

## **Introduction to the Guidelines**

### **1 Introduction**

- 1.1 The advisory guidelines (the “Guidelines”) are issued by the Personal Data Protection Commission (the “Commission”) pursuant to section 49(1) of the Personal Data Protection Act 2012 (the “PDPA”) to provide guidance on the manner in which the Commission will interpret provisions of the PDPA. Where relevant, reference is made to the provisions of the regulations made or to be made under the PDPA (“Regulations”).
- 1.2 The PDPA establishes a new general data protection law in Singapore which governs the collection, use and disclosure of individuals’ personal data by organisations. The Commission is established under the PDPA with the key functions, amongst others, of promoting awareness of data protection in Singapore and administering and enforcing the PDPA.
- 1.3 You are encouraged to read the Advisory Guidelines on Key Concepts in the PDPA (“Key Concepts Guidelines”) and the Advisory Guidelines on the Do Not Call Provisions first, before the other sets of Guidelines. The Key Concepts Guidelines and the Advisory Guidelines on the Do Not Call Provisions provide an elaboration on the key terms in the PDPA and explain the general issues surrounding various obligations which organisations have to comply with under the PDPA. In addition, each of the Guidelines should always be read in conjunction with any other relevant Guidelines that the Commission has issued, or may issue from time to time.

### **2 Overview of the PDPA**

- 2.1 The PDPA governs the collection, use and disclosure of individuals’ personal data by organisations in a manner that recognises both the right of individuals to protect their personal data and the need of organisations to collect, use and disclose personal data for purposes that a reasonable person would consider appropriate in the circumstances. The PDPA contains two main sets of provisions, covering data protection and the Do Not Call Registry, which organisations are required to comply with.



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2.2 The PDPA's data protection obligations are set out in Parts III to VI of the PDPA (the "Data Protection Provisions"). Broadly speaking, the Data Protection Provisions contain nine main obligations which organisations are required to comply with if they undertake activities relating to the collection, use or disclosure of personal data. These obligations may be summarised as follows. The sections of the PDPA which set out these obligations are noted below for reference.

- a) The Consent Obligation (PDPA sections 13 to 17): An organisation must obtain the consent of the individual before collecting, using or disclosing his personal data for a purpose;
- b) The Purpose Limitation Obligation (PDPA section 18): An organisation may collect, use or disclose personal data about an individual only for purposes that a reasonable person would consider appropriate in the circumstances and, if applicable, have been notified to the individual concerned;
- c) The Notification Obligation (PDPA section 20): An organisation must notify the individual of the purpose(s) for which it intends to collect, use or disclose the individual's personal data on or before such collection, use or disclosure of the personal data;
- d) The Access and Correction Obligation (PDPA sections 21 and 22): An organisation must, upon request,
  - i. provide an individual with his or her personal data in the possession or under the control of the organisation and information about the ways in which the personal data may have been used or disclosed during the past year; and
  - ii. correct an error or omission in an individual's personal data that is in the possession or under the control of the organisation;
- e) The Accuracy Obligation (PDPA section 23): An organisation must make a reasonable effort to ensure that personal data collected by or on behalf of the organisation is accurate and complete if the personal data is likely to be:
  - i. used by the organisation to make a decision that affects the individual concerned; or

- ii. disclosed by the organisation to another organisation;
- f) The Protection Obligation (PDPA section 24): An organisation must protect personal data in its possession or under its control by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks;
- g) The Retention Limitation Obligation (PDPA section 25): An organisation must cease to retain documents containing personal data, or remove the means by which the personal data can be associated with particular individuals as soon as it is reasonable to assume that:
- i. the purpose for which the personal data was collected is no longer being served by retention of the personal data; and
  - ii. retention is no longer necessary for legal or business purposes;
- h) The Transfer Limitation Obligation (PDPA section 26): An organisation must not transfer personal data to a country or territory outside Singapore except in accordance with the requirements prescribed under the PDPA; and
- i) The Openness Obligation (PDPA sections 11 and 12): An organisation must implement the necessary policies and procedures in order to meet its obligations under the PDPA and shall make information about its policies and procedures publicly available.
- 2.3 The PDPA provides a number of exceptions to various Data Protection Provisions to address situations where organisations may have a legitimate need, for example, to collect, use or disclose personal data without consent or to refuse to provide an individual with access to his or her personal data.



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- 2.4 The PDPA's Do Not Call Registry provisions (the "Do Not Call Provisions") are set out in Part IX of the PDPA. These deal with the establishment of Singapore's national Do Not Call Registry (the "Do Not Call Registry") and the obligations of organisations relating to the sending of certain marketing messages to Singapore telephone numbers. The Do Not Call Registry will initially comprise three separate registers kept and maintained by the Commission under section 39 of the PDPA (the "Do Not Call Registers") which cover telephone calls, text messages and faxes. Users and subscribers will be able to register a Singapore telephone number on one or more Do Not Call Registers depending on what their preferences are in relation to receiving marketing messages through telephone calls, text messages or fax.
- 2.5 In brief, organisations have the following obligations in relation to sending certain marketing messages to Singapore telephone numbers:
- a) Checking the relevant Do Not Call Register(s) to confirm if the Singapore telephone number is listed on the Do Not Call Register(s);
  - b) Providing information on the individual or organisation who sent or authorised the sending of the marketing message; and
  - c) Not concealing or withholding the calling line identity of the sender of the marketing message (where the message is sent via a voice call).
- 2.6 The PDPA provides that organisations need not check the Do Not Call Registers when the user or subscriber of a Singapore telephone number has given clear and unambiguous consent in written or other accessible form to the sending of the marketing message to that number, or when the organisation is exempted under the Personal Data Protection (Exemption from section 43) Order 2013 (S 817/2013) for the sending of an exempt message to that user or subscriber<sup>1</sup>.

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<sup>1</sup> Please refer to the Personal Data Protection (Exemption from section 43) Order 2013 (S 817/2013) and the Advisory Guidelines on the Do Not Call Provisions for more information on exempt messages.



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- 2.7 The Data Protection Provisions and the Do Not Call Provisions are intended to operate in conjunction when both sets of provisions come into force. Accordingly, organisations are required to comply with both sets of provisions when collecting, using and disclosing Singapore telephone numbers that form part of individuals' personal data. Organisations need not comply with the Data Protection Provisions for Singapore telephone numbers that do not form part of an individual's personal data, but would still be required to comply with the Do Not Call Provisions.
- 2.8 Terms defined in this document have the same meaning when used in the Guidelines issued by the Commission, unless otherwise stated or the context otherwise requires.

### 3 **Disclaimers**

- 3.1 The Guidelines are advisory in nature and do not constitute legal advice. They are not legally binding on the Commission or any other party. Direct reference should be made to the PDPA and other legislation for the complete and definitive statement of the provisions of any such legislation. The Guidelines do not modify or supplement in any way the legal effect and interpretation of any laws cited including, but not limited to, the PDPA and any subsidiary legislation (such as regulations and rules) issued under the PDPA. The provisions of the PDPA and any regulations or rules issued thereunder will prevail over the Guidelines in the event of any inconsistency.
- 3.2 The Commission reserves the right to change its policies and to amend, update, delete, and/or supplement any of the information in the Guidelines at any time in its sole and absolute discretion. Nothing in the Guidelines shall be construed as granting any expectation that the Commission will take or not take any particular course of action in the future arising from or due to anything in the Guidelines. Accordingly, the Guidelines shall not be construed to limit or restrict the Commission's administration and enforcement of the PDPA.



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3.3 The Guidelines are intended to provide general guidance only. Each organisation remains responsible for assessing the appropriate action to be taken or decision to be made in its particular circumstances. The Commission is not liable for any loss, claims, actions, costs, expenses or other damage (including but not limited to any direct, indirect, punitive, special or consequential damages, loss of income, revenue or profits) howsoever caused whether arising directly or indirectly from any decision made or action taken in reliance on the Guidelines.