



Justification for the Legitimacy of Enterprise Data Property Rights

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Abstract. Whether enterprise data as a new factor of production needs to be empowered for protection mainly depends on whether it has the necessary protection. In the era of big data, the property rights of enterprise data should be empowered and protected. This paper makes an in-depth analysis on the subject, object and content of enterprise data property rights at the legal level and discusses the legitimacy of this new type of property rights. This discussion on the legitimacy of the new property rights is also the theoretical cornerstone of its rights to be empowered and protected and can lay a theoretical foundation for the subsequent data legislation work.

Keywords: Data legislation, Data confirmation, Enterprise data, Legitimacy

1 Introduction

With the continuous development of society, science and technology get a new round of revolution, the Internet, big data, artificial intelligence and other new industries rise rapidly, data as an emerging factor of production, especially enterprise data, with its great economic value potential, has attracted the attention of all walks of life. "As a new form of social wealth, digital wealth is becoming an important force to promote common prosperity. In the era of digital economy, digital labor and data elements are an important source of creating digital wealth [1]."

With the introduction of various economic policies at home and abroad, China has gradually set off a wave of data assets, and the discussion of building a data-related legal system has been launched. At present, there is a controversy in the legal circle about whether data should be protected by rights confirmation. There are mainly two viewpoints: affirmative and negative. This paper supports the affirmative view that enterprise data should be protected as a new type of property right. In order to protect the property rights and interests of data in production, circulation, trading and other links, it is necessary to build a scientific and efficient data property rights system [2]. The first thing to be solved in the legislation of enterprise data is the preliminary work of data right confirmation.

With the enrichment and development of the data market, the realistic value of enterprise data is gradually moving towards substantive steps. In order to boost the confidence of the data market, respond to the disputes of all social parties on enterprise data, reach a consensus on data, clarify data ownership, and achieve the effect of data market determination and dispute, the legitimacy of enterprise data property rights should be demonstrated and discussed in order to support data legislation and empower the protection of enterprise data.

2 Data and Enterprise Data

The definition of data varies across different disciplines. From a literal perspective, data refers to the comprehensive collection of objective entities through practical means, serving as the primary material for expressing specific information about these entities. In computer science and physics, data is generally defined as information stored in a specific medium, represented by numbers, letters, symbols, analog quantities or binary units. According to the China's Data Security Law, data is defined as any electronically or otherwise recorded information. As a new factor of production, the concept of data should be interpreted from an expanded macroscopic viewpoint [3]. Regardless of its context-specific definitions, the inherent purpose or function of data lies in conveying certain information. Therefore, from a legal standpoint and following the principles outlined in the Data Security Law practice, this paper defines data as: information that requires technical means such as electronics for retention and display on specific carriers while recording and collecting certain details.

Enterprise data is generated and controlled by enterprises in the process of production, operation and management or legally collected from other subjects through technical means. It has realistic value or expected value, and does not involve citizens' personal information and social public interests. The following will be studied and analyzed from the three aspects of the subject, object and content of this new property right.

3 Theory of Labor Property Right and Principle of Hard Work

First of all, from the enterprise data property rights of the main body of the analysis. Locke's theory of labor property rights holds that "labor" is the legitimate source of human obtaining property rights [3]. In the state of nature, man consumes his energy on a common object through labor, turns it into a part of himself, and transfers his natural rights to the object, so that it becomes his private property. The principle of hard work, also known as the sweat of the brow, is a legal principle in the field of intellectual property rights, which means that the works created by the creator do not need to have the corresponding originality or novelty, as long as the corresponding labor is done, the copyright can be obtained. According to the theory of labor property and the principle of hard work, labor is the basis of property rights, as long as the subject has paid a certain object or object in a substantial sense of mental or physical labor, the object should be empowered to protect, to give the subject property rights in the corresponding items, to give the eligible subject a certain return.

No matter what the source of enterprise data, "the formation and creation of its data value requires the relevant subject to invest a certain amount of capital, technology and labor [4]." After the original data is collected, processed, cleaned and other technical operations by an enterprise, it can form different fields and types of enterprise data. Although these operations are not necessarily highly original, the substantial labor such as human, material and financial resources paid by the data enterprises themselves can be reflected in different types of enterprise data, such as data sets, data resources and data products. Therefore, the data enterprises that pay for labor should be protected, and the data collectors and processors should be given the relevant property rights of the enterprise data in the legal sense. It should be noted that the collection of original data should not violate the mandatory provisions of national laws and regulations on the protection of personal information, such as knowledge, consent, authorization and other relevant provisions, and enterprises should abide by the principles of obtaining personal information and personal data and reasonable, justifiable and necessary. In addition, after cleaning and desensitizing the enterprise data can not be attached to personal attributes and marks, this restriction is not only a restriction on the theory of labor property rights, but also can be understood as a data enterprise should be in the "labor" work should make a kind of obligation behavior.

4 Property Definition Theory under Property Right System

Secondly, the object of enterprise data property rights is demonstrated. Whether enterprise data can become the required legal relation object and whether it can become a qualified property right object can be demonstrated through the property definition theory of property rights system. "The manifestation of property has experienced the development and evolution process from physical objects to intellectual achievements and information property. Intangible property such as technology and information has become the most important property type in modern society [5]." Enterprise data is also the product of social development. With the development of times and technology, the object of property rights should be viewed from the perspective of development. In different historical periods, the object of property rights has different legal connotations. It is generally believed that the object of property rights should have the characteristics of value, scarcity and disposability.

4.1 Value

Value is the core characteristic of the object of property rights. Only because of its value can new things be protected. Marx believes that labor is the only source of value, and the labor products that can be used as commodities have the dual nature of use value and exchange value [6]. In general, the enterprise data itself is created by the data enterprise through the resource, product and other labor means, and the corresponding value is naturally created in the labor process. Separately, enterprise data also has the two values mentioned above. In terms of exchange value, China's data exchanges, data investment banks and other platforms are booming, "2023 China data trading market

Research and analysis report" shows that in 2022, China's data trading industry market size of 87.68 billion yuan, accounting for 13.4% of the global data market transaction scale, China's data market trading prospects. In terms of use value, the role of data on enterprises is multi-level, diversified and wide-ranging. It plays a role of forward-looking reference and daily supervision in many aspects such as procurement, research and development, production, sales, survey, after-sales service, etc. It can provide enterprises with high-quality samples or cases to help enterprises make strategic deployment and adjustment. Enterprises rely on data to achieve cost reduction and efficiency increase, reduce economic losses, and improve the efficiency and correctness of decision making. For example, big data algorithms help enterprises understand the preferences and preferences of different categories of users, so as to understand the current market, make corresponding deployment, and push corresponding personalized customized push and services for users.

4.2 Scarcity

There is some debate in academic circles about whether data is scarce or not. In the purely natural state, the scale of the original data is huge, and the continuous operation of the society produces all kinds of data at all times, so the original data does not have the characteristics of scarcity. However, the type of enterprise data that has been invested in a certain amount of labor accumulation is not the same, and its quantity is limited. At the same time, although enterprise data can be copied and regenerated, it will not be consumed in the process of use and circulation, but the generation of enterprise data needs cost input. Therefore, the use of enterprise data is not arbitrary, and under normal circumstances, it is not free. The data enterprise itself can adopt certain confidentiality and isolation measures to protect the enterprise data and not be used at will by others. Therefore, enterprise data should be considered as an object with scarcity in this practice level.

4.3 Disposable

Disposability is the prerequisite and basis for something to qualify as property. If the enterprise data can be regarded as the qualified property object, first of all, the enterprise data itself should exist objectively, and then it should be controlled and dominated by a specific subject. Enterprise data can be perceived directly by people or through the introduction of technological media such as machines, so it must exist objectively. The original data can be processed into different types of enterprise data, and then through technical means to achieve circulation, trading, sharing, mortgage, financing and other goals. Obviously, the enterprise data can be controlled by the corresponding subject, and the enterprise data can be put into the market activities according to the will of the enterprise.

5 Utilitarianism and Legal Economics Theory

Finally, the argument on the content of rights can be based on the utilitarian theory. Utilitarianism pursues the goal of the greatest happiness of the greatest number of people. It uses the difference between the so-called "happiness" and "pain" to get the utility value, and then superimposes it to get the corresponding conclusion [7]. At the level of enterprise data, in order to maximize utility value in utilitarianism, it is necessary to establish a reasonable economic order, create a scientific right system, and maintain and protect the relevant rights and interests of data operators. Law and economics have something in common with it, which believes that effective allocation of social resources should be achieved through beneficial property rights system, and then optimize allocation of resource elements through effective market mechanism, and ultimately promote the maximization of social benefits and economic effects [8].

Therefore, it is of great benefit to enterprises, society and the country to construct the system content framework of enterprise data property rights. First, although enterprise data itself is not competitive, and the flow of data will not consume the "volume" of data, the competitive interests of enterprise data should be protected. The establishment of a sound data property rights system can provide the most direct protection for the data enterprise's own interests and can transform the protection of enterprise data rights from the current passive defense to the active positive right confirmation, thus responding to the demands of data operators in the era of big data. At the same time, a perfect and clear data property rights system is also conducive to reducing the negotiation costs and transaction costs of transactions between multiple parties. Second, for the society, the establishment of complete data property rights can play a decisive role in ending disputes, that is, at the level of enterprise data, clear the ownership and distribution of rights and obligations, reduce data rights and interests disputes, and maintain social harmony and stability and market economic order. It can also play an incentive role for market players, so as to rationally allocate data resources, energize the market economy, help the full flow of data elements, and escort the digital society. Third, at the national level, the determined data property rights system can fill the legislative gap in the current legal system, provide a clear basis for the judicial organs to correctly apply the law, realize the "laws to follow" and "good laws and good governance" at the enterprise data level, and promote the vigorous development of China's digital economy.

6 Conclusion

This paper analyzes the subject, object and content of enterprise data property rights through different legal theories from the legal level, and holds that the subject of enterprise data property rights is the data collector and processor, the object is the data set, data resources and data products transformed from the original data, and the content is the property rights that enterprises should have in the data market. The above three aspects jointly demonstrate the legitimacy of this new type of property rights, and enterprise data should be regarded as a new type of property rights for empowerment and

protection. This provides a theoretical basis for the subsequent data legislation, so as to fill the absence of China's enterprise data law.

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