

6 Online Activities

Are IP addresses personal data?

- 6.1 IP addresses of networked devices are automatically captured whenever a connection is made over the Internet. An IP address, or any other network identifier such as an IMEI number, may not be personal data when viewed in isolation, because it simply identifies a networked device. However, IP addresses have the potential of identifying unique individuals through their activities, especially when combined with traces of information that individuals leave on these networked devices as they interact with the Internet. Depending on how a device is used, the traces of information are collected and the presence of other available information affects the possibility of identifying an individual from his device's IP address.
- 6.2 For instance, a shared computer may be used by several individuals in an office or home with the same login account and it is therefore unlikely for the IP address to be connected to a single individual. However, if each individual has separate login accounts, then the online activities will relate to that login identity. Along with other information such as cookies (addressed below), IP addresses can identify individuals, and are likely to be personal data in such context.
- 6.3 The Commission notes that organisations do engage in the collection of data points tied to an IP address for various purposes. For example, such purposes could include determining the number of unique visitors to a website in a month, or the number of unique responses to a once-off online survey about consumer preferences, organisations may track activities tied to an IP address. Such tracking may not result in the collection of personal data, if the organisation is unable to identify an individual from the data collected or from that data and other information that the organisation has or is likely to have access. However, organisations should note that the more data points associated to a unique IP address an organisation collects, the more likely that the data may be personal data. For example, if an organisation profiles the websites visited by an IP address, the items purchased by the same IP address and other online activities associated to the IP address for a long period of time, and is able to ascertain that the particular IP address is associated with a unique person with a specific surfing profile, the organisation may be found to have collected personal data.
- 6.4 For more details on what constitutes personal data is, please refer to the section on "personal data" in the Key Concepts Guidelines.

Must consent be obtained for the use of cookies?

- 6.5 Cookies are text files created on a client computer when its web browser loads a website or web application. Often encrypted for protection against unauthorised access, they are used to store information for performing certain functions such as completing forms, facilitating website navigation, authentication, and enabling advertising technology. Depending on the purpose(s) for which they are used, the durations which cookies are stored differ. Session cookies typically expire at the end of a browser session, while persistent cookies can be stored for some duration in a browser folder until they are deleted, either manually, or upon browser exit. Also depending on the purpose of the cookies is the type of information that they store. The PDPA applies to the collection, use, or disclosure of personal data using cookies.
- 6.6 Many Internet activities today are dependent on the use of cookies, such that unnecessarily restricting the use of cookies will impede the usability of the Internet. However, because cookies can potentially collect personal data, organisations should be mindful of the concern surrounding the use of cookies for individuals' online activities. It is thus important to strike a balanced approach on the need for consent in the use of cookies.
- 6.7 First, not all cookies collect personal data. For example, session cookies may only collect and store technical data needed to play back a video on a website. Consent is not needed for cookies that do not collect personal data.
- 6.8 Second, for Internet activities that the user has clearly requested, there may not be a need to seek consent for the use of cookies to collect, use, and disclose personal data where the individual is aware of the purposes for such collection, use or disclosure and voluntarily provided his personal data for such purposes. Such activities include (but are not limited to) transmitting personal data for effecting online communications and storing information that the user enters in a web form to facilitate an online purchase. For activities that cannot take place without cookies that collect, use or disclose personal data, consent may be deemed if the individual voluntarily provides the personal data for that purpose of the activity, and it is reasonable that he would do so. Please refer to the section on "The Consent Obligation – Deemed Consent" in the Key Concepts Guidelines for more details.
- 6.9 Consent may also be reflected in the way a user configures his interaction with the Internet. If the individual configures his browser to accept certain cookies but rejects others, he may be found to have consented to the collection, use and disclosure of his personal data by the cookies that he has chosen to accept. For example, if the individual has configured his browser settings to reject all cookies except those from his online banking website and his email websites, it is clear that he has consented

to the collection, use and disclosure of his personal data by his banking and email websites for their stated purposes, but not other websites. However, the mere failure of an individual to actively manage his browser settings does not imply that the individual has consented to the collection, use and disclosure of his personal data by all websites for their stated purpose.

- 6.10 For avoidance of doubt, the obligation to obtain the individual's consent for the collection of his personal data rests with the organisation that is collecting such personal data, whether by itself or through its data intermediaries. Where an organisation operates a website which a third party uses to collect personal data, and the website operator itself is not collecting such personal data, the obligation is on the third party organisation to obtain the consent required to collect such personal data.

Are organisations allowed to use cookies for behavioural targeting?

- 6.11 Where behavioural targeting involves the collection and use of personal data, the individual's consent is required.