

Mediacorp Pte Ltd
1 Stars Avenue, Singapore 138507
t +65 6333 3888 f +65 6251 5628
mediacorp.sg

Company Registration Number: 199201312E



VIA E-MAIL ONLY

E-mail: corporate@pdpc.gov.sg

No. of Page(s): 7 [Including this page]

9 October 2017

Personal Data Protection Commission

Dear Sirs,

PDPC'S PUBLIC CONSULTATION ON APPROACHES TO MANAGING PERSONAL DATA IN THE DIGITAL ECONOMY

We refer to the above matter and are pleased to submit our views, enclosed herein, for the consideration of the Personal Data Protection Commission ("PDPC").

For questions or clarifications, please contact:

Lee Choon Fatt
Data Protection Officer, Legal & Secretariat
DID: 6350 3323
leechoonfatt@mediacorp.com.sg

Yours faithfully

Lee Choon Fatt
Data Protection Officer, Legal & Secretariat
for and on behalf of
Mediacorp Pte. Ltd.

(enc.)

**PDPC'S PUBLIC CONSULTATION ON APPROACHES TO MANAGING PERSONAL DATA IN THE
DIGITAL ECONOMY**

**ISSUED ON
27 JULY 2017**

**RESPONSE TO PDPC'S PUBLIC CONSULTATION ON APPROACHES TO MANAGING PERSONAL DATA
IN THE DIGITAL ECONOMY**

BY MEDIACORP PTE LTD

Contact

Lee Choon Fatt
Data Protection Officer, Legal & Secretariat
DID: 6350 3323
leechoonfatt@mediacorp.com.sg

Date of Submission

5 October 2017

1. INTRODUCTION

- 1.1 We refer to PDPC's public consultation on approaches to managing personal data in the digital economy dated 27 July 2017. We are grateful for the opportunity to respond to the public consultation.
- 1.2 To provide some background, Mediacorp Pte Ltd, together with its various group companies ("Mediacorp"), is one of Singapore's biggest media organisations. We are, *inter alia*, a nationwide free-to-air television and radio broadcaster, and also have a subscription television presence on the Internet. We produce content for television and radio broadcasts, publish magazines as well as cover live events and report the news.

2. NOTIFICATION OF PURPOSE

Question 1 - Should the PDPA provide for Notification of Purpose as a basis for collecting, using and disclosing personal data without consent?

Question 2: Should the proposed Notification of Purpose approach be subject to conditions? If so, what are your views on the proposed conditions (i.e., impractical to obtain consent and not expected to have any adverse impact on the individual)?

- 2.1 We are supportive of PDPA's effort to accommodate other bases for collecting, using and disclosing personal data and believe that this will help organizations develop more operationally efficient policies and processes.

Specific clarifications and guidelines

- 2.2 While we agree with the general principles behind the "Notification of Purpose" approach, it will be helpful to have more specific guidelines for the actual implementation of the proposed conditions. We look forward to PDPC providing clarifications and guidelines regarding the interpretation and application of the conditions in the future.
- 2.3 In this regard, we would like to provide a specific example of how the proposed Notification of Purpose may be applied, for PDPC's consideration.

Example: Collecting personal data at events and through filming in private places

As a media company, we conduct many activities which involve taking photos and/or videos.

While there are certain exceptions available under the PDPA for photo/videos taken in public places, consent is currently required from individuals for photos/videos taken at non-public events and other non-public places. For example:

- *Events or seminars organised by Mediacorp;*
- *Events or seminars organised by 3rd parties and for which Mediacorp has been invited or given permission to film;*
- *Filming in non-public locations where we have obtained the permission of the property owner (e.g. offices, shopping malls, shops, restaurants and other commercial premises).*

Currently consent could be obtained by requiring the relevant individuals to give specific consent when he/she registers for the event (for example by way of online registration or replying to an email invitation) or by signing a hard copy form.

However, there are practical difficulties.

For events or seminars, sometimes participants may ask other individuals (who have not consented to the use of personal data) to attend on their behalf. Some participants do not register but turn up last minute at the event. When filming at the event, it would not be possible to identify who such individuals are. It is also impractical to distinguish between individuals who have provided consent and those who have not.

When carrying out filming at non-public places such as offices, shopping malls and other commercial premises, it is not feasible or practical to get consent from all individuals, and even if consent is obtained, it is operationally impractical to tag the persons who have consented individually.

But with the proposed “Notification of Purpose” approach, the process can be simplified by putting up signs to notify those who are present at that private event or location that photography and/or filming is being carried out.

Opting out

- 2.4 We would also like to seek clarification from PDPC on Section 3.9 of the public consultation. Section 3.9 states that *“PDPC proposes for organisations that wish to rely on this approach to provide appropriate notification of the purpose of the collection, use or disclosure of the personal data, and where it is feasible for the organisation to allow individuals to opt out of the collection, use or disclosure, information about how individuals may opt out.”*
- 2.5 Based on Section 3.9, we understand that this means an organisation will not be required to provide an “opt out” option when relying on the “Notification of Purpose” approach to collect, use or disclose personal data, if it is not feasible for the organisation to do so. For example, in the scenarios set out in paragraph 2.3 above, we believe that it would not be feasible or practical to allow individuals to “opt out” when taking photos and videos at events, seminars or non-public places.

Withdrawal of consent

- 2.6 The PDPA allows an individual to withdraw consent for use of his/her personal data under certain situations. In this regard, we would like to propose to PDPC to include a clarification that where it is not feasible, an organisation should not be required to cease using or to delete an individual’s personal data which was obtained pursuant to the “Notification of Purpose” approach, if so requested by an individual. This would be in line with the approach in section 3.9 with regards to opting out.

Data Protection Impact Assessment

- 2.7 We understand from Section 3.10 of the public consultation that organizations are required to conduct a DPIA when relying on the “Notification of Purpose” approach. However, a proper DPIA will require time and expertise and having to conduct a DPIA for every instance can be

very onerous, costly and impractical for the organization. We would like to suggest that the DPIA be required only in limited situations, for example, where more than 500 individuals are affected. This would also be consistent with the mandatory data breach notification requirement. Alternatively, PDPC could also specify exceptions when the DPIA does not need to be carried out, for example when sensitive data are not involved.

3. LEGAL OR BUSINESS PURPOSE

Question 3: Should the PDPA provide for Legal or Business Purpose as a basis for collecting, using and disclosing personal data without consent and notification?

Question 4: Should the proposed Legal or Business Purpose approach be subject to conditions? If so, what are your views on the proposed conditions (i.e., not desirable or appropriate to obtain consent and benefits to the public clearly outweigh any adverse impact or risks to the individual)?

- 3.1 We are supportive of PDPA's effort to include "Legal or Business Purpose" as another basis for collecting, using and disclosing personal data and believe that this will help organizations develop more operationally efficient policies and processes.

Specific clarifications and guidelines

- 3.2 While we agree with the general principles behind the proposed "Legal or Business Purpose" approach, it will be helpful to have more specific guidelines for the actual implementation of the proposed conditions. We look forward to PDPC providing clarifications and guidelines regarding the interpretation and application of the conditions.

Data Protection Impact Assessment

- 3.3 We understand from Section 3.17 of the public consultation that organizations are required to conduct a DPIA when relying on the "Legal or Business Purpose" approach. However, a proper DPIA will require time and expertise and having to conduct a DPIA for every instance can be very onerous, costly and impractical for the organization. We would like to suggest that the DPIA be required only in limited situations, for example, where more than 500 individuals are affected. This would also be consistent with the mandatory data breach notification requirement. Alternatively, PDPC could also specify exceptions when the DPIA does not need to be carried out, for example when sensitive data are not involved.

4. MANDATORY DATA BREACH NOTIFICATION

Question 5: What are your views on the proposed criteria for data breach notification to affected individuals and to PDPC? Specifically, what are your views on the proposed number of affected individuals (i.e., 500 or more) for a data breach to be considered of a significant scale to be notified to PDPC?

Question 6: Question 6: What are your views on the proposed concurrent application of PDPA's data breach notification requirements with that of other laws and sectoral regulations?

Question 7: Question 7: What are your views on the proposed exceptions and exemptions from the data breach notification requirements?

Question 8: What are your views on the proposed time frames for data breach notifications to affected individuals and to PDPC?

Specific clarifications and guidelines on when notification is required

- 4.1 While we understand the need for a data breach notification requirement, we feel that the proposed criteria for notification as currently drafted is too broad.
- 4.2 In Section 6.2 of the public consultation, it is stated that *“Organisations must notify affected individuals and PDPC of a data breach that poses any risk of impact or harm to the affected individuals.”* The words *“any risk of impact or harm”* can be construed very broadly, and may include situations where there is minimal risk, for example where non-sensitive information is involved or where the breach is very minor.
- 4.3 We would propose specifying a list of critical data fields which would need to be reported if there is a data breach which involved such data. Examples of such data fields could include financial records, health records, NRIC numbers, etc. This will make it easier for organisations to operationalise the data breach notification requirement.

Timeline for notification

- 4.4 With respect to the 72-hour timeline to notify PDPC, we feel that this period is too short. Data breach(es) can involve lengthy and complicated investigations to determine the nature and extent of the breach. The investigation may require the organization to liaise with external parties (e.g. security vendors) and may also occur during non-office hours (e.g. weekends & public holidays), all of which require time such that there may not be meaningful information available at the end of a 72-hour period. We would like to suggest that the notification timeline to PDPC be kept as *“as soon as practicable”*. This would be consistent with the timeline proposed by PDPC for notifying the affected individual.
- 4.5 If however the PDPC deems it necessary to impose a specific timeline, we would like to propose extending the notification period to 5 business days, to take into account weekends and public holidays.

Where data intermediaries are involved

- 4.6 For avoidance of doubt, we would like to clarify that where a data intermediary is involved, the timeline to notify PDPC will start from when the organization receives notification from its data intermediary and not when the data intermediary first discovers the breach.
- 4.7 We would also like to seek clarification with regards to a situation where an organization has obtained personal data through 3rd party or public sources and do not have the contact information of the affected individuals. In such situations, we would propose that organisations be exempted from the requirement to notify the affected individuals.

Sunrise period

- 4.8 We would like to clarify that where the data breach falls under the exceptions and exemptions mentioned in Section 6.9 of the public consultation, the organization does not have to notify affected individual(s), or notify PDPC.
- 4.9 In order to give organisations time to prepare and implement the necessary processes to operationalise the data breach notification requirement, we would also like to propose that this requirement should only take effect after a specified sunrise period.

5. CONCLUSION

- 5.1 We are grateful for the opportunity to respond to the public consultation, and hope that the PDPC will take our concerns into consideration.