nina Xiang: The challenges for this kind of Chinese industrial policy is that it often leads to the establishment of duplicated low-quality projects across the country, as all provinces and cities follow central government policy to launch similar incentives to these encouraged sectors. One proponent of this strategy argues that, even though such repeated efforts lead to a massive waste of social and monetary resources, it can achieve the policy objectives effectively in a shorter period of time via this "whole nation" or "brute force" model.

EV and solar are often quoted as examples of success in this area. But whether these sectors did achieve the intended success needs more study and evaluation. Often, underneath the prosperity, scale, and market share advantages, these sectors fall short of migrating toward the higher-end value chain or achieving technological advantages and leverage in the supply chain. China's recent policies have tended to favor domestic firms in many tech areas, in response to US policies. These will definitely hinder foreign investments in China.

On the domestic front, we've seen pressure on China's major tech firms and entrepreneurs to "give back". What effect do you think this will have? Could it help address structural inequality issues? Conversely, will this type of pressure have a stifling effect on Chinese innovation?

Nina Xiang: Tech firms announcing big projects for "common prosperity" shouldn't be viewed as a "tax" or as pure "expenses" to their businesses. These initiatives are often in collaboration with these tech firms' main businesses. Alibaba's initiative to assist the build-up of smart communities and improving rural healthcare on the cloud can be combined with its e-commerce and cloud units. These initiatives often marry social equality campaigns with their business operations. The ideal result might be what we can call a "win-win-win" for the government, the tech firms, and the public.

Above:
Nina Xiang speaks at the 2019 RISE Conference in Hong Kong

Photo courtesy of Nina Xiang

In what ways could the new data security and privacy laws jeopardize Chinese companies' overseas activities? As more Chinese companies go global, how can they tread the tightrope of global regulations and laws?

Nina Xiang: This has already created complications for Chinese firms' listing overseas. It could also hinder foreign firms investing in Chinese startups if they can't go public outside of China. Chinese companies operating overseas – and foreign companies operating in China – will face hurdles for cross-border data transfers. It remains to be seen how the compliance will be implemented in reality. Also, local data storage requirements and privacy protection requirements would add compliance costs and hinder innovation if data flows become less fluid.

Finally, what advice would you give to US companies in China in the tech space? Where do you see the areas of greatest opportunity?

Nina Xiang: US companies operating in China need to hire more lawyers and data engineers, as well as good government relations personnel. The operating environment is becoming more uncertain, unpredictable, and with much greater legal complexity for US companies in China. Areas such as 5G applications, AI applications, consumer tech, healthcare tech, and fintech will continue to thrive in China. In areas where risks can be properly mitigated, foreign companies will still be able to find great growth opportunities in the decades to come.

How Global Brands Should Harness Data to Compete in China's New Consumer Goods Landscape

By Jacob Cooke

Recent consumer habits reveal a growing number of strong local brands gaining traction in the China market. As Chinese brands increase their market share, it leaves global brands with mounting concerns about how to stay competitive in the local market. Jacob Cooke of WPIC Marketing + Technologies breaks down what's behind this surge of Chinese consumer brands, the implications for global brands, and why companies need to leverage data to stay competitive in the world's most dynamic consumer market.

Jacob Cooke is the Co-Founder and CEO of WPIC Marketing + Technologies, a leading e-commerce and technology consultancy that drives growth for global brands in China, Japan, and Southeast Asia.

As CEO, Cooke is the driving force behind WPIC's world class data, e-commerce services, and artificial intelligence technology. Under his leadership, the firm has built out an expansive solution set covering data analytics, e-commerce activations and store management, brand strategy, creative campaigns, merchandising, warehousing, 3PL integrations, and more.

Cooke has lived in Beijing since 2003 and is a regular contributor to Bloomberg on e-commerce, retail, and technology trends in China. He is a member of the MIT Sloan School of Management and holds an Advanced Certificate in Engineering from MIT's Computer Science & Artificial Intelligence Laboratory. He speaks Mandarin and Japanese.

In the wake of this year's record-setting "618" (June 18) e-commerce shopping festival, a major storyline in Chinese and western business media was the strong performance of Chinese consumer brands.

The *Financial Times* reported that western consumer brands in the China market are "increasingly threatened" by homegrown upstarts, pointing to several Chinese brands – all founded in recent years – that have grabbed significant market share from western giants. According to Alibaba's Tmall, Babycare, a Chinese brand founded in 2014, had the highest gross merchandise value (GMV) of any brand in the mother-and-baby sector. Meanwhile, Guangzhou-based Perfect Diary, established in 2017, was the top cosmetics brand during the Singles' Day online shopping festival in 2019 and 2020.

The emergence of strong local brands is most evident in China's fashion, beauty, and fast-moving consumer goods (FMCG) sectors. In recent years, other Chinese consumer startups like beverage company Genki Forest, toymaker Pop Mart, and underwear brand Ubras have become major players in product categories historically dominated by western brands. The trend extends to more established Chinese brands too, with legacy apparel giants Li-Ning and Anta, for example, seeing their profits and share prices skyrocket in 2021. Taking an even wider view, Chinese companies have become global leaders in several consumer technology sub-categories, including smartphones (Xiaomi, Oppo, Vivo), laptops (Lenovo), mobile applications (ByteDance), drones (DJI), smart appliances (Haier), and video games (Tencent, NetEase).

What's behind the surge of Chinese consumer brands – and what are the implications for global brands that have looked to the China market for growth?

Chinese brands haven't necessarily won the day. Global brands still enjoy substantial advantages in China, but they need to study and emulate the best practices from upstart local players to stay competitive in the world's most dynamic consumer market.

JD.com's 2021 618 Sale by the Numbers

RMB 343.8 billion

in transactions

20,000+

foreign brands

30,000

new brands & stores launched on JD Super

Source: *JD.com*

Data-Driven Ascendance

One of the most commonly-cited reasons for the growing popularity of local brands is nationalism – that Chinese consumers, especially young consumers, are switching to local brands because of national pride. Some point to recent boycotts of certain foreign apparel brands as evidence of a broader pattern of nationalist-driven consumption.

While nationalism may motivate purchasing decisions to some degree, I view it as a simplistic explanation for the overall trend – one that obscures Chinese consumer preferences and detracts from the savvy business practices of the successful local upstarts.

For one, despite the emergence of strong Chinese brands, the data shows that there is still strong interest and trust among Chinese consumers in foreign products and brands.

Take another look at this year's 618. Tmall Global, Alibaba's cross-border platform, reported that Chinese consumers purchased more than RMB 100 million worth of imported goods within three minutes of the sale opening. Eight hours into the event, sales of imported goods had already exceeded the total from 2020's multi-week 618 festival. On JD Worldwide, JD.com's cross-border marketplace, over 20,000 foreign brands participated in 2021's 618, with over 700 of them doubling their sales from the previous year.

With backlogged pre-orders for the iPhone 13 and the early success of Universal Parks' Beijing Resort, it's clear that there is not a widespread patriotic rejection of foreign brands – even of the most quintessential American brands.

Moreover, many of the successful domestic startups do not make overt appeals to blind patriotism in their marketing. The social media pages and e-commerce stores of Perfect Diary, Genki Forest, and Ubras do not emphasize the local origins of these brands or that their products are "Made in China". Some of Pop Mart's most popular collections are based on American intellectual properties, while the landing page of Babycare's flagship Tmall store highlights that the product design team is led by American, German, and Japanese experts.

If nationalism were fueling the success of these brands, marketing managers would probably take note and play into nationalist sentiments – a positioning with limited risk given that these brands are China-focused and have little, if any, overseas revenue exposure.

What's Really Behind the Rise of Local Brands?

A more useful framing is to look at how successful local brands are competing on product offering, price, and branding strategy. Increasingly, Chinese brands are making high quality and trendy products, selling them at accessible prices, and articulating a brand identity that resonates with young consumers – sometimes by using Chinese cultural elements and aesthetics as part of "*guochao*" (national trend), and sometimes without.

In my view, the fundamental reason for the success of local brands is that they effectively apply data across their operations. Through data, these brands understand the demands of their target consumers, design and produce goods that meet those demands, use digital channels to reach those consumers, and deliver the right messaging to convert purchases and build brand loyalty. By harnessing the power of real-time data, they execute this entire process at a rapid pace to meet the fast-changing needs of consumers.

Foreign brands should not view the rise of domestic brands as a matter of mere nationalism and throw in the towel. Instead, they should learn from and adopt the best practices of these success stories.

An Updated Playbook for Global Brands

For many successful Chinese upstart brands, their retail operations focus almost entirely on the domestic market at present. This gives them an advantage over global brands active in multiple markets since local brands can allocate nearly all their R&D resources to develop China-specific products. Multinationals often select products from a global portfolio to sell in China, which may not have been developed to meet the specific needs and preferences of Chinese consumers.

However, it's not just that Chinese brands enjoy the benefit of focusing on a single market. Local brands have demonstrated a remarkable capability to analyze market data and integrate it into their production cycle at a rapid pace, allowing them to develop new products that meet the fast-changing needs and preferences of consumers. While global brands may take months or years to develop a new product, local brands are constantly iterating their products based on data – in some cases executing the entire process from design to manufacturing to end-sale in under a week. They will launch a new product, analyze sales performance and customer feedback, and modify accordingly.

Consumer multinationals should consider investing resources into accelerated product development for China that leverages data insights into both current trends and projected trends – and be willing to iterate products accordingly.

For firms hesitant to localize their China operations to this degree, they should lean on data to inform their China merchandising strategy and logistics.

"Chinese brands have chipped away at the competitive advantages western brands used to enjoy in the market—but that does not mean Chinese consumers are turning away from foreign goods en masse."

Brands should carry out regular quantitative assessments and projections of Chinese consumer preferences and needs and ensure that the SKUs they take to market will meet those preferences and needs. Moreover, they need to conduct regular competitor assessments to ensure that a market exists for their product at an acceptable price point.

At WPIC, using our proprietary data analytics software, we provide brands with granular assessments of the market for any given consumer product on China's e-commerce marketplaces. There is ample publicly available information about sales volume, pricing, product variables, and customer sentiment. By using the right tools, brands can gain a comprehensive understanding of the competitive landscape in their product category or sector.

Leveraging data to anticipate trends is especially critical for firms who need to budget time for their overseas inventory to arrive in China. Firms importing inventory into China can save substantial costs not only by selecting the appropriate SKUs to market, but by importing the appropriate quantity. Amid a global supply chain crunch precise inventory management, informed by granular market insights, can be the difference between profit and loss.

To take a basic example, if a brand wants to sell a series of athletic shoes on Tmall, they should know a few pieces of information before bringing the product to market. Is the market for athletic shoes already saturated? What are average and median prices for athletic shoes, and would consumers buy at the price that allows the brand to profit? What colors, styles, and use cases are most popular? Inventory quantity is also key, as brands should avoid sending excess inventory into market to save costs – and to avoid reputational damage if demand exceeds supply, and customers who are accustomed to rapid delivery of goods purchased online become frustrated.

The next piece of the puzzle is digital marketing. Most successful local upstarts are digital-first, direct-to-consumer (DTC) companies that depend on online channels for both marketing and retail. This has been especially significant for reaching young Chinese consumers – who as a group have significant spending power, are less brand-loyal, and primarily learn about and purchase new products through online channels. For example, over 90% of Perfect Diary's sales are online.

The *Financial Times* report noted that marketing can take up 60% of Chinese consumer startups' budgets – a figure attainable only through the hefty investment dollars that have poured into these startups. Foreign brands may not be able to compete with those marketing budgets.

In addition to generating exposure for competitor products, the aggressive marketing efforts of Chinese consumer startups drives up the prices of Tmall and JD.com's built-in marketing tools, such as keyword bidding. User growth on these platforms is plateauing, so more brands are competing for a static number of eyeballs, further driving up the price.

With customer acquisition costs rising, optimizing ad spend is even more crucial for foreign brands hoping to be competitive in China. These brands should work to identify which marketing channels and content offer the highest return on ad spend. With China introducing new pro-competition measures that will make it difficult or impossible for platforms to build closed-loop ecosystems, brands will have new ways of driving traffic from social platforms to e-commerce platforms. Using granular data to allocate ad spend will help a brand reach more potential consumers and convert purchases.

For example, livestreaming has become a hot channel that integrates marketing and sales, can generate major buzz, and drive significant revenue in a short timeframe. However, with top-tier celebrity livestreamers charging sky-high prices, it can be difficult for a brand to profit from a livestreaming engagement. Firms in the FMCG sector that aim to reconvert customers on a frequent basis may benefit from an influx of new customer data and exposure through a high-profile livestream. However, firms selling pricier goods on a less frequent basis, may generate significant sales during a high-profile livestream, but lose their entire margins from the livestreamer fee.

With the rise of local brands, the Chinese market has become even more competitive. Foreign brands are still popular, but they need to leverage data to reduce costs, drive sales, and earn profit in this new landscape. At WPIC, we work with our global brand partners to adopt these data-enabled practices – both for established players and newcomers in the market – so that our brand partners are competing on the same playing field as digitally-savvy local upstarts.

Employee Number One: Facebook's Jayne Leung on a Decade of Tech Teachings

Jayne Leung is the Vice President and Head of Greater China at Facebook. Based in Hong Kong, she oversees Facebook's business in this dynamic region. She leads the teams across the region, and is responsible for accelerating small and big businesses to build strong effective business growth through Facebook's innovative technologies.

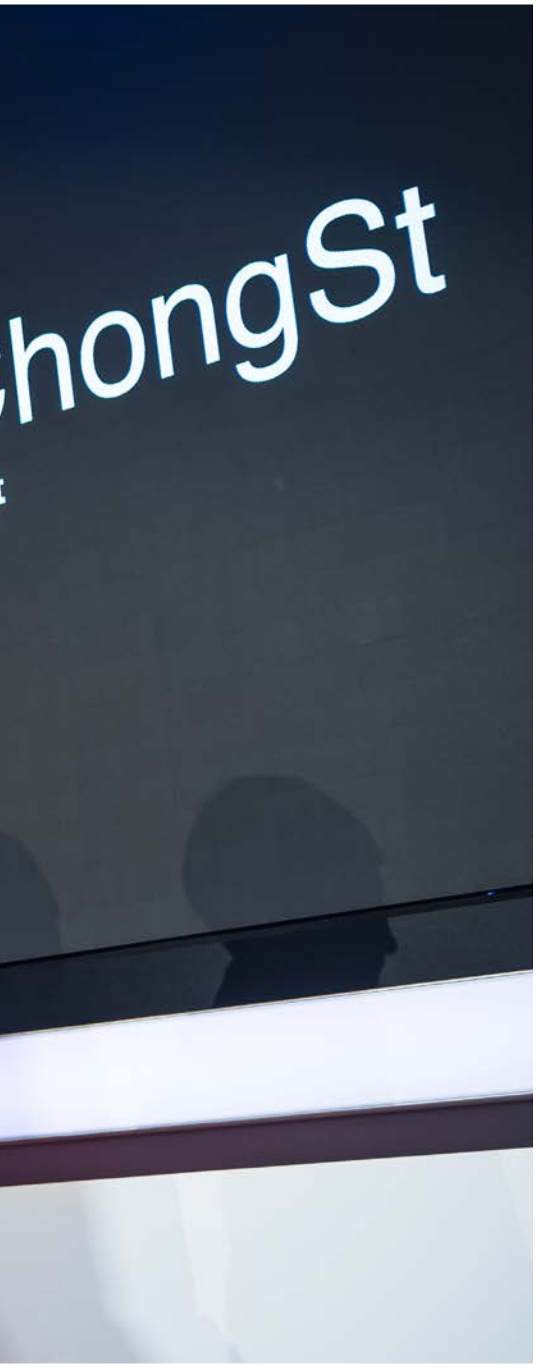
With two decades of experience in the media and advertising industry, Leung is a game changer, and has witnessed up-close the fast changes that industries have experienced over the years. In 2010, she joined Facebook and setup the Hong Kong office. She was the first employee in Hong Kong, and helped to build Facebook's teams and grow businesses from scratch since then.

Leung holds a Bachelor of Arts degree in Communications and Image Studies from the University of Kent in the UK. In leisure time, as a world traveler, she likes exploring different culture and history across the world. Recently, Leung has got a new interest, underwater photography.

Photo courtesy of Facebook

Having opened the company's first office in the region more than a decade ago, Facebook's Greater China chief Jayne Leung has seen some dramatic changes as the social network giant has expanded. Leung spoke to the AmCham China Quarterly *about how the company is positioned to help Chinese companies go global and the lessons she's learned from building businesses from scratch.*

By Mark Dreyer



Entrepreneurial tech companies have a tradition of numbering their earliest employees – articles and even books have been written profiling the first few professionals at some of the best-known companies – but being there at the start isn't always as glamorous as it sounds. When Jayne Leung was approached by Facebook to become "Employee Number One" in Hong Kong back in 2010, that meant – initially – working in coffee shops or even in the back of taxis, renting serviced office space, and shopping in supermarkets for the most basic supplies.

Fast forward a decade and Leung – now a Vice President and Head of Greater China at the company – leads a sizable operation and multifunctional team in the region, but still remembers those early days fondly. "Facebook was a much smaller company back then and had just started to expand in Asia," Leung says. "There were certainly challenges, but thinking back, I enjoyed tackling them nonetheless. I was fortunate to have had wonderful colleagues since the early days – we were a very small team and it was so rewarding to be working together towards a common goal, learning and growing together."

Interviews and Attributes

Leung professes to have been a "big fan" of Facebook even before she joined the company, adding that the opportunity to hire a team and build up Facebook's business in Hong Kong was one she couldn't turn down. "I went through a regular interview process where I met with the global leaders and cross functional team leaders to learn more about Facebook, and their expectations. One thing I truly believe is that interviews are a mutual process. It was an excellent opportunity for me to ask questions of the various leaders to understand Facebook's mission, vision, scope, teams, and so on. I've been with the company for more than a decade and my days are never boring. It's always exciting to see how much we've grown as a team since the early days and how much we have achieved in the region."

After reflecting on her own hiring experience, Leung also shares two key attributes that the company looks for in potential recruits. The first is agility, since employees, she says, often need to move fast with the company, and be resilient to both changes and challenges. The second attribute she highlights is curiosity and the ability to learn. "Facebook is a constantly evolving and innovating company, and you need to be able to catch up with that by learning constantly," she says.

Throughout her career, Leung has specialized in bringing international brands and companies to Asia. She began her career during the dot-com boom in the late 1990s, setting up the digital department for the ad agency at which she worked – her first experience of the digital world. Then, at online ad tech company DoubleClick, which was later acquired by Google, she built the business from scratch. During her post-acquisition stint at Google, Leung worked on the "New Media" business for the Asia Pacific region, which "basically meant anything that's non-search", according to Leung. Prior to Facebook, she again navigated through a number of unknowns, with a healthy dose of improvisation added into the mix, while helping another US start-up, The Rubicon Project, to enter Asia. Leung says that building things from scratch has not only been a recurring theme in her career, but has helped her to learn about her strengths and what truly motivates and drives her.

Adapting to the Chinese Market

With Facebook's main social media application being no longer accessible on the Chinese mainland since 2009, the company's key focus there nowadays is to support businesses exploring new opportunities across borders. "For China, we focus on

Above:
Leung (right) poses with Hong Kong Chief Secretary Matthew Cheung (left) and Facebook Asia Pacific Vice President Dan Neary and at the opening of the Facebook office in Hong Kong

Photo courtesy of Facebook

helping Chinese brands to go global and we want to put more local brands on the world stage and connect them with global consumers," says Leung. "The most fortunate part of my job, I feel, is to witness so many successful stories of Chinese brands and see how they grow from local to global."

Leung explains how Facebook helps Chinese businesses to leverage the scale of its platforms to go global, thereby contributing to China's export economy. One example she cites is that of the eco-friendly fashion brand VIVAIA, which aims to align itself along the principles of an environmentally friendly lifestyle, through its design principles and concepts. The Chinese company uses recycled eco-yarn from plastic bottles and other natural materials to create different styles of footwear.

"Our mission has always been building community and bringing the world closer together," says Leung, "And this community not only connects people with people, but people with businesses. Using Facebook's tools and solutions, VIVAIA was able to connect with global consumers, gain insights into overseas markets and consumer characteristics, and comprehensively create a rewarding consumer shopping experience. We are looking forward to connecting more local brands with a global audience in the future."

Evolving Technologies Across Cultures

"I see our focus here as a continuation of our work to build technology that brings people together. In many ways, the metaverse is the ultimate expression of social technology," says Leung, referring to a visionary concept raised by Facebook founder and CEO Mark Zuckerburg earlier in the year. In Facebook's world, the "metaverse" is a set of virtual spaces where you can create and explore with other people who aren't in the same physical space as you. The idea is to hang out with friends, work, play, learn, shop, and create, and Leung stresses that it's not necessarily about spending more time online, but about making the time you do spend online more meaningful. "The metaverse isn't a single product one company can build alone," she says. "Just like the internet, the metaverse exists whether Facebook is there or not – and it won't be built overnight. We are excited about the work that we're doing across that apps that people use today contribute directly to this vision."

The ongoing – and global – development of the metaverse concept runs parallel to Facebook's primary focus in China of helping Chinese brands go overseas, something Leung grew to understand from her previous experiences of introducing international brands to the continent. "Bringing a foreign brand to Asia always requires lots of education and understanding of the local environment, the culture, and familiarity with the local nuances," Leung explains.

"That experience helped me understand every step that is needed for a brand to go overseas. When helping Chinese brands go overseas, we see the biggest challenges are for them to learn about market specific insights, customer trends and behaviors, and best practices in order to build their brands in the overseas markets. That's why we provide business insights and market trends to Chinese businesses for them to help navigate the foreign markets and understand how they can most effectively achieve their business results. We also have our cross-border solutions to help businesses more easily reach new customers, anywhere in the world."

Having opened Facebook's first office in Hong Kong, Leung's responsibilities now extend far beyond the financial center to both the mainland market and Taiwan, with different focuses necessary for different parts of the vast and diverse region. But Leung says she tries to address the Greater China region as a whole, rather than as smaller sub-markets. "I always prioritize my time based on initiatives rather than by markets," she says. "For example, in the last 12-18 months, I have spent a lot of my time on programs supporting our communities in managing the impact of COVID-19, from investing in new features and programs to supporting the economic recovery of businesses to promoting vaccines and building a resilient community. I'm so grateful that we have effective teams working together across this dynamic region to accelerate small and big businesses to build strong, effective business growth through Facebook's innovative technologies."

Leung acknowledges that the tech sector is very fast-moving in general – and even more so in the Greater China region – meaning that her team has been forced to learn and adapt quickly. She also admits that this has helped build up a knowledge base of learnings and strategies that the company is applying elsewhere. "You have to be bold and willing to take risks sometimes in order to achieve great results. When it comes to working with our clients and partners, we see they are also embracing this agile mindset and are willing to test and learn with our new

Above:
Leung with attendees at the Hong Kong Good Causes Day event

Photo courtesy of Facebook

tools and solutions, and this is beneficial for other parts of the business, too."

Addressing Diversity in Tech

Tech is often a male-dominated space, which creates additional challenges for a senior female leader like Leung. But what changes would she like to see in this regard? "At Facebook, you'll find women in various leadership roles from business, to legal, and to engineering and I'm proud to see our Facebook women keep advancing their careers," Leung says. "We need an employee base that reflects a broad range of experiences, backgrounds, genders, and many other characteristics."

Leung says that the company has been working hard to increase diversity over the past few years through a variety of internal and external programs and partnerships, including:

- Women@FB chapters around the world aim to support female colleagues to grow their leadership in global offices.

- The #SheMeansBusiness program empowers female entrepreneurs with business skills and the right mindset to strive through uncertainty.

- A Women's Leadership Day focuses on strengthening the community of women at the company and building the capacity of Facebook women to positively impact the global Facebook community.

- Lean In Circles, inspired by Facebook COO Sheryl Sandberg's best-selling book, are open to employees to share experiences about being a woman in the workplace, while also learning from one another.

- Women LEAD and LEAP are internal leadership programs to help women at Facebook build community and work on their most relevant challenges.

Leung says she would like to see more women leaders in the tech industry, but argues it cannot be the sole responsibility of any single company, and will take sector-wide participation to create a supportive workplace environment for women and underrepresented groups to advance and succeed. More specifically, hiring for diversity and inclusion is a long-term commitment the company has made. Since 2014, Leung says Facebook has seen consecutive year-on-year increases in the number of women working both at the company in general as well as in leadership positions. As of June 2021, women at Facebook made up 36.7% of the total workforce.

Leadership Lessons

As the head of a strategically important regional hub for Facebook, Leung employs a mix of company culture and her own leadership style. "At Facebook, especially as a technology company, we are always trying to improve things and 'hack things out,'" she says. "One of the things we're constantly trying to improve is the way we help businesses grow. So, my past experiences have really helped me learn quickly and constantly reinvent the way we work. With my team, I always try to 'walk the talk' with Facebook's core values."

One of those values, Leung says, is being open. "Openness breeds a culture that is connected, where we support each other. I engage in regular Q&As with my team to give everybody the chance to ask whatever's on their minds," says Leung. Other core values are "believing in impact", which encourages employees to find solutions autonomously and cross-functionally, and "leveraging strengths", defined not just as what one is good at, but also what one is passionate about. "We try to manage people by strengths, rather than trying to ask them to improve on their weaknesses, because you can always get more out of people by leveraging their strengths," Leung says.

Maintaining a work-life balance has become a hot topic in recent years, especially in China's tech sector, where the 9-9-6 working environment has been heavily scrutinized, but Leung prefers to frame the conversation differently. "At Facebook, we emphasize work-life integration, meaning that we have full control and flexibility in terms of how we want to manage our work and life. We understand there's no one-size-fits-all approach to doing one's best work, so we offer flexibility to allow employees to shape their schedule and be present for the things that matter to them both in work and in life."

In practice, that means that office-based employees can spend nearly half their work time working remotely, assuming their work can be done at home. "Globally, we also offer the option for some of the employees and teams to work remotely full time," says Leung. "At the end of the day, we want our employees to have a fulfilling life and that's only possible when it's fulfilling both professionally and personally."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In recent months, China has cracked down on several areas of the tech sector, with giants Alibaba, Tencent, and Didi all coming under pressure, plus the online education space getting an overhaul. Companies – both domestic and multinationals alike – have been scrambling to make sense of the drastic policy changes, as well as to figure out what moves might be next. Trivium China's Kendra Schaefer spoke to the AmCham China Quarterly *to share her analysis over what is happening.*

By Mark Dreyer

Crackdown or Reform? Analyzing the Recent Upheaval in China's Tech Sector

Photo courtesy of Trivium China

In recent months, China has cracked down on several areas of the tech sector, with giants Alibaba, Tencent, and Didi all coming under pressure, plus the online education space getting an overhaul. Companies – both domestic and multinationals alike – have been scrambling to make sense of the drastic policy changes, as well as to figure out what moves might be next. Trivium China's Kendra Schaefer spoke to the AmCham China Quarterly to share her analysis over what is happening.

Each week, it seems, another sector comes under China's microscope, as a wide raft of far-reaching changes are announced, often crippling companies overnight. When taken as a whole, it often looks like a coordinated campaign, but it's not that simple, according to Kendra Schaefer, Partner and

Kendra Schaefer

Partner and Head of Tech Policy Research at Trivium China

Schaefer leads Trivium's tech advisory practice and is co-lead on Trivium's social credit project. She focuses on Chinese government data infrastructure and domestic informatization. Schaefer began her career in China on the production end of the tech sector in the early 2000s, building sites, apps, and digital platforms for multinationals entering the China market. She later moved into tech advisory, and has consulted on tech localization and policy for over 150 SMEs and multinationals.

Head of Tech Policy Research at Trivium China. "The difficult part here for outside observers is that the tech crackdown really looks like a single crackdown, because there are so many moves coming out against the tech sector. But in fact, you're looking at different crackdowns being carried out simultaneously, all by different regulators, and to suit different purposes."

Schaefer breaks them down into the following four categories:

- Regulation on the FinTech sector, focused on unscrupulous lending practices and financial risk, overseen by the People's Bank of China (PBOC).
- Movement against anti-competitive behavior and antitrust, focused on illegal mergers & acquisitions and improper use of algorithms, overseen by the State Administration for Market Regulation (SAMR).
- Issues with listing and foreign investment, focused on the variable interest entity (VIE) structures, overseen by the China Securities Regulatory Commission (CSRC).
- Data and network security focused on China's new data laws, overseen by the internet and tech regulators, the Cyberspace Administration of China (CAC) and the Ministry of Industry and Information Technology (MIIT).

Schaefer points out that while the western narrative describes these campaigns as "crackdowns", China characterizes them as "reforms". However, she also notes that sporadic social issues temporarily emerge to take precedence over these more long-term goals, like the crackdowns on the EdTech sector, which included banning private tutoring institutions, and scrutinizing subject matter classes for K-12 students, as well as things like workers' rights. These, she says, are driven by public outcries such as workers complaining that their jobs at tech companies are too punishing or parents objecting to the high cost of private tutoring. All of this adds up to "a multi-pronged push from different sectors of government with the aim to serve different ends."

If it feels like this tech crackdown dates back to Ant Financial's troubles last year, Schaefer says that's just an illusion. "Almost every thread of those reforms has been bubbling for between five to 15 years. FinTech regulation picked up in 2015. Data regulation has been bubbling for two decades. Now, for the first time since the emergence of China's big tech industry, Chinese policymakers have finally coalesced political will around what a modern socialist tech sector looks like. China didn't want a Silicon Valley. They didn't want modernization to mean westernization. What a modern tech sector looks like in China has solidified in the last two years, both in the ideological space – how companies are expected to behave and comport themselves in the Chinese market, and what kind of attitude they're supposed to take when doing business – and with this more recent 'common prosperity' push as well."

Above:
Kendra Schaefer (second from right) sits on a panel at an AmCham China event on China's Social Credit System in 2019.

Photo courtesy of AmCham China

Common Prosperity

"Common prosperity" has appeared as China's latest buzz phrase and Schaefer describes it the new reality in which companies should not only be beholden to their investors, but also that their priorities should be equally distributed between the state and their obligations to serving national development by improving people's livelihoods. "One of the ideas that has emerged on overseas listings in the last year is that it is not okay for companies to be non-compliant with the law in the local market," Schaefer says. "That's perceived as being disloyal to China and instead chasing money from foreign investors overseas – described as 'backwards priorities'. What companies should be doing is ensuring first that they are compliant locally, and then pursuing overseas listings. Didi is the biggest example of that – and one of the better ones. The compliance rate of their rides is around 60%, meaning that just over half of the rides that that you take are legal. Didi has been flouting local regulations for years, and then they pursued an overseas IPO, so that was one problem."

"The other issue is compliance with data regulations," Schaefer continues. "Companies are not yet compliant with those, because they don't yet know what to be compliant with or how to be compliant, but they're still pursuing overseas IPOs. I don't think the goal is to force companies to list locally; I think the ultimate goal is to ensure that companies are first operating compliantly in the local market – that they are loyal to their domestic customers and concerns – and then you get to go pursue foreign capital." Schaefer describes common prosperity as more of an ethos than a policy. "You should be making money while doing good," she says. "In the short term, it means downward pressure on profits. It's unclear what it means in the long term. I think what we're looking at is Beijing trying to lay out an ideological trellis along which these companies grow."

Sweeping Education Reforms

One view on China's recent education sector changes is that is has been done to protect students from mounting academic pressure and encourage families to have more children; but another narrative holds that this has been done to stamp out English language teaching and pesky foreign influences. So where does Schaefer stand on that? "I think it's much more the former than the latter, but I also think there are other threads there. I've got a lot of Chinese friends here who are parents, and they've complained about education sector issues for quite some time. So, it made sense to me from that perspective."

The 30,000-foot view is important here, Schaefer says, with China looking at an impending population crisis. By 2040, 35% of the Chinese population is going to be over the age of 65, compared with the current level of around eight to 10%. "This is a massive problem," she says. "You're looking at a huge economic slowdown, reduction in work capacity, and increasing pressure on parents. This has implications on almost every aspect of the economy, including food security. There aren't enough people on the farms. The average age of a Chinese farmer is 60. So, it's incredibly important for it to be easier for parents to have more children. China has tried several times to encourage families to have more kids and it hasn't worked. Food security and economic growth is a more pressing concern for Chinese regulators, than foreign influence in the classroom."

Schaefer lists other parental concerns – a trend towards teachers shunting their duties off on extracurricular classes, increased education inequality, and tutoring institutions poaching teachers from public education – as additional reasons behind the moves made in the education sector, but adds, "You can kill the private tutoring sector, but you can't kill parental ambition. Everybody wants their kids to go to Harvard or Tsinghua, and so what we saw in the aftermath of the EdTech crackdown was a mad scramble by companies to rebrand themselves or find some other way to deliver private education that flew under the radar."

"But that doesn't solve the problem. The pressure is coming from the gaokao [China's college entrance exams] and that has not been reformed. It's also coming from the fact that there are very few top-level universities in China, and those take several decades to build, which is why they can't really reform it that way. I'm skeptical as to whether or not these moves will spark a baby boom."

Three-Pronged Approach to Data

If the past few months have already witnessed a surprising amount of upheaval, there is plenty more to come, according to Schaefer. "We're definitely not done. In fact, I think we're just getting started. Looking at the crackdown under the framework that I laid out in the beginning, you can see the new regulation coming down the pike. The one set to get more stringent and more prevalent over the next five to 10 years is the data thread."

China has three foundational data laws – the Cybersecurity Law, which became effective in 2017, the Data Security Law, which passed earlier in 2021, and the Personal Information Protection Law, which goes into effect on November 1, 2021. Didi was investigated by the first of those three laws, but Schaefer notes that it took nearly five years for the law's mechanisms to take shape and only now are the ramifications of that becoming clear. "Now, with two other hugely impactful laws, we will see the mechanisms to implement those laws start to roll out and you're looking at five to 10 years of upheaval for companies as they figure out what data they have, how to send their data overseas, how to do a security check, and so on," she says.

Schaefer offers that China is taking "an economic view on data" by segmenting it into three levels of risk. The first risk area is sensitive data that has low economic value, such as a social security number, or state secrets. Trading these doesn't benefit the economy and poses high risk to national security or individual privacy. At the other end of the spectrum, there is low risk data, with high benefits to society if it's traded, such as carbon emissions data. Companies, for example, could use that data to make algorithms that lower carbon emissions and make positive changes to the economy and to the environment. But it's the data in the middle that is the problem, Schaefer concludes, because that includes data like marketing and purchasing preferences. There's some personal risk to allowing companies to have access to this, but there's also considerable potential economic benefit. As a result, she says, China has ordered every regulatory body and state agency to sift through the data in its own sector and sort that data into categories, by appropriate risk level.

"China has this massive strategy for its data economy, but it hasn't sorted out the details. In the meantime, companies are sitting on piles of data that they need to send somewhere, and they are uncertain whether or not it's legal to do that. Companies need to be paying attention to what the regulators are deciding about the data in their sector," Schaefer adds.

Potential Impacts and Implications

It's clear that the tech industry has faced some dramatic changes in China this year, with plenty more still to come. But once the dust settles, will the sector be in a better place? Schaefer again highlights the need to look at each move in isolation, before drawing wider conclusions. "In the long term, a better regulated and more compliant tech sector is not necessarily a bad thing. Unfortunately, in the short term, there are many cons. The biggest one, is that all of this creates uncertainty for foreign investors. The significant opacity around what's coming next has the potential to damage Chinese companies' short-term ability to raise foreign capital. The risk of investing in Chinese tech companies has suddenly become higher, and it's unclear what other sweeping regulations are in the pipeline."

"China has some beautiful strategies, but it's uncertain whether or not those strategies are going to play out the way that China wants them to play out. The pros and cons play out in implementation, so until we see what those rules look like and how they are being enforced, it's difficult to speculate. The optimistic view is that, 10 years from now, you've got a much more well-regulated tech sector and the world's most clearly defined data economy. The pessimistic view is that, 10 years from now, you would still have rule flouting and non-compliance, but you'd also have a lot of additional rules and hoops to jump through."

The Importance of Diversity, Inclusion, and Female Empowerment


Photo courtesy of ConocoPhillips China

Join AmCham China in a fireside chat with Bill Arnold, President at ConocoPhillips China and Male Ally of the Year, presented by the 2021 Women Empowerment Awards in China. Arnold shares insight about how he promotes diversity in the workplace, encouraging accountability at all levels, and his own journey as a Male Ally.

Having worked for ConocoPhillips over an accomplished 35-year tenure, Arnold has served in 13 cross-functional roles across the company, with stints in 10 different locations, six countries. Now based in Beijing, he has brought learnings and best practices from his globe-spanning experience to Diversity & Inclusion (D&I) practices in China, in hopes of establishing ConocoPhillips China (COPC) as a leading D&I example within ConocoPhillips and effectively maintaining a level playing field for female employees in China.

You were the winner of the Male Ally of the Year at the inaugural Women's Empowerment Awards in China. What does that award mean to you personally? What work have you done that you are most proud of?

Bill Arnold: Firstly, I'm very honored and humbled to receive this award. I know the other nominees have also done so much in this space – so I'd like to sincerely accept this award on behalf of their efforts as well. I am merely a representative of all the male allies who took actions and personally committed themselves to advancing female equality.

I would also like to give this credit to my niece, who was the catalyst for my transformational journey. 22 years ago, my niece was an aspiring engineer just entering the industry. In this male-dominated occupation, she was struggling due to gender discrimination and wanted my guidance on how to navigate these barriers. I realized that if my talented niece was facing discrimination in the workplace, then countless other women must be too. It made me look in the mirror. Since then, I have personally strived to make a positive influence and feel an obligation to empower women on a professional level.

I am a committed advocate for women and am always trying to support female advancement. I began expanding my network of mentees to encompass more women both inside and outside the industry. Men often have an easier time accessing mentorship and career advancement opportunities, so I've made a point of focusing my mentorship efforts on women. Over the last two decades, I have mentored and supported many women who have grown into senior or executive positions in their own companies, and to see so many of them achieve their aspirations makes me so proud.

Who are some of the female leaders you look up to? What leadership lessons have they shared with you?

Bill Arnold: That's an easy answer, my mother. She gave me a very simple leadership principle, "Treat others as you want to be treated yourself." She's 88 years old now and still giving me great advice!

Above:
Bill Arnold accepting the Male Ally of the Year Award at the 2021 Women Empowerment Awards in China

Photo courtesy of ConocoPhillips China

There are spaces for different types of discussions, be it all female networks, or male allies supporting women. How do those conversations differ depending on the participants?

Bill Arnold: When I first started hosting discussions around the topic of female empowerment, I began working with small groups mixed with male and female participants. However, I found that often when females voiced out any problems, male attendees reacted defensively by making excuses for their behavior and self-righteously justifying their standpoint.

Since then, I've introduced regular women-only workshops, encouraging female employees to speak face-to-face with me about challenges and opportunities at the workplace. This allows the company and I to better understand their direct perspectives, developing appropriate responses.

During these sessions, an important point of distinction many of my female colleagues wanted to clarify was that female empowerment is about creating a level playing field. Female empowerment is simply about creating equal opportunities for women without preferential treatment and undue benefits. This is a point that is sometimes misunderstood by male counterparts, and something anyone looking to be an effective ally needs to understand – empowerment means equality, not advantages.

Ultimately, men play a central role in advancing equality. Men who want to be allies should focus on listening, providing support and respect at every turn. It is imperative to bring men into these discussions and workshops so they can understand, appreciate, and act with intention going forward. Men are important actors who should bear responsibility and participate actively in our women empowerment agenda.

You've spoken about the importance of identifying unconscious gender bias in the workplace. Unconscious bias, by definition is difficult to not only identify and confront, but then change going forward. What are some of the actions you have taken to confront this issue and do you feel like you're seeing progress?

Bill Arnold: We encourage the open discussion of gender biases. It's okay to admit to unconscious biases, and acknowledging that there is a problem is the first step towards improvement. Especially with male colleagues, we try to make everyone understand why these conversations are healthy, so they can proactively learn and independently grow from them rather than feeling defensive or attacked.

One trick I'd like to share is "keeping a keen ear", which I use to capture unconscious bias in commonplace conversations and behaviors around me. If I hear something that I think could be perceived as bias, I make a mental note to speak to that person individually later on. I do this to clarify intention and explain another perspective, not to confront. Most of the time, people are unaware of how their comment could be taken out of context. I encourage them to go back to clarify or apologize, and these small conversations have been very well received from both sides.

The end result is that people identify their own biases, own up to them, and, hopefully, correct them going forward. Currently, I have a couple of little conversations every week, but I aim to bring that number to zero very soon.

Are there any ways that technology can drive forward and institutionalize this issue to replace more well-intentioned talk?

Bill Arnold: I think the greatest value technology can bring is efficiency, which in turn can contribute towards equality by making it more accessible. For example, online meetings allow me to have a global list of mentees to whom I can speak with regularly. If any one of my mentees want to have a chat, I am just a click away.

The COVID-19 pandemic has arguably helped to accelerate the journey to equality by normalizing remote working conditions. This empowers our employees – some of whom are working mothers – to adopt technologies that enable a healthier work-life balance and more convenience in their daily lifestyle, a win-win situation for both the company and our colleagues.

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"Ultimately, men play a central role in advancing equality. Men who want to be allies should focus on listening, providing support, and respect at every turn."

More organizations are including D&I goals into company KPIs. Besides this, what are some of the other methods that have been effective on moving the issue forward?

Bill Arnold: Shortly after taking the post of president of COPC in late 2018, we incorporated gender equality and inclusion into the company's culture and vision. Inclusion was included as a China Business Unit (BU) key strategic pillar and D&I goals were established as annual milestones. We hope to include learnings and best practices from other places and other companies, while establishing the China BU as a leading D&I example.

Not only do we openly share our best practices, we're also on the lookout for great D&I initiatives from other companies in this space. There shouldn't be secrets or competition for this field, it's all about pushing each other to succeed and establishing better working environments for us all.

Leadership accountability is also critical to bringing about real changes. At COPC, each leadership team member is expected to have a personal inclusion goal that will be assessed as part of their annual performance review.

Above:
Bill Arnold, together with employees at the internal "BBB" event – Beer & Banter with Bill

Photo courtesy of ConocoPhillips China

Where do you think China is on this issue compared to the US? In what ways does the issue differ between the two cultures?

Bill Arnold: Over the past few decades, China has made great strides in female empowerment. There is a famous saying in China that "Women hold up half the sky"; over the past few decades, many Chinese companies are recruiting more women than ever, and beyond that, providing the opportunities and tools to succeed. According to the National Bureau of Statistics, in 2019, women accounted for over 33% of Corporate Directors in China. In 2020, women accounted for more than 40% of all employed citizens.

While women in China and the US share similarities, there are cultural and attitudinal differences towards marital roles, expressivity, social interaction, and preferences. Sometimes we need to take diverse approaches to drive the agenda of gender equality and women empowerment. While both sides have made tremendous progress, I think we need to continue upping the status quo around the world. China and the US are similar in that there's still a lot to be done, where some are doing a great job with D&I but there are many others that have a long way to go.

We've talked about the great progress we're seeing. Where do you think we'll be on this issue in 5 years?

Bill Arnold: Five years from now, I think we will have successfully established a safe space for men and women alike, so they feel comfortable speaking openly about these issues. I also believe unconscious bias will be minimal, I hope it will be a rare occasion rather than an accepted mistake. We've definitively made progress in this regard, but I look forward to this becoming the norm soon.

Globally speaking, we're all working together to move the ball and have such strong momentum on D&I initiatives right now. I hope to see a level playing field across the spectrum for everyone in the near future. Now that we're teaching younger generations about this at a ripe age, they should understand how important this issue is and carry the torch.

Photo courtesy of Cyberspace Administration of China

Cooperation in Technology and Innovation for a Shared Global Recovery

Organized annually by the Cyberspace Administration of China and Zhejiang Provincial Government, the 2021 World Internet Conference was held in Wuzhen from September 26-28. Nearly 2,000 delegates from more than 80 countries attended the Conference, either in person or virtually, including AmCham China Board members Alain Benichou (IBM) and Jian Lu (LinkedIn). The following is an abridged version of the remarks delivered at the Conference by AmCham China President Alan Beebe, who spoke in the presence of Sheng Ronghua, Vice Minister of the Cyberspace Administration of China; Xu Lejiang, Executive Vice Chairman of the All-China Federation of Industry and Commerce, and Gao Xingfu, Vice Governor of Zhejiang Province.

It is my great pleasure to attend this year's World Internet Conference and speak here at the Business Leaders' Dialogue alongside a great lineup of speakers from international organizations, academic institutions, and leading multinational and Chinese enterprises, and to share with you AmCham China's perspectives on the important role technology and innovation can play in ensuring a shared global recovery.

In order for the Chamber to remain credible in the eyes of both the Chinese and US governments, AmCham China is financially independent, we advocate based on facts, and focus on supporting our members on key economic and commercial issues between the two countries. Every year, we publish the annual American Business in China White Paper that presents our collective recommendations on issues not only in our member's interests, but also in the interests of the Chinese and US economies. It is written by our members and offers a comprehensive assessment of China's business environment for foreign companies operating in China. This year's 23rd edition with 535 pages is the longest in our history.

Notably, given the importance of digital technologies to nearly all of our member companies, whether in the ICT sector or others, our coverage related to digital technologies expanded considerably in this year's White Paper. In it, members highlighted that COVID-19 continues to challenge the business community and the global economy, from the initial PPE shortages, supply chain disruptions, and the ongoing global travel restrictions. Despite China's rapid economic recovery, COVID-related travel uncertainties remain a top business challenge for our foreign businesses, as also reemphasized in a Flash Survey we conducted just a month ago.

Strict travel restrictions imposed on businesses are leading to a more segmented global economic landscape. Our members, multinational companies operating here in China, are very significantly affected by travel restrictions, which in turn are negatively impacting their decisions to invest in China, in addition to inhibiting competitive Chinese private companies with global ambitions.

Digital Technologies and Economic Recovery

Due to COVID-19, the digital economy has become an essential front for countries and businesses to deepen cooperation as businesses and societies grow increasingly reliant on the use of digital technologies, as demonstrated by the widespread adoption of videoconferencing, remote work, and online education. As a result, according to our 2021 White Paper, digital innovation has been an especially important driver for the success of multinational companies throughout this period, with those from technology and R&D-intensive industries proving to be most successful in offsetting the negative impacts of the pandemic.

Similarly, developments in AI and Big Data, 5G, blockchain, IOT, robotics and – interestingly – digital currency and cryptocurrencies have intensified over the past year and are expected to be key economic drivers of this century. The US and China, as leaders in the development and adoption of these and other digital technologies, play a key role in leading global economic recovery.

On a personal note, I recently returned to Beijing from the US after two years in China due to travel challenges. While in the US, I was struck by the level of innovation and industrial policies sparked by COVID-19 and – to a certain extent – the US-China relationship. US technology innovation and the entrepreneurial spirit is very much alive, and in response to social inequities is being encouraged to grow in regions beyond Silicon Valley and other technology hubs to many other parts of the country.

As such, bilateral and multilateral digital cooperation is essential, as the outputs of such cooperation have ripple effects that directly impact economic competitiveness, human capital development, the ability to attract investment, and the quality of jobs in knowledge-intensive sectors.

Priority Areas for Digital Cooperation

But what exactly do we mean by digital cooperation? Let me illustrate with three relevant examples: (1) use of digital technologies to allow more open borders and safer travel between countries; (2) the adoption of digital technologies for small and medium sized companies that have been hit particularly hard by COVID-19; and (3) support for global corporations – whether US or Chinese – that are by definition global and thus require open, scalable, and cost-effective digital technologies to manage their businesses globally, across country borders. Let me elaborate on each of these three areas.

First, data and information related to COVID-19 – such as vaccination, infection locations, and travel history – are currently mostly specific to each country with limited sharing between countries. Multilateral organizations such as WHO and IATA have a vital role to play to define protocols and standards to promote seamless information sharing between countries. In the short-term, we are encouraging the US and Chinese governments to agree upon and share data and information to accelerate more open borders and safer travel between the two countries.

Second, last year we learned the hard way that many Chinese micro, small, and medium-sized enterprises were severely impacted by COVID-19 and that adopting digital technologies became essential for their survival. AmCham China understands this well since Chinese MSMEs are important business partners, suppliers, and customers of our many large corporate members; the failure of MSMEs has a significant impact on many of our large companies, across industries.

To address this challenge, AmCham China launched the Social Impact Initiative last year to foster public-private partnerships, with a focus on helping China's MSMEs recover from the devastating economic impact of the epidemic. Facilitating digital transformation was a key theme of last year's efforts, alongside the challenges surrounding financial inclusion and accessing markets abroad. AmCham China is grateful for the generous support we have received from both our member companies and government agencies including the

"We live in a digital age where the success or failure of companies is increasingly dependent on their use of digital technologies to a maintain competitive advantage."

Cyberspace Administration of China, the Ministry of Commerce, the Development Research Center of the State Council, as well as association such as the All-China Federation of Industry and Commerce as we continue to support MSMES in innovative ways this year, whether through training on adopting digital technologies, accessing global markets, or reducing their carbon footprints.

Third, we live in a digital age where the success or failure of companies is increasingly dependent on their use of digital technologies to maintain a competitive advantage – whether by creating new digitally-enabled products and services, transforming business operations, better understanding customers, or converting data into valuable insights.

In fact, just three days ago AmCham China held our 4th annual Technology & Innovation Summit which brought together CEOs – and over 500 attendees from the US and China - to discuss and debate their China digital strategies within the context of China's policy environment for the ICT sector and other industries such as healthcare and automotive.

In terms of policy, it is encouraging to see that China has strengthened its intellectual property protection environment and is looking to further open-up trade in services in pilot areas such as Hainan, Shanghai, and Shenzhen. Further, the signing of the US-China Economic and Trade Agreement on January 15, 2020 – otherwise known as the Phase One Trade Deal – includes provisions for China to import cloud computing parts and related services.

Challenges and Concerns

With that said, a range of policy challenges and concerns remain, such as those related to market access, the cybersecurity law, data localization, cryptography, and US and China export controls.

Beyond the roughly 100 US ICT large member companies of AmCham China, there are undoubtedly thousands of other innovative smaller US technology companies with interest in the China market that are simply not here. For them to participate in the China market, greater market access and reciprocal treatment in the telecommunications industry are absolutely necessary. Requirements for local partnerships for foreign cloud services providers, data localization and cross-border data flows, if applied more narrowly or liberalized, would be a great incentive for more foreign direct investment in China from not just technology companies, but also traditional manufacturing and services industries. In the short-term, we look forward to China further shortening the foreign investment negative list, particularly in the telecommunication sector around big data and cloud services.

Over the past few years, the biggest challenge our members face is uncertainty concerning the US-China relationship, and technology appears poised to remain at the forefront of this competitive relationship. At the same time, we see both governments increasingly turning to the use of industrial policies to boost their research and technological advances. We call on both sides to ensure that national security requirements be applied as narrowly as possible, so regular trade activities and innovation will be impacted as little as possible.

Finally, over the past few months, we have seen efforts to refine China's Internet management framework, including legislation such as the Data Security Law, Personal Information Protection Law, Critical Information Infrastructure Protection Regulation, along with a number of draft policies seeking to address online monopolistic behaviors. AmCham China has actively worked with our members and submitted our comments to the CAC and the National People's Congress. While efforts to protect sensitive and personal data and critical infrastructure are necessary, we at the Chamber are looking forward to sharing our ideas with regulators including the CAC to ensure regular business activities are affected as little as possible.

In closing, I would like to thank the organizers for putting together such an event where we can freely exchange observations and thoughts on the importance of cooperation in innovation and technology to support a global economic recovery. Such dialogue between a diverse group of stakeholders is critical for laying the groundwork for digital cooperation to deepen. AmCham China looks forward to engaging with regulators, business partners, and civil society actors to find solutions, and further promote digital cooperation that is good for China, the US, and the world.

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Five Themes Impacting the Chinese TMT Industry Today

Today, leaders of global Technology, Media, and Telecommunications (TMT) companies face complex business and geopolitical challenges, as well as an evolving regulatory environment that is impacting everything from corporate strategy and technology innovation to customer and supply chain management. Looking ahead, Brunswick has identified five themes impacting the Chinese TMT industry.

By Cynthia Meng, Hua Li, Nick Howard, Pru Bennett, Fiona Wright, and Robert Moran

THEME ONE: US-China Techno-Nationalism and the Decoupling of Innovation

The rise of US-China techno-nationalism presents a growing set of complex risks to TMT companies seeking to operate across the world's two largest markets, and is set to further escalate in the years to come.

For TMT companies, the risks are especially acute – in addition to the entity list and others, the US Department of Commerce put new rules into effect in March, 2021, empowering the Secretary of Commerce to prohibit virtually any technology industry transaction that involves "foreign adversaries" or poses an undue risk to US national security. TMT companies are especially vulnerable given the complexity of their supply chains, as well as the wide range of applications for their products.

Both the US and China are increasingly scrutinizing foreign investment, with particular focus on the TMT sector. Some US executive orders of 2020 and 2021 focus on Chinese apps and the US Trade Representative's 301 reports are skeptical of Chinese companies taking VC investment to participate in the US tech sector.

China has also revamped its national security review of foreign investment, with a new CFIUS-style mechanism to assess cross-border technology transactions. The reform significantly expands the number of sectors subject to review and lowers the thresholds for triggering one, requiring it for any investment that could be deemed to expose critical technology to foreign hands. The definitions of "foreign controlled" and "critical" remain ambiguous, allowing authorities wide discretion in enforcement.

Addressing these risks effectively will be critical in determining the success of TMT companies. Maintaining a keen awareness of the rapidly shifting landscape and enhancing strategic communications and engagement with key stakeholders should be a pillar of any firm's response.

THEME TWO: Tightening Scrutiny of Big Tech around Anti-monopoly & Data Practices

After a relatively lax two decades which saw the explosive growth of the Chinese technology industry, Chinese regulators are tightening scrutiny. After imposing a record US$2.8 billion fine on Alibaba, which represents four percent of Alibaba's 2019 domestic sales, Chinese regulators also ordered 34 local tech firms including Pinduoduo, JD.com, Kuaishou, Bilibili, and Didi to conduct a 'comprehensive self-inspection' within a month.

In November 2020, China's competition authority, the State Administration for Market Regulation (SAMR) issued Antitrust Guidelines for the Platform Economic Industry and opened them to public consultation. In February 2021, just three months after starting the public consultation, the State Council finalized a set of antimonopoly rules targeted at China's homegrown technology giants. This also signals that SAMR strengthened its antitrust enforcement in the Internet platform sector, meaning that the entire ecosystem of businesses and economy centered around the internet has been potentially and significantly affected. The rules, although softened from the first draft, took a hard stance on practices deemed monopolistic, such as abuse of market dominance and concentration of undertakings.

At the same time, the Chinese government has also made strides to control the practices around consumer data collection and data privacy by private sector companies. In October last year, the NPC released a first draft of the Personal Information Protection Law (PIPL) for public comment. The PIPL coordinates and unifies what is currently a patchwork of local and regional privacy laws and is seen as China's answer to the EU's General Data Protection Regulation.

Both Chinese companies with foreign operations and multinational firms with a presence in China must ensure that their operations stand up to fresh scrutiny. Corporates should step up transparency on sensitive issues around governance, principles, and practices. Companies would be much helped by a strong narrative that emphasizes transparency on policies surrounding antimonopoly practices or how data is collected and used. They must also ensure their operations are compliant and aligned across the patchwork of still-developing privacy and antimonopoly regulations to avoid being caught up when least expected.

THEME THREE: "The New Normal"

The COVID-19 pandemic has radically changed our lifestyle. Besides altering traditional business sectors, the pandemic is accelerating the "stay-at-home" economy. Across markets, we observed a rapid adoption of new lifestyles including working from home, ecommerce, online social entertainment, and e-learning. The need for automated and non-contact smart manufacturing have also led to accelerated digitization in production. In the post-pandemic era, most of these trends will continue to be important forces driving the economic recovery to "The New Normal".

Even as global economies gradually recover in 2021, corporate executives find that their external stakeholders continue to pay attention to issues such as employee health and safety, work-life balance, engagement to the community, and other social and environmental factors. To establish trust with and take care of the interest of major stakeholders, it is critical for corporate leaders to articulate their purpose, values, and principles for doing business; support these with both policy measures and tangible actions at the board and operating levels; and communicate consistently both externally and throughout their own organization.

THEME FOUR: Digital Transformation and Technology Infrastructure Buildout

Set out in the latest 14th Five Year Plan (FYP) as part of the national development goals, China is putting digital at the heart of its industrial transformation and will increase investment in new infrastructure as part of its Digital China Initiative to create a "digital society, digital government, and healthy digital ecosystem."

To encourage innovation and technological self-reliance, the 14th FYP stated a target of a seven percent annual increase in R&D spending across the economy for the next five years. AI and quantum information, among other strategic sectors, were earmarked for fresh support. Industry will also receive more tax breaks to offset R&D costs.

The focus on innovation and next generation industries is propelling China's technology leaders into a new era. These companies must raise capital and their profile, navigate disruption and competition, deal with thorny geopolitical and regulatory issues, establish ESG and ethics strategies, compete in the global marketplace for talent, and address labor issues, all while entering new markets. For companies going through strategic change, there is a clear need for management to articulate how they are adapting to the digital transformation at this critical juncture, and capture explosive growth opportunities in a way that balances major stakeholder interests, and is well understood and supported by multiple stakeholders.

In addition to the execution of actions, an impactful corporate narrative will serve as the foundation to help TMT companies explain their corporate story in a clear, distinct, and consistent way. Against a backdrop of global disruptions created by shifting geopolitics, it is critically important to ensure priority audiences see the company as a leader within the sector, at the forefront of technology innovation with differentiating offers, while at the same time a trustworthy partner, and a positive contributor to the community and markets where they operate.

THEME FIVE: ESG as an Urgent Business Imperative

Part One: Major stakeholders calling for integrated ESG strategy and actions

Brunswick's annual perception survey of Chinese corporates doing business overseas published in June 2020 surveyed 9,300 members of the general public in 23 countries in both the developed markets, Belt & Road countries, and other emerging economies. Survey respondents rated the performance of Chinese companies highly on innovation, providing quality goods and services, having strong execution abilities and in generating strong financial performance. However, the perception of performance in key environmental, social, and governance areas lagged behind other indicators, revealing widespread concern about how these companies engage with local employees, the communities, and the environment. Across emerging and developed markets, the perception survey reveals the urgent need for significant improvement in corporate ESG factors.

Many Chinese corporates think of ESG as focused almost solely on environmental risk disclosure, protection, and management. In fact, ESG as a definition covers non-financial risks including environmental, social, and governance. This makes ESG fundamentally different from its precursor, Corporate Social Responsibility (CSR). CSR aims at making sure a company commits to not making a negative impact on its major stakeholders including employees, community, the environment, and customers. Due to lack of specific criteria in measuring a company's actions, the focus of CSR often becomes philanthropy after a company makes money. On the other hand, ESG focuses on embedding targets into a company's business strategy. It is about how a business makes money. ESG strategy, disclosure, and communications shows with quantifiable measures how a company treats its employees, engages with communities and society, manages climate and environmental externalities, cultivates a diverse and inclusive culture, ensures ethical standards, and manages its supply chains.

In the summer of 2020, Brunswick Group conducted a proprietary ESG investor survey. The results revealed that all major investors evaluate company financials through an ESG lens. On governance issues, investors overwhelmingly agreed that board composition, independence, and competence is critical to building trust in a company. They are looking for diversity of the leadership's backgrounds and skill sets, remuneration structure, and an accountability framework that embeds ESG targets into the KPIs of the leadership team. On environmental risk disclosure, investors emphasized the importance of articulating an integrated approach to environmental stewardship, incorporating carbon emissions, water, and other energy resources management. This should be underpinned by a detailed climate policy with consistent disclosures, targets, metrics, and periodic milestones. For social, the health and safety of workers are particularly important, especially amid COVID-19. Human capital management includes the diversity of the employee base and how companies attract, retain, and develop their workforce to succeed in a rapidly changing operating environment. When companies think about local communities, engagement and empowerment of local communities were identified as key to a company's license to operate beyond contribution or donations.

Ultimately, how companies approach corporate governance, environmental stewardship, and social responsibility is key to maintaining their license to operate and strengthening competitive advantage in this new era.

Part Two: Key EU sustainability and technology regulatory policies

- New EU disclosure rules for investors and companies

  The Sustainable Finance Disclosure Regulation (SFDR) came into effect in March 2021. This requires asset managers and owners with an EU license to integrate sustainability risks in their investment decision-making processes and to issue a "principal adverse impact statement". This statement is intended to show how investment decisions made by a financial market participant have or may have adverse impacts on sustainability factors relating to: climate and the environment, social and employee matters, and governance issues.

  Meanwhile, the regulator issued instructions in February 2021 for investors to follow the draft rules, and the European Commission made another legislative proposal in April 2021 concerning the legal obligation for large non-financial corporates active in the EU markets to publicly disclose the same information that investors must publish under the SFDR.

  Lastly, the European Commission's upcoming proposals on supply chain due diligence are expected to include a new legal requirement for companies active in the EU single market to establish and implement adequate processes to prevent, mitigate, and account for human rights, health, and environmental impacts, including relating to climate change, both in the company's own operations and in the company's supply chain.

- Proposal for Regulation on European Approach to AI

  In April 2021, the European Commission adopted a proposal for a Regulation on an European approach to Artificial Intelligence (AI). These proposals are the first of their kind to regulate AI, underlining the EU's ambitions to become a global standard-setter in trustworthy, ethical, and human-centric AI. This follows the success of the EU's data protection regulatory model, which has been widely adopted by businesses and governments outside the EU.

  Companies that do not comply with the new rules could be fined up to €30 million or 6% of their worldwide turnover, whichever is higher. National market surveillance authorities will supervise the new rules, but some AI providers will be allowed to comply through self-assessment. The current expectation for the conclusion of legal deliberations is the first or second quarter of 2023. According to the current draft text, the Regulation will become applicable within two years after legislative approval.

  The European Commission also adopted a New Coordinated Plan on AI, which builds on the 2018 version of the Plan laying the foundation for policy coordination on AI. The update links the proposed actions to the European Green Deal, environment, and health policies of the EU.

To download this report in full from Brunswick, an AmCham China member company, please scan the QR code.

China Releases Data Security Law: Some Expert Observations and Comments

China's New Data Security Law took effect in September 2021. Thomas Zhang from Dezan Shira & Associates takes a look at the implications for foreign companies operating in China.

By Thomas Zhang

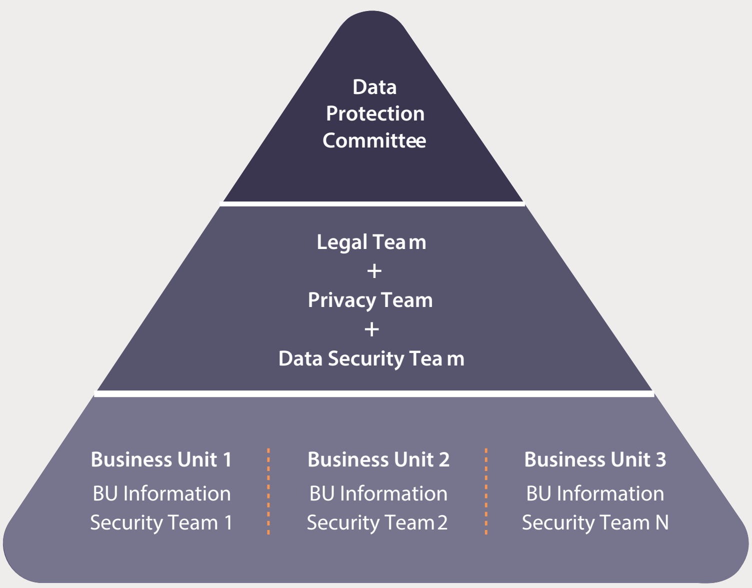
China's Data Security Law was published on June 10, 2021, and took formal effect starting September 1, 2021.

This law can be treated as another pillar of China's legal framework on information security and data (privacy) protection, besides the Cybersecurity Law (CSL) that was launched in 2017 and focused on network security and the Personal Information Protection Law (PIPL), which is at the second reading stage and expected to be published later this year.

It has been only two months since the second reading of the draft Data Security Law (in April of 2021), which indicates that Chinese legislative authorities are eager to publish it quickly to tackle emerging threats to data security.

In this article, we address the main changes in the published version of the Data Security Law as compared to its second draft. We also highlight the areas of concern for foreign companies running businesses in China.

Top-Down Structure of the Data Protection Management



Source: Graphic from Asia Briefing Ltd.

China's Data Security Law: Key Provisions

We have highlighted the changes made to the final version and the major concerns of the law as below:

- Top-down strategy – the law does not only specify the legal requirement details but also states that the government will implement the national data protection mechanism through "top-level design" with related organizations. There are still some ambiguities, such as the definition of "important data" and "core date", but we can expect more detailed regulation or rules to be issued by local authorities or industry-related ministry, such as the "Data Security Management Regulation", which has been listed on the State Council's legislative agenda for 2021 already.

- Data classification and grading protection – the law requests to establish the system to classify the data as "important data", "core data", and general data based on its sensitive nature, impact on national security, and potential damage in case of data breach. Each type of data needs to be protected with corresponding measures. For the companies in China that utilize the internet for data processing, MLPS (Multiple-Layer Protection Scheme, first introduced in the CSL) should be the foundation of data security management process to cover full data life cycle.

- Data localization and cross-border transfer – For CII (Critical Information Infrastructure) Operators, the important data should be saved in the territory of China and cross-border transfer is regulated by the CSL; for non-CII operators, the important data cross-border transfer is expected to be regulated by the measures announced from the Cyberspace Administration of China (CAC) and other authorities. However, those "measures" have still not yet been released.

- Continuous data protection management – the company should take organizational measures to provide enough resource for building the data protection management system through all business processes, specifying the person in charge of data security and related management agency to fully bear the data security responsibility.

- Data utilization – China admitted that data is a "new type of production factor" in 2020, and the country's law encourages the development and commercial use of data. Consequently, under the state's "big data" strategy, the creative utilization of data in all industries has been supported.

- Legal consensus – both the company and the individual who oversees data protection will be subject to penalties and other administrative punishments specific for companies. The maximum penalty for the violation of the core data management system is RMB 10 million along with the revoking of the business license for companies, while the maximum penalty on the directly responsible person would be RMB 500,000.

How to Avoid Risk of Non-compliance under the Data Security Law?

Here we provide few suggestions from the technical perspective on the methodology of compliance with the Data Security Law.

Organizational Resource Provision

Data protection brings new challenges for companies as it is beyond the traditional information security scope, therefore, existing resources inside the company (normally, the IT team or information security team) might be incapable of fulfilling the responsibility of data protection.

The company needs to assign the resource and build up the data protection management team with a top-down structure, such as the "information security committee", which involves legal, technical, and business departments on the top, followed by the professional team from the legal, privacy, and IT departments. For big companies, the information security team of each business unit needs to be involved as well.

Teamwork between IT and Legal Team

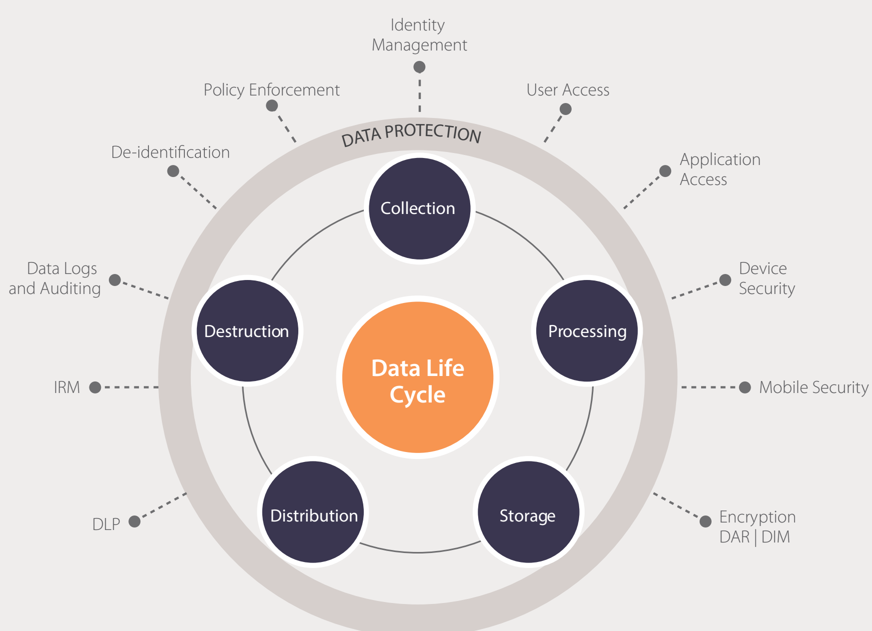
The compliance of data security apparently needs both IT and legal teams working together for compliance work. The legal team can interpret the legal clause and identify the detailed requirements (on an abstract level) that should be fulfilled by the company, and better convert such legalese into a format that can be easily understood by the IT department.

On its part, the IT team needs to locate the suitable technical control measures and toolkits to perform the actual data protection. When a company intends to seek the professional expertise of an external party, the capability and integration of both technical and legal resources should be considered on priority.

Identification of Requirements by Respective Stakeholders

Besides the direct requirement from the law and regulation from authorities, there are many requirements from other stakeholders that need to be considered as well, such as external clients, partner, or supplier.

How to Achieve Holistic Control in the Whole Data Life Cycle



Source: Graphic from Asia Briefing Ltd.

Continuous Improvement in the Data Protection Management Strategy

Source: Graphic from Asia Briefing Ltd.

For B2C businesses, the consumer's personal information processing will be regulated by the Data Security Law. For B2B businesses, the business secrets and other business data is important data for protection as well.

Such assessments require the company to analyze their business model and identify all potential stakeholders, then further collect and identify their respective requirements on data protection.

Data Asset Inventory and Data Mapping

All data protection control measures, either technical (such as encryption) or organizational (such as requesting the staff to follow specific data processing procedures), should be applied to the target – which is the data itself; therefore, the inventory of the data is one important and basic step in the whole data protection process.

Before talking about how to protect the data, few questions should be answered first: what data does the company have, where is the data saved, how is the data collected and processed, who are accessing the data and in which ways?

Data classification is another important step which classifies the data into different types based on its importance, purpose, source, and sensitivity; therefore, different levels of data protection control measures can be applied accordingly.

One clear data flow chart or data mapping which shows how the data is flowing inside the company and between the company and external parties will be very helpful to let the data protection team locate the key node/nodes that might need extra data protection measures. The company can consider using automatic tools to detect and identify the data type with auto-labeling, and further implement predefined control measures.

Holistic Control in the Whole Data Life Cycle

The management strategy or control measures that just focus on a single or multiple nodes / points is always not enough as there are so many different potential problems in each phase of the whole data life cycle.

Different control measures should be adopted to align with the characteristics of different phases of data life cycle, or different stages. We give one simple illustration here for easier understanding:

Utilization of Technical Toolkits

More and more companies are dealing with large amounts of data in their daily operations nowadays and it is unrealistic to enforce the security control in a manual way. Adoption and deployment of advanced security toolkits is critical for data protection.

For example, companies should use a DLP (Data Loss Prevention) tool to classify and label the data with a pre-defined policy to prevent their sensitive data getting leaked out of the organization.

For the data that is necessary to be shared with an external party, deploying the tool like AIP (Azure Information Protection) can provide continuous protection even when the data is outside of the organizations' traditional security perimeter; implementing a Zero Trust-based security architecture can dramatically improve the overall data protection level. The company can consider utilizing Microsoft 365 productivity platform, which includes all features described in this section.

User Training

The end user is always the last defense line for any data security incident. As part of organizational control measures, the security awareness training plus the training about how to utilize company-equipped technical toolkits for data protection is one important step of the overall data protection process.

Some good platforms, such as KnowBe4, can be utilized to plan and develop the training program for all staff, detecting end users' real response on stimulated phishing for further analysis and improvement.

Continuous Improvement

Data protection is one long and endless journey, which requires continuous improvement. A suitable monitoring platform should be deployed to monitor and log the data activity, which should then send out the risk alert automatically to the data protection management team for manual intervention.

Internal review and external independent third-party audits should be done periodically and regularly to identify the potential weaknesses and the corrective actions that must be taken; the results should be further reviewed for the next round Plan-Do-Check-Action (PDCA).

Dezan Shira & Associates is an AmCham China Corporate Partner Program Member.

AmCham China Forums and Committees

AmCham China's Forums and Committees are the lifeblood of our advocacy, industry relations, and community development. We have Forums and Committees focusing on industry sectors, corporate functions, and special issue-based interests that well represent American businesses operating in China as well as the active membership of our community. Forums and Committees allow members to:

- Use AmCham China as a platform to drive foreign companies and industry-based advocacy efforts
- Hold dialogues with regulators and industry stakeholders to influence the business environment
- Share information and ideas specific to their industries
- Meet like-minded people for professional development
- Generate contacts for business development

If you are interested in joining any of our **Forums and Committees**, please contact the corresponding member of staff listed below.

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Juhui Huang, BRF China
Owen Ma, Cargill Investment

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Jasmine Tian, Coca-Cola
Wu Jing, UPS

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A New Semester Begins: China Releases "Double Reduction" Policy in Education Sector

By Lester Ross and Kenneth Zhou

A new semester has begun for students following the release of China's "Double Reduction" Policy. The new measures, announced over the summer, are the strictest in years and are already shaking up China's education sector. International law firm, Wilmer Hale unpacks the implications the policy changes will have on the regulatory landscape of the private tutoring industry.

The General Office of the Central Committee of China's Communist Party and the General Office of the State Council on July 24, 2021 jointly released the Opinions on Further Reducing the Burden of Homework and Off-Campus Training for Compulsory Education Students (the "Opinions"). The Opinions took immediate effect on the day of their release.

"Double Reduction" in the Opinions refers to a reduction in the total amount and time of commitment required by school homework and a reduction in the burden of off-campus or after-school training programs. Based on the Opinions, the Double Reduction policy is intended to improve the overall quality of school education, reduce excessive study burdens and protect the health of students, relieve the burdens and anxiety of parents, reduce social inequity, further regulate and standardize off-campus training (including both online and offline training), and strictly implement the Compulsory Education Law, the Protection of Minors Law and other laws and regulations governing the education industry.

While the Opinions set out various targets and requirements for in-school education, particular emphasis is placed on regulating after-school private-tutoring activities. Key developments include:

- Local authority will no longer approve new "subject-based" off-campus and after-school training institutions targeting compulsory education students. This means that all new off-campus training institutions which target students of compulsory education age and teach "subject-based" curricula will be banned. "Subject-based" generally refers to the subjects taught in compulsory education schools, including Chinese literature, history, geography, math, foreign languages, physics, chemistry, biology, and morals and law. "Compulsory education" in China includes six years of primary school education, typically starting at the age of six and finishing at the age of 12, followed by three years of junior secondary education. It appears, however, that the Opinions are also likely to apply through upper middle school.

- All existing "subject-based" off-campus training institutions will be required to convert into or register as "non-profit organizations". While the definition of a "non-profit organization" is not entirely clear under law, reference can be made to non-profit public and private schools. A "non-profit organization" typically has the following features: sponsors or investors of such organization in principle are not entitled to a return on their

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investment; all income generated will in general be reinvested in education-related activities; tuition and other fees charged by the organization must follow fee standards formulated by the government; and upon dissolution of an organization, while sponsors or investors are entitled to reasonable compensation, a large portion of the residual assets will be primarily used for education and other non-profit activities.

- All online "subject-based" training institutions will now be subject to government approval, rather than a mere filing for the record as in the past. Local governments will conduct a comprehensive review on existing online institutions and impose relevant approval requirements. For those which fail to obtain approval, their existing government registrations and ICP licenses will be revoked.

- For non-subject-based training institutions, local governments will clarify the corresponding departments in-charge, formulate standards by subject area, and implement a strict review and approval regime.

- All "subject-based" training institutions are prohibited from conducting IPOs or otherwise raising funds from capital markets.

- Public companies are prohibited from investing in any "subject-based" training institutions through stock market financial transactions or acquisitions of assets from such institutions in the form of equity or cash.

- Foreign capital is prohibited from engaging in mergers or acquisitions, trustee arrangements, franchising, or using VIE structures to control or participate (through equity or otherwise) in "subject-based" training institutions. All existing illegal activities will need to be cleaned up.

- Content review – a filing and supervision system will be established to control and monitor training materials and training content. Training materials of off-campus training institutions and overseas education materials will be closely scrutinized. The tutoring industry crackdown also appears to be motivated by a desire within the government to prevent intrusion of unapproved curricula and foreign content.

- Excessive training and early education are prohibited. "Non-subject-based" training institutions are prohibited from engaging in "subject-based" training or providing overseas education courses.

- Off-campus training institutions are prohibited from using national holidays, weekends or winter or summer breaks to organize "subject-based" training programs.

- Training institutions are prohibited from enticing teachers away from public schools through improper means. Advertisements for training institutions are banned on mainstream media platforms.

- Financing activities and capital injections into training institutions will be further regulated. The government will tighten enforcement of the Anti-Unfair Competition Law and Anti-Monopoly Law against training institutions which engage in conduct eliminating or reducing competition or infringing consumer rights.

- Certain more developed cities, including but not limited to Beijing, Shanghai and Guangzhou, will launch pilot programs to re-examine existing "subject-based" training institutions; offer in-school extracurricular programs by using school resources or inviting off-campus training institutions through a government-led selection process; and strengthen the regulation of training fees/charges (e.g., training fees/charges for subject-based training programs targeting compulsory education students will be subject to a government-guided pricing system).

The policy has a significant impact on the private tutoring industry. Immediately after the promulgation of the Opinions, the stock prices of Chinese education companies listed in the US, Hong Kong and other overseas stock markets plummeted.

Government intervention in the private tutoring industry came shortly after the launch by the Chinese government of a cybersecurity investigation into several Chinese technology companies listed in the US, including Didi Chuxing, Yunmanman, Huochebang, and Boss Zhipin. The stock prices of these companies then plunged.

On July 30, in response to market reaction to China's new policies on "China concept stocks" listed in the US, the US Securities and Exchange Commission issued a public statement requiring that China-based operating companies listed in the US stock markets by using VIE structures make clearer disclosures relating to risks associated with

"It is reported that the Chinese government views VIEs as a necessary and vital part of how Chinese firms engage with global markets."

the VIE structures and actions of Chinese government that could significantly affect the company's financial performance, before their registration statements will be declared effective.

With respect to the private tutoring industry, investors' concerns center mainly around the legality of VIE structures, the requirement to convert "for-profit" training institutions into "non-profit organizations", and the prohibition on foreign investments in "subject-based" training institutions.

In China, certain industrial sectors, including, without limitation, telecommunications value-added services, compulsory education, media, basic infrastructure, and certain other sectors which have a potential bearing on national security or the public interest, are restricted with respect to foreign investment or ownership. As a practical matter, many Chinese companies involved in these sectors have raised capital from overseas stock markets using VIE structures.

In a typical VIE structure, a holding company is established in an overseas jurisdiction to issues shares to overseas investors. The offshore holding company, through one or more wholly-owned subsidiaries in China, enters into a set of control agreements with a China-based operating company which is typically set up as a 100% Chinese-domestically-owned company in order to retain requisite operating licenses or approvals in industrial sectors for which foreign investment or ownership is restricted. As such, a VIE structure essentially allows the overseas holding company to exercise control over management, financing and operation of the China-based operating company through contractual arrangements even though the overseas holding company does not hold any equity in the China-based operating entity.

Although the VIE structure sits in a grey area of Chinese law, as a practical matter, the Chinese government has been reluctant to take actual enforcement actions against such structure in the two decades since Sina Corporation completed its IPO in the US using a VIE structure for the first time. Although the Opinions prohibit foreign investors from investing in "subject-based" training institutions through mergers and acquisitions or VIE structures, it does not necessarily mean that the government has changed its position on the VIE structure itself. Rather, the Opinions suggests that the Chinese government recognizes the VIE structure as one of the ways for foreign investors to invest in restricted sectors.

It is reported that in response to the market reaction to recent policy changes, the Chinese government has reached out to multinational investment banks, foreign chambers of commerce and other international corporations doing business in China on multiple occasions to reassure investors that China will continue to engage with global capital markets and will take into consideration the impact of regulatory policies on investors to public companies. As for the VIE structure, it is reported that the Chinese government views VIEs as a necessary and vital part of how Chinese firms engage with global markets. WilmerHale remains reasonably confident that the government will continue to maintain the status quo of the policies on the VIE structure, at least in the near term, although the suddenness of regulatory restrictions on particular industries has increased investor caution.

With respect to the requirement to convert training institutions from "for-profit" organizations to "non-profit" organizations, note that such requirement applies only to "subject-based" training institutions under the Opinions. For training institutions which are public companies with many foreign investors, it is unlikely that the government will rush any decision to enforce the "non-profit" requirement. Instead, they will likely be required to restructure or transform their "subject-based" activities to "non-subject-based" activities in order to continue to be treated as "for-profit" organizations. For example, some institutions have already started to spin off their "subject-based" businesses by establishing non-profit schools for such activities, in order to keep their other businesses as "for-profit" businesses. Another potential alternative is for training institutions to work closely with schools to offer extracurricular programs or provide ancillary services to assist the schools in "subject-based" education.

The Double Reduction policy will clearly bring a fundamental change to the regulatory landscape of the private tutoring industry. The Ministry of Education and local education authorities in different localities are in the process of formulating detailed rules to implement the Double Reduction policy. How the Double Reduction policy will be implemented remains to be seen.