

# Transparency 2.0 at the Cost of Privacy? Disclosure of Administrative Penalty Records under China's Social Credit System

Clement Chen

## **Abstract**

Open Government Data is often considered a remarkable progress in government transparency, as it proactively makes information available in machine-readable forms and ready for re-use that unleashes immense economic and social values. Yet the digitization and disclosure of hard-copy public records containing personal information carries serious privacy threats, which significantly increase with the application of various big data mining and profiling. This study reflects on the complex relation between Privacy, Open Data, and Freedom of Information by analysing a transparency initiative taken by the Chinese government to proactively release online administrative penalty records.

Adopted in the context of Social Credit System, the unusual initiative aims primarily to effectuate “joint punishment of discrediting behaviours” and facilitate market-based credit rating services. The study seeks to explore the initiative’s impacts on privacy, its legality in relation to freedom of information law and privacy law in China, and the accountability gaps under the current regime of information control. It also contrasts the Chinese regulatory approach to open data with the “practical obscurity” doctrine under the US FOI law and the fair information use principles concerning open data and public sector information reuse as recommended by the EU Article 29 Data Protection Working Party.