Feedback on Public Consultation on the Draft Personal Data Protection (Amendment) Bill

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Summary of Major Points

- "whitelist" should be carefully crafted and consideration be made on whether masking or anonymisation will render the data as non-personal data under the Act
- exclusion of private disputes should be carefully considered, as it could serve as an effective deterrent of theft of personal data by ex-employees
- voice calls or voice messages via instant messaging platforms should be clearly classified whether governed under the PDPA or SCA

Statement of Interest

I am a private individual who finds interest in providing constructive feedback to laws and regulations. I am submitting this feedback in my own personal capacity. The views reflected are solely my own and do not reflect that of my firm or any associated entities.

Comments

Reference	Comments
Strengthen Accountability	
para 15	"data breach" – if the "whitelist" personal data is masked and a data incident occurs, will it be considered a breach but exempted because of technological protection exception, or not even considered a breach in the first place.
para 20	Notification deadline to PDPC: 3 <u>calendar</u> days. Please share PDPC's reason for choosing calendar days instead of business days.
Meaningful Consent	
para 33	It is stated that it is not intended that the offences apply in situations where the conduct is in the nature of a private dispute for which there is recourse under private law. It is submitted that even though it is not the intent of MCI/PDPC, without an explicit provision in the Act to exclude such a situation, the example given will satisfy the conditions of the offence and as such the perpetrator will be found guilty under the Act. On the other hand, excluding private dispute might dilute the deterrent effect and as such would not discourage individuals from "stealing" personal data belonging to his ex-employer.
para 38(b)	Deemed consent by notification. It will be useful if PDPC provided some examples or scenarios where this method of consent is appropriate.
Consumer Autonomy	
para 45(a)	User provided data held in electronic form. Please confirm that held in electronic form <u>does not</u> include data contained in a machine-readable scanned document.
para 45(b)	"existing relationship" – in the context of a life insurer, there are policies with the following statuses:

	(i) lapsed; (ii) expired; (iii) surrendered; and (iv) matured. Please clarify if these policyholders are still considered to have an existing relationship with the organisation. "direct relationship" – there are organisations who obtained consent for the collected data to be accessible to its related companies (e.g. parent, subsidiaries, sister-company). This "direct relationship" criteria seems to disallow data porting request to be made to the related companies. E.g. if a customer bought a life insurance policy from life insurer (A), who has a general insurance company (B) as its related company (assuming the consent clause allows the sharing of data across the group), and the customer wants to buy a general insurance policy from a third company (C) (not within the group). Can the customer make a data porting request to B to port data to C?
para 46	"domestic capacity" – Please provide more details / elaboration on domestic capacity. Some examples will be helpful.
General questions on data portabiity	Is the dataset for data porting a standard set (i.e. fixed fields)? Or is the requestor allowed to pick and choose what personal data he wants to be part of the dataset? Can the requestor object to certain data and instruct that these be excluded? Must the individual be notified of the final dataset that had been ported?
General question on data portability	Is MyInfo subject to Data Portability Obligations?
para 51	PDPC will have the power to review the reason for the refusal within a reasonable time. It is good to have a review process for this. Please clarify whether the review is automatically triggered once the request is refused, or the requestor must initiate the process.
Clause 13	"S.26E(3) – For the purpose of subsection (2)(b), different periods may be prescribed for different applicable data or porting organisations." Please explain how and why there is a need for differentiation. From a practical standpoint, it will make compliance challenging because organisations must maintain a (complicated) matrix to ensure that the right applicable period is followed for different applicable data. It could become

	confusing for the frontline staff executing the data porting request, thus leading to errors.
General comment on DNC	Voice calls are currently regulated under the PDPA. With IM apps also having the capability to make voice calls or voice messages, please clarify whether these will be under DNC of PDPA.
Strengthen Enforcement	
Clause 29(b)	"(bb) neglects or refuses to attend before the Commissioner or an inspector as required by or under the Act." To be consistent with (ba), propose to insert "without reasonable excuse" at the beginning of the subsection. The subsection should read: "(bb) without reasonable excuse neglects or refuses to attend before the Commissioner or an inspector as required by or under the Act."

Conclusion

In general the proposed amendments are improvements to the data protection regime in Singapore.