

## PART VI: OTHER CLARIFICATIONS

### 21 Locations of sender and recipient

21.1 It should be noted that the locations of the sender and recipient when a specified message is sent and accessed affect whether the DNC Provisions apply. Section 38 of the PDPA provides that the DNC Provisions apply where:

- a) the sender of the specified message is in Singapore when the message is sent; or
- b) the recipient of the specified message is in Singapore when the message is accessed.

21.2 Under section 38, the DNC Provisions do not apply if both the sender and the recipient are not in Singapore when the specified message is sent and accessed respectively. This may be the situation, for example, when the recipient is travelling in another country and accesses a specified message sent by a sender in that country. However, the DNC Provisions would apply if the recipient is travelling in another country and the sender is in Singapore. The DNC Provisions also apply where one of the senders is located overseas while another is located in Singapore.

	<b>Example</b>
21.3	<p>Charles subscribes to the services of Operator X, a Singapore telecommunications service provider. He leaves Singapore and starts roaming on the network of an overseas telecommunications provider, Operator A. He receives a specified message from Operator A, a telecommunications service provider in the other country, about Operator A's services. The sending of this specified message will not be subject to the application of the DNC Provisions.</p> <p>Later in the day (while Charles is still in the other country), he receives another specified message, this time from his insurance agent who was in Singapore when the message was sent. The sending of the specified message by Charles' insurance agent will be subject to the application of the DNC Provisions.</p> <p>A few days later, Charles returns to Singapore. Shortly thereafter, he receives a third specified message, now from an overseas number. However, Charles discovers that the specified message was sent on behalf of his bank in Singapore which had outsourced part of its marketing operations to an overseas call centre and authorised the call centre to send the message. The sending of the specified message by the bank (through the overseas call centre) will also be subject to the application of the DNC Provisions.</p>

## **22 Using personal data collected before the PDPA comes into effect for telemarketing purposes**

- 22.1 Section 19 provides that organisations can continue to use personal data collected before the appointed day for the same purposes for which the personal data was collected without obtaining fresh consent, unless the individual has withdrawn consent (whether before on, or after the appointed day). Organisations should note that section 19 only applies to reasonable existing uses of personal data collected before the appointed day.
- 22.2 Persons should note that even if the sending of specified messages to a Singapore telephone number is considered a reasonable existing use under section 19, the DNC Provisions apply concurrently. In particular, section 19 does not in any way affect the requirement that persons must check the DNC Register or obtain clear and unambiguous consent before the sending of any specified messages (except exempt messages).
- 22.3 Therefore, persons who wish to use personal data collected before the appointed day for telemarketing purposes should review their existing consent procedures to determine if clear and unambiguous consent in evidential form has been obtained. If such consent has not been obtained, persons must check the DNC Register before sending any specified messages (except exempt messages), or obtain fresh consent that meets the section 43(3) requirement to obtain clear and unambiguous consent in evidential form on and after 2<sup>nd</sup> January 2014.