

11 June 2018

To: Personal Data Protection Commission

Re: PDPC’s Public Consultation on Managing Unsolicited Commercial Messages and the Provision of Guidance to Support Innovation in the Digital Economy

With reference to the public consultation for managing unsolicited commercial messages and the provision of guidance to support innovation in the digital economy issued on 27 April 2018, comments from Manulife (Singapore) Pte Ltd are as follows:

Question / paragraph from Public Consultation	Our comments
<p>(3.3) PDPC proposes for the DNC Provisions and the SCA to be merged into a single legislation (“New Act”) governing all unsolicited commercial messages, following similar approaches in other jurisdictions, such as Hong Kong and United Kingdom. The PDPA will continue to be the baseline legislation for personal data protection. Details on the scope of the proposed New Act are elaborated below.</p>	<p>Agree to have a New Act on this, when will be the deadline of implementation? Will PDPC be issuing the Guidelines before the Act is enforced?</p>
<p>Question 1: What are your views on the proposed scope and applicability of the DNC Provisions and the Spam Control Provisions?</p>	<p>(1) Reference to 3.5b Will the definition “in bulk” follow the current section 6 of SCA?</p> <p>(2) Reference to 3.6 The DNC Provisions under the New Act will continue to apply to specified voice, text and fax messages while the Spam Control Provisions under the New Act will continue to apply to emails that are sent in bulk. Given the advancement of technology, marketers are already moving beyond voice, text and fax messages when sending commercial messages. To ensure the relevance of the law towards regulating unsolicited commercial messages, suggest for the Authority to clarify the scope of application to include rich media messages such as pictures or videos which contain commercial messages communicated through instant messaging.</p>
<p>Question 2: What are your views on including commercial text messages sent using IM identifiers under the Spam Control Provisions?</p>	<p>(1) Reference to 3.10 To clarify if definition of “commercial text message” will be adopting the PDPA’ definition of marketing message</p> <p>(2) Reference to 3.13</p> <ul style="list-style-type: none">• In case if a company blast out an marketing message through various IM platforms at the same time, an individual unsubscribe at a particular IM platform, is PDPC’s expectation that this unsubscribe will apply to all IM platform?• Could PDPC provide greater clarity on how the unsubscribe facility for IM identifiers would

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	<p>complement or align with the withdrawal of consent under PDPA?</p> <p>(3) Could PDPC provide greater guidance on what would constitute IM identifiers?</p>
<p>(3.17) For the labelling requirements of text messages sent via IM identifiers under the Spam Control Provisions under the New Act, it is proposed that only the contact information is required (e.g., provide an email address at which the sender can be contacted). The requirement for CLI not to be concealed under the DNC Provisions, is intended to ensure senders do not use a blocked, unlisted or spoofed number, in order to facilitate identification of the sender. This requirement would not be relevant for text messages sent via IM identifiers for a couple of reasons. First, the display name or ID will typically be shown (e.g., WeChat ID cannot be hidden) for text messages sent through IM identifiers. Second, the decentralised mode of creating and assigning display names or IDs for IM platforms makes this means of identifying the sender less relevant.</p>	<p>On the contact information, what is the expectation on the email address? (i.e.: A common corporate email or an individual's company email address)</p>
<p>Question 3: What are your views on the proposed reduction of the period for effecting withdrawal of consent to 10 business days, in line with the period to effect an unsubscribe request under the Spam Control Provisions?</p>	<p>We propose to align the withdrawal of consent to 30 days for the New Act. To align SCA to PDPA.</p>
<p>Question 4: What are your views on prohibiting the use of dictionary attack and address harvesting software for sending of commercial messages to all telephone numbers, IM identifiers and email addresses?</p>	<p>(1) What about those telephone numbers that one generates without using dictionary attack and/or address harvesting software? Will these be part of these provisions?</p> <p>(2) Reference to 3.22 Under the New Act, PDPC proposes to prohibit the sending of commercial messages to all telephone numbers (not limited to Singapore telephone numbers), IM identifiers and email addresses generated by or obtained through the use of dictionary attacks or address harvesting software by persons in Singapore. We would like to clarify with the Authority on the applicability of this prohibition if these actions are not taken by "persons" but rather "machines" or "Artificial Intelligence", etc.</p>
<p>Question 5: Should B2B marketing messages be subject to the requirements under the DNC Provisions, in alignment with the coverage under the Spam Control Provisions?</p>	<p>Companies will have to incur higher compliance costs to cover B2B marketing messages which would not be beneficial to the companies in the long run. We hope PDPC could reconsider this proposal.</p>

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Question 6: What are your views on the proposal for the DNC Provisions to be enforced under an administrative regime?	We are supportive of this proposal. Could PDPC provide some insights on the possible penalty under this “administrative regime”?
Question 7: What are your views on the proposed obligation to communicate accurate DNCR results, and liability on third-party checkers for any infringements of the DNC Provisions resulting from inaccurate information they provided?	(1) Reference to 4.3 We agree to the proposed obligation. However, we would to seek clarification if the company used the incorrect results provided by the 3 rd party be penalised?
Question 8: What are your views on the proposed prohibition of resale of results of telephone numbers checked with the DNCR?	We agreed on the proposed prohibition.
Question 9: What are your views on the proposed deeming provision?	We agreed to the proposed deeming provision.
Question 10: What are your views on the proposed Enhanced Practical Guidance framework?	No further comments
(9.1) The Second, Third and Fourth Schedules to the PDPA enumerate exceptions to the obligation to obtain consent for the collection, use and disclosure of personal data respectively. In order to ensure that extant exceptions remain relevant in the face of technological developments and changes in business practices, the PDPC seeks feedback from organisations on the practicality of relying on these exceptions. In particular, feedback is sought for the following: a) whether the scope or conditions of any exception should be adjusted or clarified; and b) whether any exception is no longer necessary or relevant.	No further comments

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Please feel free to contact us if you need clarification on our comments.

Thank you.