



PERSONAL DATA
PROTECTION COMMISSION
S I N G A P O R E

ADVISORY GUIDELINES FOR THE TELECOMMUNICATION SECTOR

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PART I: INTRODUCTION

1 Introduction

- 1.1 Developed in consultation with the Info-communications Development Authority of Singapore (“IDA”), these Guidelines aim to address the unique circumstances faced by the telecommunication sector in complying with the Personal Data Protection Act 2012 (“PDPA”). These Guidelines should be read in conjunction with the document titled “Introduction to the Guidelines”¹, and are subject to the disclaimers set out therein.
- 1.2 In addition to these Guidelines, organisations in the telecommunication sector are encouraged to read other Advisory Guidelines issued by the Commission from time to time on other aspects of the PDPA, including the Advisory Guidelines on Key Concepts in the PDPA (“Key Concepts Guidelines”), which explain in greater detail the obligations which organisations have to comply with under the PDPA, the Advisory Guidelines on the Do Not Call Provisions, which explain in detail the application of the Do Not Call Registry provisions in Part IX of the PDPA, as well as the Advisory Guidelines on Selected Topics, which explain certain topics in detail.

¹ Available at <http://www.pdpc.gov.sg/resources/advisory-guidelines>

PART II: APPLICATION OF THE DATA PROTECTION PROVISIONS TO SCENARIOS FACED IN THE TELECOMMUNICATION SECTOR

The following sections and examples outline certain concepts and the application of some of the Data Protection Provisions in the PDPA. They address particular aspects of the PDPA, and are not meant to exhaustively address every obligation in the PDPA that would apply in that scenario. These sections and examples do not illustrate the application of the Do Not Call Provisions, which are addressed later in these Guidelines.

2 Personal Data

2.1 Personal data is defined in the PDPA as “data, whether true or not, about an individual who can be identified –

a) from that data; or

b) from that data and other information to which the organisation has or is likely to have access.”

2.2 While some data will always relate to an individual, other data may not, on its own, relate to an individual. Such data would not constitute personal data unless it is associated with, or made to relate to, a particular individual. Generic information that does not relate to a particular individual may also form part of an individual's personal data when combined with personal data or other information to enable an individual to be identified.

Telephone numbers and International Mobile Equipment Identity (“IMEI”) numbers

2.3 Where an individual is identifiable from the data, such as a combination of the individual's name, address and telephone number, then such data is personal data. In cases where the individual cannot be identified from that data alone (such as a device identifier in itself), such data may still be personal data if the organisation has or is likely to have access to other information that will allow the individual to be identified when taken together with that data. Please also refer to the section on Anonymisation in the Advisory Guidelines on Selected Topics for more details on the conditions under which personal data may be anonymised and hence no longer considered to be personal data for purposes of the PDPA.

- 2.4 In the telecommunication context, an individual's mobile telephone number is likely to be personal data as it may uniquely identify, or be uniquely associated with, that individual. A telephone number that is shared by more than one individual (e.g. a landline shared by several residents in a dwelling) may also be considered personal data if, in the particular circumstances, combination with other information results in the identification of an individual. What constitutes personal data is elaborated on in the Key Concepts Guidelines.
- 2.5 Various numbers are used in connection with the operation of a telecommunication network, for example, to identify particular equipment that is connected to the network. Examples of such numbers include Internet Protocol ("IP") addresses and IMEI numbers. In general, such numbers are not used to directly identify an individual and hence would not, on their own, be considered personal data. However, they may potentially be part of personal data relating to an individual when combined with other information.

2.6	<p>Example: IMEI numbers</p> <p>The IMEI number refers to the unique number assigned to mobile devices such as mobile telephones. IMEI numbers are used to identify mobile devices in a network. As with any other network identifier such as an IP address, an IMEI number may not be personal data when viewed in isolation, because it simply identifies a network device. However, as each mobile device typically has a unique IMEI number, an IMEI number has the potential to form part of a set of data that in combination relates to an identifiable individual. For example, where a large number of unique data points are tagged to the same IMEI number such that an individual can be identified (such as through his surfing habits or location profile), then the IMEI number and the set of unique data points would be considered personal data of the individual.</p>
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3 The Data Protection Provisions

- 3.1 The Data Protection Provisions in Parts III to VI of the PDPA set out the obligations that organisations are required to comply with if they undertake activities relating to the collection, use or disclosure of personal data. Among other things, organisations are required to obtain valid consent from the individual for a limited purpose that has been notified to the individual for the collection, use and disclosure of personal data of the individual, unless exceptions apply². In situations where an individual voluntarily provides his personal data to an organisation for a purpose, and it is reasonable that he would voluntarily provide the data, the individual is deemed to consent to the collection, use or disclosure of the personal data. If an individual gives, or is deemed to have given, consent to the disclosure of personal data about the individual by one organisation to another organisation for a particular purpose, the individual is deemed to consent to the collection, use or disclosure of the personal data for that particular purpose by that other organisation.

Inbound and outbound roaming

Inbound roaming

- 3.2 In the case of inbound roaming, a Singapore telecommunication operator may collect some personal data of a foreign mobile user using its network (“inbound roamer”) in order for the foreign telecommunication operator (the “home operator”) to provide a roaming service to the inbound roamer. For example, the Singapore telecommunication operator might collect the telephone number and device identifier of the inbound roamer and his service usage patterns and transfer such information to the home operator for the home operator to bill the inbound roamer.
- 3.3 To the extent that a Singapore telecommunication operator is processing the personal data of inbound roamers on behalf of and for the purposes of their respective home operators, the Singapore telecommunication operator could be a data intermediary (“DI”) of the home operators. In this regard, where a Singapore telecommunication operator is acting as a DI processing personal data on behalf of and for the purposes of a home operator pursuant to a contract evidenced or made in writing with that home operator, the Singapore telecommunication operator is only required to comply with the Protection Obligation and Retention Limitation Obligation of the PDPA in relation to its

² Please refer to the Second (collection of personal data without consent), Third (use of personal data without consent) and Fourth (disclosure of personal data without consent) Schedules under the PDPA for exceptions which may apply.

processing of the personal data of inbound roamers³. More details on the treatment and obligations of DIs are available in the Key Concepts Guidelines.

- 3.4 Where the Singapore telecommunication operator is not acting as a DI processing personal data on behalf of and for the purposes of a home operator pursuant to a contract evidenced or made in writing with that home operator, such as when it is collecting, using, disclosing or otherwise processing the personal data of inbound roamers for its own purposes (for example to market the Singapore telecommunication operator's own pre-paid card options) the Data Protection Provisions would apply to such activities unless exceptions apply. One of these exceptions would be an exception to the Consent Obligation where the collection, use or disclosure without the consent of the individual is required or authorised under a written law. In this regard, the Commission understands that IDA is considering authorising telecommunication licensees to collect, use or disclose the personal data of inbound roamers to offer such inbound roamers roaming-related information⁴.
- 3.5 To be clear, the Data Protection Provisions generally apply where the personal data of inbound roamers is collected, used or disclosed. Where the Singapore telecommunication operator carries out an activity for a purpose without involving personal data, for example when analysing anonymised data of inbound roamers (for which it has no means of re-identification) for business planning purposes, the Data Protection Provisions do not apply to that activity.

Outbound roaming

- 3.6 In the case of outbound roaming, a Singapore telecommunication operator typically has contractual agreements with foreign telecommunication operators to provide telecommunication services to the subscribers of the Singapore telecommunication operator when overseas ("outbound roamers").
- 3.7 The Commission notes that there may be some exchange of data (including personal data) between a Singapore telecommunication operator and foreign telecommunication operators in order for the latter to provide mobile services to outbound roamers who are the Singapore telecommunication operator's

³ It should be noted that whether a Singapore telecommunication operator may indeed be a DI only required to comply with the Protection Obligation and Retention Limitation Obligation of the PDPA depends on the facts of the case. Where a Singapore telecommunication operator is unsure, it should consider alternatives such as obtaining consent from the inbound roamer.

⁴ Please refer to IDA's consultation paper titled "on Review of End User Service Information Provisions in the Code of Practice for Competition in the Provision of Telecommunication Services 2012".

subscribers, pursuant to the contractual agreements between the Singapore telecommunication operator and the foreign telecommunication operators. In such situations, the Singapore telecommunication operator will need to comply with the Notification, Consent and Transfer Limitation Obligations in respect of the disclosure of personal data to foreign telecommunication operators and the related transfer of personal data out of Singapore to foreign telecommunication operators⁵. Telecommunication operators should refer to the Personal Data Protection Regulations 2014 (“Data Protection Regulations”) and corresponding guidance on the Transfer Limitation Obligation in the latest Key Concepts Guidelines for more information on the Transfer Limitation Obligation.

Provision of subscriber identity for calls or text messages

- 3.8 Currently, when a subscriber who is an individual makes a telephone call or sends a text message, his telephone number (which may be personal data relating to him) would typically be disclosed to the receiving party and both the subscriber and receiving party’s telecommunication operators, unless the subscriber had chosen to have his telephone number ‘blocked’/ ‘unlisted’⁶. Telecommunication operators may wish to obtain the consent of the individuals for the purpose of such disclosures to recipients of his calls and messages⁷.
- 3.9 Even if the telecommunication operators do not obtain such actual consent, given established practice, the Commission is of the view that a subscriber who opts to have an ‘unblocked’/ a ‘listed’ telephone number would typically be aware that the telephone number would be collected, used or disclosed for the purpose of identifying that subscriber to other parties. Where the telephone number is personal data relating to a subscriber, a subscriber with an ‘unblocked’/ a ‘listed’ telephone number initiating a call or sending a message may be deemed to have consented to the collection, use or disclosure of the number for the purpose of identifying himself to the receiving party, since the subscriber would have voluntarily provided the data, and it would be reasonable for the subscriber to have done so.
- 3.10 Conversely, a subscriber who has opted for a ‘blocked’/ an ‘unlisted’ number at the outset would not be considered to have consented to the collection, use

⁵ The Commission understands that IDA is not considering authorisation of collection, use or disclosure without consent for such purposes.

⁶ For example, by taking up services offered by the subscriber’s telecommunication operator to withhold display of the subscriber’s telephone number on a receiving party’s telephone.

⁷ For example, the consent of the subscriber may be obtained at the point of signing up for services.

or disclosure of the number for that purpose. A subscriber with an 'unblocked'/ a 'listed' telephone number who subsequently applies to 'block'/ 'unlist' that telephone number would be considered to have withdrawn consent for the collection, use or disclosure of that telephone number for the purpose of identifying himself to other parties when making a call or sending a message.

- 3.11 Where an individual subscriber is deemed to have given consent for disclosure of his telephone number by one telecommunication operator to another telecommunication operator for the purpose of identifying himself to the recipient of his call or message, consent may be deemed to have been given to the collection, use or disclosure of the telephone number by that other telecommunication operator for the same purpose. Alternatively, consent may not be required if the purpose for collection, use or disclosure of the personal data falls within an exception, such as when it is required or authorised under written law.

Displaying personal data in itemised bills

- 3.12 Itemised bills for telecommunication services display information such as telephone numbers that a subscriber contacts or is contacted by, and the timing and duration of calls made or received (collectively, "call data"). As call data may be personal data, an itemised bill may reflect the personal data of the subscriber, as well as the personal data of other individuals, through the display of call data.
- 3.13 The Commission regards the display of call data in itemised bills as a reproduction of the record of the subscriber's transactions carried out using the telecommunication operator's service. As such, where call data is personal data, consent obtained by the subscriber to make a call or send a message to an individual would suffice for the call data pertaining to the call or message to be displayed in the subscriber's itemised bill. Similarly, consent given (or deemed to be given) by an individual who makes a call or sends a message to the subscriber would extend to the display of the caller's/sender's (as the case may be) call data in the subscriber's itemised bill.
- 3.14 In addition, the Commission considers that an individual subscriber who applies for itemised billing may be considered to have made an access request for personal data that resides in call data. Thus, a telecommunication operator may provide such personal data in response to an application for itemised billing in a manner that would respond to an access request.

Pre-paid mobile services

- 3.15 The Commission understands that the purchase of pre-paid cards for telecommunication services typically does not involve the signing of a written contract and the current practice among many telecommunication licensees is for a pre-paid card to contain a general statement directing individuals to the terms and conditions of the contract that may be made available by telecommunication operators, for example on their websites.
- 3.16 When selling a pre-paid card, the telecommunication operator (or the reseller, on the telecommunication operator's behalf) may collect various types of personal data from the individual, including the individual's name and identification details such as NRIC numbers, passport numbers or work permit numbers. In addition, the telecommunication operator would possess data such as the telephone number tied to that pre-paid card, as well as details of the pre-paid card account including account balance and usage profile.
- 3.17 The Commission further understands that the purposes for the telecommunication operators' collection, use and disclosure of such personal data generally include:
- a) providing the individual with the telecommunication services, which may be voice calls, SMSes, mobile data or international call services;
 - b) complying with requirements under written law, for example regulatory requirements;
 - c) sending various messages to the Singapore telephone number tied to the pre-paid card, some of which may be targeted at specific sets of pre-paid card holders (for example, based on a certain usage characteristic); and
 - d) analysing usage profiles of the pre-paid subscriber base to plan new pre-paid products and services.
- 3.18 In general, the telecommunication operator collecting, using or disclosing the personal data of individuals who buy pre-paid cards will have to comply with all the relevant provisions in the PDPA, including the Data Protection Provisions and the Do Not Call Provisions. Depending on the arrangements between the telecommunication operators and resellers of pre-paid cards, resellers may be considered to be DIs acting pursuant to a contract made or evidenced in writing with the respective telecommunication operator, and will therefore be subject only to the Protection Obligation and Retention Limitation Obligation.
- 3.19 The telecommunication operator should assess how best it can ensure compliance with the Data Protection Provisions. For example, it would be required to adopt an appropriate procedure to notify the individual subscriber of the purposes for which their personal data may be collected, used or

disclosed and obtain consent from the individual subscriber for the collection, use or disclosure of his personal data, unless exceptions apply. In the case where an individual voluntarily provides the personal data to the reseller for such purposes, that individual could also be deemed to have consented to the disclosure of his personal data by the reseller to the telecommunication operator for the stated purposes. For the avoidance of doubt, some relevant exemptions may apply to the Consent Obligation, such as where the collection, use or disclosure of personal data is required under written law. More details on the Notification Obligation and Consent Obligation are provided in the Key Concepts Guidelines.

3.20	<p>Example: obtaining consent from pre-paid mobile subscribers</p> <p>A telecommunication operator wishes to notify and obtain consent from its pre-paid mobile subscribers for purposes for which it will collect, use or disclose their personal data. However, the form factor of the pre-paid card is too small to allow an elaborate statement of the purposes. The telecommunication operator may consider options such as:</p> <ul style="list-style-type: none"> a) adopting the ‘layered notice’ approach described in the Advisory Guidelines on Key Concepts, by briefly stating the purposes on the pre-paid card or in the service activation message, and referring the individual to the telecommunication operator’s website for a more detailed statement of purposes and the operators’ data protection policy; or b) stating the purposes for collection, use and disclosure of personal data on a separate notice, for example at the reseller’s counter.
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Inclusion of advertisements with bills

- 3.21 The Commission understands that telecommunication operators may include advertisements for specific products or services as inserts in bills addressed to individuals or in the form of promotional messages printed on the bills themselves.
- 3.22 Where a telecommunication operator packages such advertisements together with bills that are addressed to an identifiable individual (whether as an insert, or as a message printed on the bills themselves), the telecommunication operator would generally be considered to have used personal data for advertising purposes, even if the advertisements themselves are not addressed to the individual. Correspondingly, the Data Protection Provisions would apply to such use. Among other things, when an individual withdraws consent under the PDPA for such purposes, the telecommunication operator

would be required to allow and facilitate such withdrawal. The Key Concepts guidelines contain more details of the actions to be taken when receiving a notice of withdrawal of consent.

- 3.23 There are several obligations within the Data Protection Provisions which require organisations to develop and implement policies and practices that are necessary for the organisation to meet its obligations under the PDPA. Organisations are required to make the information about their data protection policies and practices available. For more information, please refer to the latest Key Concepts Guidelines and the latest Advisory Guidelines on the PDPA for Selected Topics.

4 Rights and obligations, etc under other laws

4.1 Section 4(6) of the PDPA states that unless otherwise provided in the PDPA, nothing in Parts III to VI of the PDPA shall affect any authority, right, privilege or immunity conferred, or obligation or limitation imposed, by or under the law, including legal privilege, except that the performance of a contractual obligation shall not be an excuse for contravening the PDPA, and the provisions of other written law shall prevail to the extent that any provision of Parts III to VI is inconsistent with the provisions of that other written law.

4.2	<p>Example: Caching of data by an Internet Service Provider (“ISP”)</p> <p>In the course of providing network services, a Network Service Provider, such as an ISP, may cache data in relation to certain websites, which may result in personal data being collected and used without consent. Section 67 of the PDPA amends Section 26 of the Electronic Transactions Act (Cap. 88) to provide that a Network Service Provider shall not be subject to any liability under the PDPA in respect of third-party material in the form of electronic records to which it merely provides access. The provision of access, in relation to third party-material, includes the automatic and temporary storage of the third-party material for the purpose of providing access. The temporary and automatic caching of third party material in the form of electronic records (that contains personal data) by a Network Service Provider thus does not impose additional liability on it, provided that such caching is carried out for the purpose of its service of merely providing access to the third party material.</p>
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4.3 Section 13(b) of the PDPA provides that an organisation shall not, on or after the appointed day, collect, use or disclose personal data about an individual without the consent of the individual unless the collection, use or disclosure, as the case may be, without the consent of the individual is required or authorised under the PDPA or any other written law. In the telecommunication context, the Commission understands that regulatory frameworks issued pursuant to the Telecommunications Act sets out certain purposes for which telecommunication operator may collect, use or disclose End User Service Information, some of which qualify as personal data, without consent.

- 4.4 Section 19 of the PDPA provides that notwithstanding the other provisions of Part IV of the PDPA, an organisation may use personal data collected before the appointed day for the purposes for which the personal data was collected, unless consent for such use is withdrawn or the individual has indicated to the organisation that he does not consent to the use of the personal data. Such 'use' could include disclosure that is necessarily part of the organisation's use of such personal data. For avoidance of doubt, the Do Not Call Provisions will apply to the sending of specified messages to Singapore telephone numbers, even if the Singapore telephone numbers are collected before the appointed day.

PART III: APPLICATION OF THE DO NOT CALL PROVISIONS TO SCENARIOS FACED IN THE TELECOMMUNICATION SECTOR

The following sections and examples outline the application of the Do Not Call Provisions and the Personal Data Protection (Exemption from Section 43) Order (S 817/2013) (“Exemption Order”). They address particular aspects of the PDPA, and are not meant to exhaustively address every obligation in the PDPA that would apply in that scenario. In particular, they do not illustrate the application of the Data Protection Provisions, which were addressed earlier in these Guidelines.

5 The Do Not Call Provisions

- 5.1 Messages which purposes are to offer to supply, advertise or promote goods or services, land or an interest in land, or a business or investment opportunity, or a supplier of such goods, services, land or opportunity are specified messages and the Do Not Call Provisions will apply to such messages. Messages which do not have any of the purposes listed above will not be considered specified messages. In addition, the Eighth Schedule to the PDPA sets out exclusions from the meaning of “specified message” that relate to, among others, any message sent by an individual acting in a personal or domestic capacity, any message the sole purpose of which is to conduct market research or market survey, any “business-to-business” marketing message and other types of information specified in the Eighth Schedule.
- 5.2 The Do Not Call Provisions apply to a specified message addressed to a Singapore telephone number if the sender of the specified message is present in Singapore when the specified message is sent or the recipient of the specified message is present in Singapore when the specified message is accessed.
- 5.3 One significant obligation under the Do Not Call Provisions is that the organisation sending the specified message will have to check the Do Not Call Registers as described above, unless:
 - a) the user or subscriber of the Singapore telephone number has given clear and unambiguous consent in written or other accessible form to the sending of the specified message to that number; or
 - b) the organisation is exempted from complying with its obligation under the Exemption Order.
- 5.4 Under the Exemption Order, a sender that is sending a specified fax message or a specified text message to a Singapore telephone number related to the

subject of an ongoing relationship between the sender and a recipient is exempted from the requirement to check the relevant Do Not Call Registers, if certain conditions are met. An “ongoing relationship” under the Exemption Order means a relationship which is on an ongoing basis, between a sender and a subscriber or user of a Singapore telephone number, arising from the carrying on or conduct of a business or activity (commercial or otherwise) by the sender. The Commission’s Advisory Guidelines on the Do Not Call Provisions provide further elaboration.

- 5.5 In determining what constitutes an ongoing relationship, the Commission considers one-off interactions or transactions in themselves to be insufficient to constitute an ongoing relationship. For example, the fact that an individual previously contacted a telecommunication operator to enquire about a particular product or service, or the fact that the individual left his telephone number with a sales representative of the telecommunication operator, in themselves, would be insufficient to establish an ongoing relationship between the individual and the telecommunication operator.

Specified messages sent by telecommunication operators

- 5.6 The Commission understands that telecommunication operators typically send messages with the following characteristics to Singapore telephone numbers:

a) Account information, such as that relating to:

- i. account balance, for example the credit levels pertaining to a pre-paid card, sent at regular periodic intervals;
- ii. account details, for example on the fact that a pre-paid card has not been active and will be expiring on a certain date, or seeking a change of billing details following the expiry of credit card information previously provided; and
- iii. reminders for late payments.

b) Product or service information, such as that relating to:

- i. contract expiry and renewal, for example informing the customer that his subscription contract will be expiring;
- ii. warranty, product recall, safety or security information relating to the individual’s subscription; and

- iii. delivery of product upgrades or updates that the subscriber is entitled to receive under his existing subscription, for example an upgrade in broadband speed of the subscriber’s existing broadband plan that the subscriber is entitled to receive under his existing subscription.

c) Marketing information, such as:

- i. promoting a product or service that the individual has not subscribed to. This will include up-selling of products or services, for example promoting a higher speed broadband plan to an existing broadband subscriber, or a mobile package with more free SMSes to a heavy SMS user that has subscribed to a different package. Similarly, cross-selling of products or services, such as the promotion of premium rate services to mobile subscribers or the promotion of home broadband plans to a mobile subscriber will also be included;
- ii. limited promotions, for example informing certain pre-paid mobile plan subscribers about an International Direct Dial (“IDD”) rate promotion to certain destinations for a limited period of time; and
- iii. promoting the products and services of affiliates or partners, such as offering discounts at certain retail shops or food and beverage outlets.

5.7 As a general guide, the Commission is likely to consider that a message sent to a Singapore telephone number solely to provide account information or product or service information (such as those in sub-paragraphs 4.6 (a) and (b) above) relating to the ongoing use of the service / product by the individual would not constitute the sending of a specified message. In particular, such messages could fall within paragraph 1(d) or 1(e) of the Eighth Schedule to the PDPA.

5.8	<p>Example: ‘In-service’ messages</p> <p>The following messages from a telecommunication operator to a subscriber could fall within paragraph 1(e) of the Eighth Schedule to the PDPA:</p> <ul style="list-style-type: none"> a) messages to existing subscribers solely informing them of the expiry of their subscriptions; and b) messages to subscribers of pre-paid mobile plans solely informing them of their account balance, sent at regular periodic intervals.
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5.9	<p>Example: Messages related to subject of ongoing relationship</p> <p>The following messages from a telecommunication operator to a subscriber could typically be considered to be related to the subject of the ongoing relationship:</p> <ul style="list-style-type: none"> a) a message to an existing home fixed-line broadband service subscriber offering to supply a fibre broadband subscription to that subscriber; and b) a message to a pre-paid mobile service subscriber informing the subscriber of an IDD rate promotion to certain countries for pre-paid subscribers.
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Clear and unambiguous consent in evidential form

5.10 The Commission does not prescribe how clear and unambiguous consent in evidential form may be obtained. The Key Concepts Guidelines and the Advisory Guidelines on the Do Not Call Provisions provide some examples on how such consent may be obtained.

5.11	<p>Example: obtaining clear and unambiguous consent in evidential form from pre-paid mobile subscribers</p> <p>If a telecommunication operator wishes to send specified messages to a subscriber of pre-paid mobile services, it would need to comply with the Do Not Call Provisions. In particular, it would have to check that the number is not registered on the relevant Do Not Call Register(s) unless it obtains clear and unambiguous consent in evidential form from the subscriber to the sending of specified messages to his Singapore telephone number (or the Exemption Order applies). In this regard, the telecommunication operator may consider options such as entering into an arrangement with the reseller to obtain such clear and unambiguous consent on its behalf (for example, at the point of purchase).</p>
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