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Regulating the Regulators

Digital Platforms as Quasi-Administrative Authorities in China's Food Safety Governance

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Abstract

China's 2026 Provisions on livestream e-commerce food safety vest digital platforms with core regulatory functions that are functionally equivalent to those of administrative agencies. These functions include licensing, inspection, standard-setting, and sanctioning. Platforms now screen vendor credentials, deploy algorithmic surveillance, and impose sanctions up to permanent blacklisting. These powers mirror core administrative functions, yet Chinese law classifies them as private "corporate responsibility." This classification displaces core administrative law constraints on platform power. Duties of reason-giving, procedural fairness, and the availability of judicial review are thereby excluded. This article exposes the accountability vacuum that results. Comparison with the EU Digital Services Act demonstrates that procedural safeguards need not compromise regulatory efficiency. This article proposes four interventions that establish minimum procedural safeguards for platform-mediated governance, including mandatory internal review, a duty to provide reasons, bridging mechanisms for dispute resolution, and technological due process embedded in platform architecture.

Keywords

platform regulation, food safety, privatisation of regulation, administrative law, technological due process, algorithmic accountability

1 Introduction

On 16 January 2026, China's State Administration for Market Regulation (SAMR) unveiled the Provisions on Supervision and Administration of Livestream E-Commerce Operators' Implementation of Food Safety Responsibilities (hereinafter: "2026 Provisions"), set to take effect on 20 March 2026 (SAMR, 2025). The regulation arrives as a direct response to the National People's Congress Standing Committee's October 2025 enforcement inspection, which concluded that "new-format food business risks are emerging continuously" and recommended sector-specific rules for livestream commerce (Standing Committee of the National People's Congress, 2025). SAMR's Food Safety Director framed the instrument's ambition in direct terms, stating that the platform must manage both "the goods in the livestream room" and

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"the persons in it" (Zuo, 2026). What distinguishes the 2026 Provisions is that they go beyond requiring platforms to refrain from facilitating food safety violations, conscripting platforms into the active business of regulation itself. Platforms must now screen vendor credentials, appoint dedicated food safety personnel, deploy algorithmic surveillance systems, and impose sanctions ranging from traffic restrictions to permanent blacklisting. Platforms are thereby called upon to perform functions historically regarded as the exclusive province of the administrative state, including licensing, inspection, standard-setting, and sanctioning.

This regulatory architecture raises a question that transcends Chinese food law: when a digital platform exercises such functions, is it discharging a contractual compliance obligation, or wielding delegated public power? If the latter, the procedural apparatus of administrative law, including hearing rights, reason-giving duties, and judicial review, ought to apply. If the former, affected vendors are left with only the thin protections of contract law. The question of how to maintain procedural discipline when regulatory authority migrates to private intermediaries is one of the enduring puzzles of modern administrative science, and China's 2026 Provisions offer an unusually advanced case study through which to examine it.

The article proceeds in six sections. Section 2 traces the institutional evolution from state monopoly to platform-mediated food safety governance. Section 3 argues that the 2026 Provisions create administrative power operating outside administrative law. The analysis examines the functional taxonomy of platform obligations, the classification problem under Chinese administrative law doctrine, and the resulting accountability vacuum. Section 4 introduces the EU Digital Services Act as a comparative reference, and it demonstrates that procedural safeguards are institutionally feasible and explores the factors that account for the divergence between Chinese and European approaches. Section 5 proposes minimum procedural safeguards compatible with digital-age regulatory efficiency, built on the distinction between algorithmic detection and administrative disposition. Finally, section 6 concludes by situating the Chinese experience within the broader global trajectory of platform-mediated governance.

2 Institutional Evolution: From State Monopoly to Platform-Mediated Governance

The doctrinal questions examined here arise from a specific regulatory trajectory. This section traces the institutional evolution of China's food safety governance from state-centered command-and-control to platform-mediated enforcement.

2.1 The Command-and-Control Baseline

For the first three decades of China's post-reform food safety regime, governance rested on a model of direct state intervention. Government agencies, principally the former State Food and Drug Administration and its local counterparts, held a near-monopoly on the core regulatory functions of licensing, inspection, standard-setting, and enforcement. The original Food Safety Law of 2009 (Standing Committee of the National People's Congress, 2009) codified this model, concentrating authority in a tripartite structure: the health administration department assumed overall coordination responsibility, while quality supervision, industry and commerce, and food and drug administration departments exercised segmented jurisdiction over production, distribution, and catering services respectively (Food Safety Law, arts. 4–6). The approach was classically command-and-control, with the state setting the rules, conducting the inspections, and imposing the penalties.

This model, however, suffered from structural deficiencies well documented in the Chinese regulatory literature (Li et al., 2014; Li, 2015; Lian & Cheng, 2014). Jurisdictional fragmentation among multiple agencies created gaps in coverage and inconsistencies in enforcement. Inspection capacity was chronically insufficient relative to the scale and geographical dispersion of China's food production system, which at its peak encompassed millions of food production, processing, and distribution enterprises. The regime was overwhelmingly reactive: inspections were typically triggered by consumer complaints or periodic campaigns rather than by continuous monitoring. Moreover, the penalties, while nominally severe, were inconsistently applied, generating what Chinese scholars have described as a pattern of "heavy legislation, light enforcement" (see, e.g., Wu et al., 2016).

2.2 The 2015 Revision and the Birth of Platform Liability

The comprehensive revision of the Food Safety Law in 2015 (Standing Committee of the National People's Congress, 2015) marked a turning point. Article 62 fundamentally shifted the regime by introducing, for the first time, a statutory basis for imposing food safety obligations on third-party online platforms (Food Safety Law, art. 62). The provision required platforms operating online food transaction services to verify the real name and food business licenses of vendors using their services, to establish dedicated channels for reporting food safety violations, and to cease providing services to vendors discovered to be operating without valid licenses. Where a platform failed to discharge these obligations, and the failure resulted in harm to consumers, the platform bore joint and several liability with the offending vendor (Food Safety Law, art. 131).

Article 62 was a significant conceptual departure. It acknowledged that the state alone could not regulate a food market that was rapidly migrating online (Xie et al., 2018). Yet the provision was also cautiously drafted. It imposed on platforms a duty to verify and a duty to report. Still, it stopped short of requiring platforms to conduct the kind of proactive, continuous surveillance that would characterize the later regulatory instruments. The platform, under this framework, was cast as an auxiliary to the state, a gatekeeper whose role was to channel information to the regulatory authorities, rather than as a regulatory agent in its own right (Hu, 2018). This auxiliary role, however, would prove to be a transitional arrangement. Subsequent regulatory instruments would progressively transform platforms from passive gatekeepers into active regulators.

2.3 Regulatory Escalation (2019–2025)

The period from 2019 to 2025 witnessed a rapid and sustained expansion of platform food safety obligations, driven by a combination of legislative reform, administrative rulemaking, and political pressure. The E-Commerce Law (Standing Committee of the National People's Congress, 2018), which came into force on 1 January 2019, reinforced the platform's gatekeeper role and established a general framework of platform liability for defective products and services sold through its infrastructure (E-Commerce Law, arts. 38, 83). In 2022, SAMR promulgated the Provisions on the Implementation of the Principal Responsibility System for Food Safety in Food Production and Business Enterprises, which introduced two mandatory positions, the Food Safety Director and the Food Safety Officer, and required enterprises to conduct daily risk assessments and maintain compliance logs through institutionalized "daily control, weekly investigation, and monthly coordination" mechanisms (State Administration for Market Regulation, 2022). Although these provisions applied to food businesses generally rather than to

platforms specifically, their institutional logic, the internalization of regulatory functions within the regulated entity, would prove foundational for what was to follow.

These regulatory developments, however, were largely designed for conventional e-commerce. In parallel, the growth of livestream commerce as a food distribution channel introduced regulatory challenges that the existing framework was not designed to address. Livestream food sales differ from conventional e-commerce in several respects that complicate regulatory oversight. The transaction is mediated by a charismatic host whose persuasive authority may exceed the consumer's capacity for independent evaluation. Product claims are made orally and ephemerally, rendering *ex post* verification difficult. And the supply chain may involve actors, MCN (Multi-Channel Network) agencies, freelance hosts, cross-platform aggregators, whose legal status and regulatory responsibilities are poorly defined. These structural vulnerabilities were not merely theoretical. High-profile enforcement actions, including cases involving celebrity endorsements and livestream hosts with tens of millions of followers, exposed significant food safety violations that existing regulatory tools had failed to prevent. Against this backdrop, the regulatory response accelerated. By October 2025, the National People's Congress Standing Committee's enforcement inspection of the Food Safety Law had concluded that the regulatory tools available for online food commerce were insufficient (Standing Committee of the National People's Congress, 2025). The inspection report recommended that sector-specific regulations be developed for online food sales, meal delivery services, livestream commerce, and chain restaurant operations, and that regulatory methods be upgraded from traditional to "smart" supervision capable of achieving "online-offline integrated governance."

2.4 The 2026 Provisions: a Regulatory Inflection Point

The Provisions on the Supervision and Administration of the Implementation of Principal Responsibility for Food Safety by Livestream E-commerce Operators, promulgated on 28 December 2025 and effective from 20 March 2026, represent the culmination of this evolutionary trajectory (State Administration for Market Regulation, 2025). They are, in both scope and specificity, qualitatively different from the earlier instruments. The 2026 Provisions impose upon platforms a suite of obligations that can be grouped into six categories, supplemented by an evidentiary rule. Each merits a brief examination.

First, platforms must appoint food safety management personnel, including a Food Safety Director and Food Safety Officers commensurate with the platform's transaction scale and risk profile, and conduct food safety training for all hosts engaged in food-related livestreaming for the first time, with a requirement to verify host identity and maintain training records (art. 7–8). Second, platforms must verify the business qualifications, food business licenses, and registration information of all livestream operators and establish compliance files updated on a biannual cycle (art. 6). Third, platforms must prepare and implement food safety risk control checklists that address vendor qualifications, prohibited food screening, and advertising compliance (art. 9). Fourth, platforms must establish an "intelligent monitoring – investigation dispatch – rapid response" mechanism utilizing technological monitoring and real-time surveillance (art. 9). Fifth, upon detecting a food safety violation, platforms must immediately halt the activity and report it to the regulatory authorities, and must impose graduated sanctions according to the severity of the breach (art. 12). These sanctions include warnings, traffic restrictions, livestream suspension, account closure, or blacklisting. Sixth, thirteen categories of food products are subject to an absolute prohibition on livestream sale (art. 18). These include food produced from non-food raw materials, food with added toxic or harmful substances, expired food, and food

from quarantine-failed livestock. Finally, as a complementary evidentiary rule, the Provisions expressly provide that technical monitoring records generated by the platform's surveillance systems are admissible as electronic evidence in administrative penalty proceedings (art. 26).

Taken individually, each of these obligations might be characterized as a discrete compliance requirement. Taken together, they constitute something more. They create a regulatory architecture in which the platform assumes the role of frontline inspector, standard-setter, evidence-gatherer, and enforcer for an entire segment of the food market. It is this aggregate transformation, rather than any single provision, that gives rise to the doctrinal questions examined in section 3.

3 Administrative Power in Private-Law Clothing

The previous section traced the institutional evolution that transformed platforms from passive gatekeepers into active regulatory agents. Section 3 subjects that transformation to doctrinal scrutiny. The central argument is that the 2026 Provisions vest platforms with powers functionally equivalent to those of administrative agencies, yet classify those powers as private contractual obligations, thereby exempting them from the procedural constraints that ordinarily attach to public authority.

3.1 A Functional Taxonomy of Platform Obligations

Administrative law scholarship has long recognized that the characterization of a function as "public" or "private" cannot rest on formal labels alone; it must be informed by an assessment of what the actor in question actually does. This functional approach, associated in the common law tradition with the work of scholars (e.g., Mashaw, 1983; Freeman, 2000; Metzger, 2003) and in the continental tradition with the doctrine of "functional equivalence" (Zweigert & Kötz, 1998), provides the analytical starting point for evaluating the 2026 Provisions. Applying this functional lens to the 2026 Provisions reveals the extent of the regulatory transformation. Recent scholarship has extended this functional analysis to digital platforms, characterizing them as "new governors" exercising quasi-public authority over online spaces (Klonick, 2018) and proposing "platform administrative law" as a framework for analyzing how administrative law principles might apply to platform governance (Schramm, 2024).

Consider the four classical functions of an administrative regulatory agency that have long defined the administrative state. These are controlling access to a regulated market, monitoring compliance with regulatory standards, setting or specifying the standards against which compliance is measured, and imposing sanctions for non-compliance. Under the 2026 Provisions, platforms perform each of these functions. The credential verification and biannual file-updating requirements are functionally equivalent to the licensing and renewal procedures administered by local market supervision bureaus. The "intelligent monitoring" obligation goes further than traditional government inspection. Whereas SAMR relies primarily on random inspections conducted under the "double-random, one-disclosure" method, a sampling approach that, by design, reaches only a fraction of regulated entities (State Council of the People's Republic of China, 2019), the platform's algorithmic surveillance operates continuously across the entirety of its vendor base. The risk control checklists that platforms are required to draft and implement serve a standard-specifying function, translating the general prohibitions of the Food Safety Law into operational criteria tailored to the livestream environment. And the

graduated sanction regime, ranging from traffic restriction to permanent blacklisting, mirrors the penalty ladder set out in the Administrative Penalty Law (Standing Committee of the National People's Congress, 2021) (art. 9), with blacklisting in particular potentially carrying economic consequences comparable to, or exceeding, the revocation of a business license.

The functional equivalence documented above, however, understates the transformation. In at least one critical respect, the platform's regulatory capacity surpasses that of the state. Government food safety inspectors are constrained by personnel shortages, jurisdictional boundaries, and the physical logistics of on-site inspection. Platform algorithms, by contrast, can monitor millions of transactions in real time, flagging anomalies in product descriptions, pricing patterns, and vendor behavior with a speed and comprehensiveness that no government agency can match. The 2025 NPC enforcement inspection report acknowledged this asymmetry implicitly when it recommended that regulatory authorities leverage "big data and artificial intelligence technologies" and transition from "traditional to smart supervision," in effect urging the state to borrow the platform's own regulatory infrastructure (Standing Committee of the NPC, 2025). Table 1 below synthesizes how the 2026 Provisions vest platforms with functions that are functionally equivalent to core regulatory powers.

Table 1.
Functional Taxonomy of Platform Obligations Under China's 2026 Provisions

Administrative Function	State Agency Mechanism	Platform Equivalent (2026 Provisions)	Functional Assessment
Market Access Control	Business license issuance and renewal by local Market Supervision Bureaus (MSBs)	• Credential verification, • Biannual file updating, and • Denial of platform access to unlicensed vendors (Art. 6)	Functionally equivalent to licensing
Compliance Monitoring	"Double-random, one-disclosure" spot inspections; periodic sampling campaigns	"Intelligent monitoring – investigation dispatch – rapid response" algorithmic surveillance across entire vendor base (Arts. 9–10)	Exceeds state capacity: continuous, comprehensive coverage
Standard Specification	National food safety standards (GB standards) promulgated by the National Health Commission	Platform-drafted risk control checklists translating statutory prohibitions into operational criteria for livestream environment (Art. 9)	Quasi-legislative: operationalizes abstract norms
Sanctioning	Administrative penalties under the Administrative Penalty Law: fines, license revocation, business closure orders	Graduated sanctions: warnings → traffic restriction → livestream suspension → account closure → permanent blacklisting (Art. 12)	Economically equivalent to license revocation

Source: Author's analysis based on the 2026 Provisions.

This article does not claim that platforms have acquired formal administrative-subject status under Chinese law, which is the question to be addressed in the next subsection. Rather, the functional analysis demonstrates that platforms exercise powers functionally equivalent to those of administrative agencies, and argues that this functional equivalence should trigger corresponding procedural constraints.

3.2 The Classification Problem in Chinese Administrative Law

The doctrinal question that follows is how Chinese administrative law classifies and constrains such exercises of public power by private actors. Chinese administrative law provides three doctrinal categories for classifying the exercise of public-interest functions by non-state actors.

The first is statutory authorization. Under Articles 2 and 26 of the Administrative Litigation Law (Standing Committee of the National People's Congress, 2017), an organization that has been authorized by a law, regulation, or rule to exercise administrative functions acquires the status of an administrative subject. Its acts are subject to administrative litigation, and the procedural requirements of the Administrative Penalty Law and the Administrative Compulsion Law apply in full. The second is administrative entrustment. Unlike statutory authorization, the delegate does not acquire independent administrative subject status. Under this arrangement, an administrative agency delegates the exercise of a specific power to another entity, which acts on the agency's behalf and under its supervision. The delegating agency retains legal responsibility for the entrusted acts, and affected parties may seek judicial review of the delegating agency's conduct (Administrative Litigation Law, art. 26). The third is a private obligation. Here, the analytical framework shifts entirely. The actor performs a function required by law, but the relationship between the actor and the persons affected by its conduct is governed by civil or commercial law. Disputes are resolved through civil litigation or contractual arbitration, and the procedural protections of administrative law do not apply.

Against this doctrinal backdrop, the classification chosen by the 2026 Provisions becomes significant. The regulatory framework places platform food safety enforcement squarely in the third category, characterizing the platform's obligations as the discharge of "principal responsibility". This is a term of art in Chinese regulatory discourse that connotes the regulated entity's own duty to ensure compliance, as distinct from the state's supervisory authority (SAMR, 2022). This classification is not an inadvertent lacuna but a deliberate institutional choice. By framing platform enforcement as a private obligation, the regulatory framework avoids the legal and procedural consequences that would attach if the same functions were formally characterized as delegated administrative power. The platform is empowered to screen, surveil, and sanction, but it is not burdened with the administrative law duties that ordinarily accompany such powers.

3.3 The Accountability Vacuum

Having established that Chinese administrative law doctrine classifies platform enforcement as a private contractual exercise rather than administrative action, this section examines the practical consequences of that classification. The practical consequences become most visible when the system produces errors. In a system that processes millions of transactions through automated surveillance, errors are inevitable. Available evidence, though not comprehensive, suggests a recurring pattern: automated enforcement systems impose significant commercial consequences on vendors based on algorithmic determinations that are neither explained nor effectively contestable.

Three cases reported to the E-Litigation Platform (*Diansubao*) illustrate the problem. In the first, a food vendor on *Douyin* (the Chinese version of TikTok) received a "false efficacy claim" determination from the platform's automated monitoring system, resulting in the restriction of his product-sharing functionality. The vendor contested the determination as unreasonable, but the platform's internal appeals process offered no meaningful avenue for review (China

E-commerce Research Centre, 2025). In the second, a vendor on *Douyin* selling decorative stickers was incorrectly flagged for selling "counterfeit lighters" based solely on a customer-uploaded image. The vendor's shop was closed, funds frozen, and repeated appeals rejected. The vendor characterized this conduct as "entrapment enforcement" (China E-commerce Research Centre, 2025). In the third, a food vendor on *Kuaishou* (a short-video platform similar to TikTok) had store credit points deducted following a buyer's malicious review, yet could locate no channel through which to contest the determination (China E-commerce Research Centre, 2024).

These are not isolated incidents. According to data compiled by the China E-commerce Research Centre, during the 2025 "618" Shopping Festival promotional period alone, *Douyin*'s e-commerce platform received 191 merchant complaints, with food products accounting for 17.5% of the affected categories. A 2024 report by the Peking University E-Commerce Law Research Centre observed that platforms now exercise "quasi-legislative, quasi-executive, and quasi-judicial" powers over merchants, yet without corresponding procedural accountability (Peking University E-Commerce Law Research Centre, 2024). These cases illuminate three specific procedural deficits that are structural rather than incidental to the regulatory design.

The first is the absence of hearing rights. Under the Administrative Penalty Law, as revised in 2021, administrative agencies are required to notify the affected party of the right to request a hearing before imposing penalties that involve significant consequences. These include relatively large fines, confiscation of relatively large amounts of illegal gains or property, lowering of qualification levels or revocation of licenses, ordering the suspension of production or business, ordering closure, restricting engagement in certain business operations, or other relatively heavy administrative penalties (art. 63). Blacklisting by a dominant platform can be economically equivalent to license revocation: for a vendor whose entire distribution channel runs through a single platform, permanent exclusion from that platform is, for all practical purposes, a death sentence for the business. Yet because the platform's action is classified as the exercise of a contractual right rather than an administrative penalty, no hearing obligation arises.

The second is the absence of a duty to state reasons. Administrative agencies, when taking decisions that adversely affect private parties, are required to set forth the factual basis and legal grounds for their action. This duty serves both an informational function, enabling the affected party to understand and respond to the case against it, and a disciplining function, forcing the decision-maker to articulate a rational basis for its action, thereby constraining arbitrariness. The automated notifications generated by platform monitoring systems satisfy neither function. They communicate the conclusion (restriction or suspension) without disclosing the reasoning, and they provide no basis on which the affected vendor can formulate a meaningful response.

The third, and most consequential, is the remedial vacuum. A vendor aggrieved by a platform enforcement decision faces a choice between two unsatisfactory options. It may file a civil lawsuit, in which case the court will treat the dispute as a contractual matter, evaluating the platform's conduct against the terms of the platform service agreement, terms that the platform itself has drafted and that typically confer broad discretion to take enforcement action. Alternatively, the vendor may attempt to file an administrative lawsuit, arguing that the platform's action constitutes the exercise of *de facto* administrative power. This path faces a threshold jurisdictional objection: under prevailing doctrine, the platform is not an "administrative subject", and its actions are therefore not amenable to administrative judicial review.

The result is a legal no-man's land. Vendors subject to platform enforcement are trapped in a jurisdictional gap where administrative law does not apply due to the platform's private status, and civil law provides no relief due to judicial deference to contractual autonomy.

Substantial economic harm inflicted through the exercise of quasi-public authority thus falls between the two pillars of the judicial system, leaving algorithmic power effectively unfettered and unaccountable.

3.4 The Algorithmic Dimension

The procedural deficits identified above are structural, but they are not static. The accountability problem is compounded by the role of algorithmic decision-making in the enforcement process. The use of algorithmic decision-making by platforms raises questions familiar to administrative law scholarship on automated governance (Coglianese & Lehr, 2017; Engstrom & Ho, 2020). The 2026 Provisions require platforms to deploy "intelligent monitoring" systems (art. 9), a term that, in practice, refers to machine-learning algorithms that scan product listings, livestream content, and transaction patterns for indicators of non-compliance. When such a system identifies a potential violation, it may trigger enforcement action, including traffic restriction, product delisting, or account suspension, without human intervention.

Algorithmic enforcement offers undeniable advantages in terms of speed and coverage. But it also introduces risks that the existing legal framework does not adequately address. Algorithms are trained on datasets that may contain biases or gaps, they apply probabilistic rather than deterministic logic, and their decision processes are, in most cases, opaque to the affected parties and, frequently, to the platform operators themselves (Pasquale, 2015). The 2026 Provisions' stipulation that "technical monitoring records may serve as evidence in administrative penalty proceedings" (art. 26) further elevates the stakes. This provision effectively transforms the platform's algorithm into a quasi-official evidence-gathering instrument whose outputs feed directly into government enforcement action, yet the algorithm itself is proprietary, its methodology is not subject to independent audit, and its error rate is not publicly disclosed. The evidentiary implication is significant. A vendor subjected to government penalties on the basis of platform-generated evidence has no procedural means of challenging the reliability of the algorithm that produced that evidence. In traditional administrative enforcement, the accuracy of the state's evidence-gathering methods is subject to scrutiny through the administrative litigation process. When the evidence-gathering function is outsourced to a private algorithm, this layer of accountability is lost.

Viewed through the lens of administrative law theory, what has emerged is a regulatory architecture in which public power is exercised through private instrumentalities, disciplinary consequences are imposed through automated systems, and the procedural safeguards that have traditionally mediated the relationship between regulatory authority and regulated subjects are absent. Rose-Ackerman's account of the regulatory state emphasizes that the legitimacy of delegated authority depends not only on the substantive rationality of regulatory outcomes but also on the procedural fairness of the processes by which those outcomes are reached (Rose-Ackerman, 2021). Approaching the question from a different but complementary angle, Mashaw's influential framework for evaluating administrative due process asks whether the decision-making process provides adequate accuracy, transparency, and opportunities for participation relative to the stakes involved (Mashaw, 1976; 1985). Measured against either standard, the platform enforcement regime established by the 2026 Provisions falls short, not because it is ineffective, but because its effectiveness is achieved by circumventing the procedural discipline that administrative law theory regards as constitutive of legitimate public authority.

4. Comparative Perspectives

The accountability deficits identified in the preceding analysis are not unique to the Chinese regulatory context. Other jurisdictions have confronted similar challenges in governing platform-mediated enforcement, and their responses offer instructive comparative reference points.

4.1 Functional Parallels

The European Union's Digital Services Act, Regulation (EU) 2022/2065 (hereinafter: "DSA"), which became fully applicable on 17 February 2024, provides a useful comparative reference point, not as a normative ideal but as an illustration of how a different legal tradition has addressed functionally similar problems. Like the Chinese 2026 Provisions, the DSA imposes on online platforms affirmative obligations to establish mechanisms for receiving notices of, and acting against, illegal content and products distributed through their services. The DSA's "notice-and-action" mechanism for illegal content (art. 16) is functionally analogous to the Chinese "intelligent monitoring – investigation dispatch – rapid response" framework: in both cases, the platform is required to receive or detect reports of illegality, evaluate them, and take enforcement action where appropriate. In both cases, the platform's enforcement decisions, including content removal, account restriction, or service termination, carry significant economic consequences for the affected parties.

A significant distinction, however, warrants acknowledgment. The DSA expressly disclaims any general obligation to monitor the information transmitted or stored, or to actively seek facts indicating illegal activity (art. 8), a principle rooted in fundamental rights protections (Frosio & Geiger, 2023). Platforms act upon receiving notice of potential illegality, but are not required to engage in proactive surveillance. The Chinese 2026 Provisions, by contrast, mandate platforms to establish "intelligent monitoring" systems capable of real-time, automated detection of non-compliance (arts. 9–10). This divergence in the triggering mechanism, reactive notice-and-action versus proactive algorithmic surveillance, carries significant implications for the procedural architecture that accompanies platform enforcement, as the following section demonstrates.

4.2 The Procedural Safeguards Divergence

The functional similarities documented above, however, mask a fundamental divergence in regulatory design. The critical institutional difference lies not in the substantive obligations imposed on platforms but in the procedural architecture that accompanies those obligations. The DSA constructs a three-layer system of procedural safeguards for parties affected by platform enforcement decisions (Bayer, 2022; Frosio & Geiger, 2023; Husovec, 2024).

At the first layer, Article 20 of the DSA requires platforms to provide an internal complaint-handling mechanism that is easily accessible, user-friendly, and capable of processing complaints in a timely, non-discriminatory, diligent, and non-arbitrary manner (DSA, art. 20 par. 3–4). Critically, the provision specifies that decisions on complaints must not be taken solely based on automated means: platforms must ensure that appropriately qualified staff are involved in the review process (art. 20 par. 6). This requirement directly addresses the opacity problem inherent in algorithmic enforcement by ensuring that automated decisions are subject to human oversight at the contestation stage (Bayer, 2022).

At the second layer, Article 21 establishes a framework for out-of-court dispute settlement through certified independent bodies. These bodies must possess the requisite expertise and

independence to resolve disputes impartially (par. 3 a–b), and their decisions are non-binding on both parties. Platforms are required to engage with the process in good faith, while affected parties retain the right to seek judicial review (par. 1–2). This mechanism provides an accessible, low-cost alternative to litigation, available to users free of charge or at a nominal fee (par. 5), that is specifically designed for the high-volume, relatively low-value disputes that characterize platform enforcement.

At the third layer, Article 21 itself expressly preserves the right of affected parties to seek judicial remedy against platform decisions in the courts in accordance with applicable law (par. 1(3)). This provision ensures that the internal and out-of-court mechanisms do not function as substitutes for judicial review but as supplements to it (Van Hoboken et al., 2023).

Against this procedural backdrop, the Chinese regulatory approach presents a striking contrast. The Chinese 2026 Provisions contain none of these three safeguards. The regulation addresses in meticulous detail the obligations that platforms owe to the state, including what they must monitor, how they must respond, and what records they must retain, but is essentially silent on the obligations that platforms owe to the vendors they discipline. There is no requirement for an internal complaint-handling mechanism, no provision for independent dispute resolution, and no express preservation of judicial remedy. The vendor's procedural rights, in short, are not merely underspecified. They are absent from the regulatory design. Table 2 provides a systematic comparison of the procedural safeguards available under each regime, revealing a stark accountability asymmetry.

Table 2.
Procedural Safeguards Comparison: EU DSA vs. China 2026 Provisions

Procedural Safeguard	EU Digital Services Act (Reg. 2022/2065)	China 2026 Provisions (SAMR)	Gap Assessment
Internal Complaint Mechanism	Art. 20: Mandatory internal complaint-handling; human review required; timely, non-discriminatory processing	No provision. Vendors lack any guaranteed channel for contesting platform enforcement decisions.	Critical gap
Independent Dispute Resolution	Art. 21: Out-of-court settlement through certified independent bodies; binding on platform, not on affected party	No provision. No independent body exists to review platform food safety enforcement actions.	Critical gap
Judicial Remedy	Art. 21: Express preservation of right to judicial review in courts of establishment or residence	De facto unavailable. Civil courts apply deferential contractual standard; administrative courts lack jurisdiction (platform is not an administrative subject).	Structural gap
Duty to State Reasons	Art. 17: Statement of reasons required for content moderation decisions, including specific rule and explanation of automated means	No provision. Automated notifications communicate conclusions without disclosing factual basis, standard applied, or reasoning.	Critical gap
Human Oversight of Algorithms	Art. 20(6): Complaint decisions may not be taken solely by automated means	No provision. "Intelligent monitoring" systems operate without mandated human-in-the-loop at any stage.	Critical gap

Note: ***Critical gap*** *= safeguard entirely absent;* ***Structural gap*** *= formally available but functionally inaccessible.*

Source: Author's compilation.

4.3 Understanding the Divergence

What accounts for this striking procedural asymmetry? The divergence reflects different institutional logics rooted in different administrative law traditions and political economies of platform governance. Three factors merit consideration.

The first factor is an efficiency-first regulatory philosophy combined with an outcome-oriented administrative culture. China's approach to platform food safety regulation responds to an urgent practical problem: the state's inspection capacity is structurally inadequate to supervise a food market that processes hundreds of millions of online transactions annually. Platform co-optation offers a mechanism for scaling regulatory capacity rapidly and at low marginal cost. From this perspective, procedural constraints introduce friction into the very mechanism the regulation is designed to create. Moreover, Chinese regulatory performance metrics are overwhelmingly output-oriented, focusing on the number of violations detected and the volume of non-compliant products removed, rather than process-oriented. Procedural quality does not feature as an independent criterion of regulatory success (Gao, 2015).

The second factor is the political economy of platform governance in post-2020 China. The comprehensive regulatory tightening campaign directed at major technology platforms, including antitrust enforcement, data governance regulation, and labor protection mandates, fundamentally altered the bargaining dynamic between regulators and platforms (Marco Colino, 2022). Platforms accepted expanded compliance obligations as part of maintaining their market position. In this environment, neither regulators nor platforms have strong incentives to advocate for vendor procedural rights.

The third factor lies in the distinct regulatory objects that the two regimes address. The DSA's procedural architecture was designed primarily for content moderation, a domain of inherent interpretive ambiguity that structurally justifies robust procedural safeguards. The Chinese 2026 Provisions, by contrast, address product safety involving material risks to human health, where regulatory standards are more determinate. In this domain, enforcement errors that fail to catch violations can cause physical harm, which may justify prioritizing speed over procedural formality. This distinction, combined with a deeply embedded institutional conviction that public health protection justifies subordinating individual procedural rights to collective safety outcomes, helps explain the divergent regulatory postures. The succession of food safety scandals that preceded the 2015 Food Safety Law revision, from melamine-tainted infant formula to recycled "gutter oil" (Pei et al., 2011), created a political environment in which any apparent softening of enforcement rigor carries significant legitimacy costs. The 2015 revision has been characterized as "the strictest food safety law ever," embodying the "four strictest" principles in standards, oversight, penalties, and accountability (Roberts & Lin, 2016).

Taken together, these factors constitute a coherent explanatory framework for the procedural divergence. The comparative analysis reveals that the delegation of regulatory functions to platforms is a global trend (Gorwa, 2019; Gorwa, 2024). The critical variable is not whether such delegation occurs. It does, and will intensify. The critical variable is whether it is accompanied by institutional mechanisms preserving minimum procedural fairness. The Chinese model's distinctive contribution lies precisely in its demonstration that efficiency gains from platform-mediated governance come at a measurable cost to procedural justice, a cost that, as the following section argues, need not be accepted as inevitable.

5. Procedural Proposals for Regulatory Reform

The doctrinal analysis in section 3 and the comparative study in section 4 have established both the necessity and feasibility of procedural safeguards for platform-mediated food safety governance. This section translates those insights into concrete institutional design.

5.1 The Conceptual Foundation: Detection versus Disposition

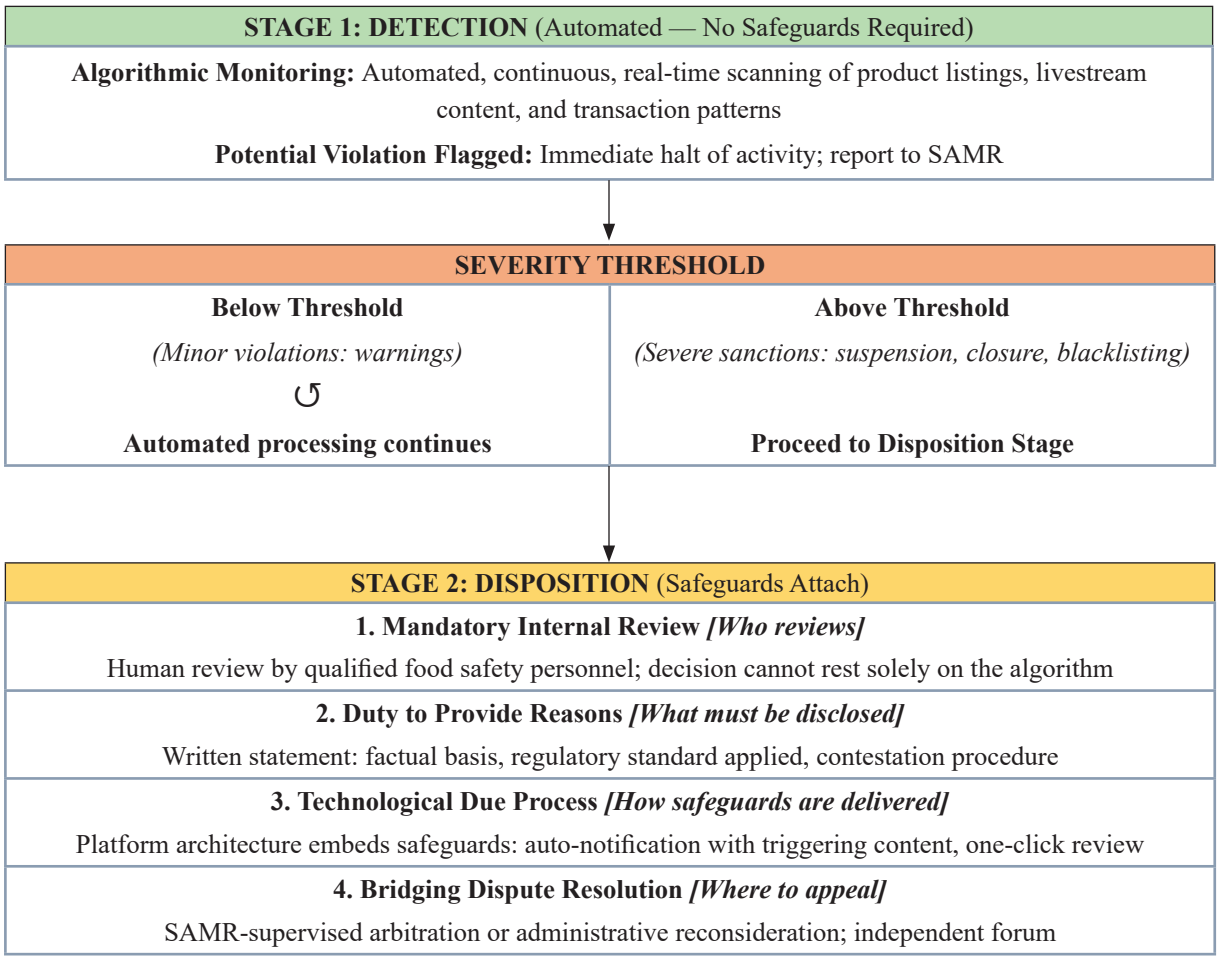
Procedural safeguards for platform-mediated governance are institutionally feasible, as the DSA demonstrates. However, the challenge lies in designing them for the Chinese context. The proposals in this section are guided by a single organizing principle. Minimum procedural safeguards should be calibrated to the operational realities of digital-age regulation. The objective is not to transpose the European model onto the Chinese regulatory landscape, but to identify the smallest set of procedural interventions that can meaningfully address the accountability vacuum identified in section 3 without materially impairing regulatory efficiency. Crucially, procedural safeguards need not operate at the detection stage. Requiring human review before every algorithmic flag would cripple the very efficiency that makes platform-mediated governance attractive. Rather, safeguards should attach at the disposition stage, where a detected anomaly translates into enforcement action imposing material economic harm. This distinction between detection (automated and instantaneous) and disposition (incorporating minimum procedural protections) is the key to reconciling efficiency with fairness. As scholars examining automated scoring systems have argued, due process protections must attach at the point where algorithmic outputs translate into consequential determinations affecting individual rights (Citron & Pasquale, 2014).

Although the 2026 Provisions outline a range of enforcement measures (art. 12), from warnings to permanent blacklisting, they do not distinguish between minor and severe sanctions with corresponding procedural consequences. This article proposes such a distinction. Minor sanctions should include warnings, function restrictions, and traffic restrictions. Severe sanctions should include livestream suspension, time-limited suspension, account closure, prohibition on re-registration, and blacklisting. In accordance with the proposed framework, procedural safeguards apply exclusively to the latter category, the economic consequences of which are commensurate with those of administrative license revocation.

5.2 The Regulatory Proposals: Four Procedural Interventions

Building on this detection-disposition distinction, four specific proposals follow. Each is designed to inject minimum procedural safeguards into platform enforcement without compromising the speed and scale that make algorithmic governance effective. Together, they address the three accountability deficits identified in section 3, including the absence of reason-giving, the unavailability of meaningful review, and the opacity of algorithmic determination. These are deficits that scholars have identified as endemic to algorithmic governance in the administrative state (Engstrom & Ho, 2020). Figure 1 below maps the four proposals onto the enforcement process. The framework preserves algorithmic efficiency at the detection stage while introducing procedural safeguards only at the disposition stage, when severe sanctions materialize.

Figure 1. Proposed "Detection–Disposition" Framework with Procedural Safeguards



Source: Author's illustration.

First, and most fundamental, is a mandatory internal review mechanism. Platforms should establish a dedicated channel through which vendors subject to enforcement actions exceeding a defined severity threshold, such as account suspension, blacklisting, or prolonged traffic restriction, may request human review by qualified personnel with food safety expertise. The mere existence of such a mechanism produces a disciplining effect on initial decision-making quality and a legitimizing effect on the system as a whole.

Second, complementing the review mechanism is a duty to provide reasons. When the threshold of severity is reached, platforms are required to provide affected vendors with a written statement. This statement should include the specific factual basis for the determination, namely the listing or transaction that triggered the decision. In addition, the statement must outline the regulatory standard that was applied and the procedure for contesting the decision. This requirement draws on the rationale underlying the Administrative Penalty Law (arts. 44, 45, 62). The cost is low, because algorithmic systems already record the triggering data points, while the benefit is substantial: reason-giving transforms opaque algorithmic outputs into contestable determinations.

Third, providing the delivery mechanism for the preceding safeguards is technological due process, which involves embedding procedural safeguards directly within platform algorithmic architecture (Citron, 2008). When a monitoring system triggers enforcement action meeting the severity threshold, it should automatically generate a structured notification identifying: (a) the

triggering content or transaction; (b) the regulatory standard applied; (c) the violation category; and (d) a one-click mechanism for initiating internal review. The algorithmic systems already record these data points as technical monitoring records admissible as electronic evidence (art. 26). The marginal cost of formatting them into intelligible notifications is negligible.

Fourth, addressing the jurisdictional gap that renders both civil and administrative review ineffective is a bridging mechanism for dispute resolution. The jurisdictional gap requires an institutional bridge. Vendors can neither obtain meaningful civil review under a deferential contractual standard nor access administrative review, which is jurisdictionally unavailable. Options include bringing disputes within existing administrative reconsideration mechanisms by designating SAMR as the reviewing authority, or establishing a SAMR-supervised arbitration panel modelled on China's online consumer dispute resolution mechanisms (Zheng, 2016).

Taken together, these four proposals constitute minimum procedural safeguards for platform-mediated enforcement. Crucially, none of them requires platforms to slow down algorithmic monitoring. Detection remains automated; enforcement remains swift. The proposals intervene only where swift enforcement produces contestable outcomes. In a system processing millions of enforcement decisions, even a modest rate of erroneous outcomes translates into substantial individual injustices. A procedural floor catching even a fraction of those errors produces a net gain in both legitimacy and accuracy.

6 Conclusion

China's 2026 Provisions on livestream e-commerce food safety mark a decisive shift in the global evolution of platform-mediated governance. By systematically vesting digital platforms with core regulatory functions, including market access verification, compliance monitoring, algorithmic surveillance, and graduated sanctioning, Chinese regulators have created a regulatory architecture that significantly expands the state's reach through private intermediaries. This article has argued that the resulting framework transforms platforms into quasi-administrative authorities exercising powers functionally equivalent to those of state agencies, yet operating entirely outside the procedural discipline of administrative law.

The accountability vacuum generated by this doctrinal misclassification is not merely a theoretical concern. The absence of hearing rights, the failure to provide reasons for enforcement decisions, and the remedial gap between civil and administrative adjudication produce concrete injustices for vendors subjected to algorithmic enforcement. As the comparative analysis has shown, the DSA demonstrates that procedural safeguards and regulatory efficiency are not, in this domain, a zero-sum trade-off. This article has proposed minimum procedural safeguards consisting of four interventions. These are mandatory internal review, a duty to provide reasons, bridging mechanisms for dispute resolution, and the embedding of procedural safeguards within platform architecture. The proposals are designed to restore procedural legitimacy without impairing the speed and scalability that make platform-mediated governance attractive to regulators.

The implications of this analysis extend beyond Chinese food law. The delegation of regulatory functions to digital platforms is a global phenomenon, observable across content moderation, financial services, healthcare, and an expanding range of other domains. For scholars and practitioners of administrative law, particularly those examining the privatization of public services in Europe, the Chinese experience offers both a *warning* and a *template*. The *warning* is that unconstrained platform-mediated enforcement erodes the procedural safeguards that have

historically legitimized the exercise of public authority. The *template* is that these safeguards can be preserved, and indeed must be preserved, if platform governance is to command the legitimacy that effective regulation requires. Whether China's regulatory authorities will move in this direction remains an open question. What is clear is that the institutional design choices made in this domain will shape not only the governance of food safety but the broader trajectory of platform regulation, in China and, increasingly, around the world.

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