

## PART I: INTRODUCTION

### 1 Introduction

- 1.1 The Personal Data Protection Act 2012 (the “PDPA”) establishes a general data protection law in Singapore which governs the collection, use and disclosure of individuals’ personal data by organisations. The Personal Data Protection Commission (the “Commission”) is established under the PDPA with the key functions, amongst others, of promoting awareness of data protection in Singapore and administering and enforcing the PDPA.
- 1.2 These advisory guidelines (these “Guidelines”) are issued by the Commission pursuant to section 49(1) of the PDPA to provide guidance on the manner in which the Commission will interpret provisions of the PDPA. Where relevant, reference is made to the provisions of the regulations to be made under the PDPA (“Regulations”).
- 1.3 These Guidelines should be read in conjunction with the Advisory Guidelines on Key Concepts in the PDPA (“Key Concepts Guidelines”) and other relevant guidelines issued by the Commission<sup>1</sup>.
- 1.4 These Guidelines are advisory in nature and are not legally binding on the Commission or any other party. They do not modify or supplement in any way the legal effect and interpretation of any laws cited including, but not limited to, the PDPA and any subsidiary legislation (such as regulations and rules) issued under the PDPA. Accordingly, these Guidelines shall not be construed to limit or restrict the Commission’s administration and enforcement of the PDPA. The provisions of the PDPA and any regulations or rules issued thereunder will prevail over these Guidelines in the event of any inconsistency. The Guidelines do not constitute legal advice.
- 1.5 These Guidelines provide more elaboration on selected issues relating to the Do Not Call provisions in the PDPA, which are set out in Part IX of the PDPA (“DNC Provisions”). The DNC Provisions operate in conjunction with the Data Protection Provisions (“DP Provisions”) of the PDPA, which are set out in Parts III to VI of the PDPA. The DNC Provisions came into effect from 2<sup>nd</sup> January 2014 and the DP Provisions came into effect from 2<sup>nd</sup> July 2014. Organisations are required to comply with both sets of provisions.
- 1.6 In brief, the DP Provisions deal with the following matters:

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<sup>1</sup> Guidelines issued by the Commission are available at <http://www.pdpc.gov.sg/resources/advisory-guidelines>.

- a) Having reasonable purposes, notifying purposes and obtaining consent for the collection, use or disclosure of personal data;
- b) Allowing individuals to access and correct their personal data;
- c) Taking care of personal data (which relates to ensuring accuracy), protecting personal data (including protection in the case of international transfers) and not retaining personal data if no longer needed; and
- d) Having policies and practices to comply with the PDPA.

Please refer to the Key Concepts Guidelines for details on the DP Provisions.

1.7 The DNC Provisions apply to persons including individuals as well as companies, associations and other bodies of persons, corporate or unincorporated<sup>2</sup>. The DNC Provisions contain a number of obligations that apply in relation to persons sending specified messages to Singapore telephone numbers<sup>3</sup>. In brief, such persons are required to comply with the following obligations:

- a) Duty to check the DNC Register – before a person sends a specified message to a Singapore telephone number, the person must check with the DNC Registry established by the Commission under the PDPA (the “DNC Registry”) to confirm that the number is not listed on the DNC Register established by the Commission as part of the DNC Registry, unless the person has obtained clear and unambiguous consent in evidential form from the user or subscriber of the number<sup>4</sup> (section 43 of the PDPA); and
- b) Duty to identify the sender of a message – when sending a specified message to a Singapore telephone number, the person must:
  - i. include information identifying the sender and how the recipient can contact the sender (section 44 of the PDPA); and

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<sup>2</sup> As drafted, the DNC Provisions impose obligations on a “person” sending specified messages. However, as may be seen from the definitions of “person” in section 2(1) of the Interpretation Act, the term includes natural persons as well as companies, associations and other bodies of persons, corporate or unincorporated. For the avoidance of doubt, the term “person” as used in these Guidelines shall be construed as including individuals as well as companies, associations and other bodies of person, corporate or unincorporate.

<sup>3</sup> The term “Singapore telephone number” is defined in section 36(1) of the PDPA to mean (a) a telephone number, with eight (8) digits beginning with the digit 3, 6, 8 or 9, that is in accordance with the National Numbering Plan referred to in regulation 12A of the Telecommunications (Class Licence) Regulations (Cap. 323, Rg 3); or (b) any other telephone numbers as may be prescribed. There are no other numbers prescribed at the moment.

<sup>4</sup> The term “subscriber” is defined in section 36(1) as the subscriber of the telecommunications service to which the Singapore telephone number in question is allocated.

- ii. for voice calls, the sender must not conceal or withhold from the recipient the sender's calling line identity<sup>5</sup> (section 45 of the PDPA).
- 1.8 There are three (3) DNC Registers which individuals may choose to opt out of receiving specified messages:
- a) No Voice Call Register, to opt out of receiving specified messages via voice calls (i.e. voice or video calls sent by a telephone service, data service or any other electronic means);
  - b) No Text Message Register, to opt out of receiving specified text messages (including any text, sound or visual message that is not a specified call or fax, e.g. SMS/MMS); and
  - c) No Fax Message Register, to opt out of receiving specified fax messages.
- 1.9 Certain senders who are in an ongoing relationship with individuals may be exempted from the obligation to check the DNC Registry before sending specified text or fax messages related to the subject of the ongoing relationship.
- 1.10 In order to understand how the DNC Provisions apply, it is important to take note of what is a "specified message", what constitutes sending a message to a Singapore telephone number, and who is a "sender" under the PDPA. These questions, as well as the scope of the above obligations, are addressed in these Guidelines.
- 1.11 It should be noted that the examples in these Guidelines serve to illustrate particular aspects of the DNC Provisions, and are not meant to exhaustively address every obligation in the PDPA that would apply in the example.
- 1.12 For the purposes of illustration, these Guidelines will use "12345678" to refer to an operational Singapore telephone number which can receive incoming calls or text messages and [abc@abc.org](mailto:abc@abc.org) as a valid email address which can receive incoming emails.

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<sup>5</sup> The term "calling line identity" is defined in section 36(1) as the telephone number or information identifying the sender.