



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

RESPONSE TO FEEDBACK ON PUBLIC CONSULTATION ON PROPOSED ADVISORY GUIDELINES ON USE OF PERSONAL DATA IN AI RECOMMENDATION AND DECISION SYSTEMS

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PART I: INTRODUCTION AND BACKGROUND

- 1.1 The Personal Data Protection Commission (**the “Commission”**) launched a public consultation on 18 July 2023 on proposed Advisory Guidelines on the Use of Personal Data in AI Recommendation and Decision Systems (**the “Advisory Guidelines”**).
- 1.2 In the consultation, the Commission sought views on the proposed Advisory Guidelines for situations where the design and/or deployment of systems that embed machine learning models (**“AI Systems”**) involve the use of personal data in scenarios governed by the Personal Data Protection Act (**the “PDPA”**).
- 1.3 The consultation closed on 31 August 2023 with 7 responses from individuals and organisations from various sectors, including finance and legal. Please refer to the Commission’s website for the full list of respondents and their submissions¹. The Commission thanks all respondents for the comments submitted during the public consultation.
- 1.4 The Commission has carefully considered all the comments and has endeavoured to address them in the finalised Advisory Guidelines. Adjustments to language as well as further elaboration on areas where respondents have made comments have been included in these finalised Advisory Guidelines. This note summarises the key matters raised by respondents in the public consultation and provides the Commission’s responses and positions on the proposals, taking into consideration the comments received.
- 1.5 This closing note should be read in conjunction with the finalised Advisory Guidelines, as well as other advisory guidelines and technical guides referenced within it.

PART II: KEY ISSUES RAISED DURING CONSULTATION

2 Application of Business Improvement and Research Exceptions

- 2.1 Clarification on how the Business Improvement and Research Exceptions could apply to the use of personal data to develop AI Systems was welcomed by respondents. There were some requests for further clarification on what are specific instances or AI Systems to which these could apply. There was also a query as to whether this would specifically extend to organisations in the financial sector.

¹ Available at <https://www.pdpc.gov.sg/guidelines-and-consultation/2023/07/public-consultation-for-the-proposed-advisory-guidelines-on-use-of-personal-data-in-ai-recommendation-and-decision-systems>

2.2 To clarify, the key focus of the Advisory Guidelines is to assist organisations with assessing the application of these exceptions by setting out considerations in the context of AI Systems that are used to make recommendations, decisions or predictions. Where helpful, the Advisory Guidelines will include specific examples or illustrations. These are not meant to be exhaustive. Organisations should consider whether their specific situations meet these considerations before using personal data under the Research or Business Improvement Exceptions.

2.3 In addition, the PDPA does not override requirements under sectoral regulations. Organisations should assess whether their specific situations are affected by sectoral regulations that take precedence over the PDPA. If the PDPA does apply, organisations should then consider whether their specific situations meet these considerations before using personal data under the Research or Business Improvement Exceptions.

3 Application of PDPA to the collection and use of personal data in AI Systems

3.1 Respondents were generally supportive of the Commission’s mapping of obligations under the PDPA to relevant AI concepts and how this has been scoped closely to how personal data is used in the AI System. There has been a request for additional clarification on how the “Legitimate Interests” exception applies.

3.2 The Commission notes that there may be instances where personal data would be collected and used in an AI system without consent due to lawful interests, e.g., fraud detection, and it would be helpful to provide further guidance for clarity. Accordingly, PDPC has included guidance on the application of the legitimate interests exception into the Advisory Guidelines.

4 Best Practices for Service Providers

4.1 Respondents gave feedback that this section should be further scoped, as Service Providers could include enterprise software-as-a-service companies which are typically regarded as “data intermediaries” under the PDPA even though they are not the intended target group of “system integrators”. The Commission notes these comments and have tightened the language for clarity.

4.2 In addition, feedback was given that under the draft Advisory Guidelines, service providers that may occupy the position of data intermediaries are required to adopt specific practices that are better suited to organisations, such as data mapping/labelling, as well as the maintenance of a provenance record. It was further

posited that neither of these obligations are related to the protection obligation or retention obligation.

- 4.3 The Commission also recognizes that there will be situations where Service Providers will be providing an end-to-end service to assist companies with their technology transformation efforts, which would include helping them with managing their data for the purposes of training AI. The Commission has consistently strongly recommended for organisations to be aware of where data assets are as part of data protection management. In addition, these recommended practices will assist with identifying and managing data breaches should they occur. These recommended measures are therefore related to assisting organisations with the fulfilment of their protection obligation. For clarity, the Commission has further explained the value of these recommended practices.

5 Other feedback

- 5.1 The Commission has received feedback on the need to use consistent terminology, e.g., between AI systems and ML Models and to be clear on the distinction between developer and deployers throughout the Advisory Guidelines. The Commission has also received proposal for specific textual edits from some respondents. The Commission had reviewed the text to address these concerns.
- 5.2 In addition, one respondent noted that there is an increasing attitude of operators, programmers or designers of algorithms or AI Systems that will attempt to avoid their own responsibility by shifting the blame onto the algorithm or AI System. It was recommended for the Commission to specifically include an additional section in the Guidelines that, as a general rule, any organisation that collects, uses, and discloses personal data through or in an AI System, should be fully responsible for the decisions, actions, and outputs of such AI Systems.
- 5.3 The Commission takes the view that issues relating to the allocation of liability beyond data protection would be beyond the scope of the PDPA. Therefore, it would not be proper to include such guidance.

PART III: CONCLUSION

- 6.1 The Commission will continue to assess the need to provide further guidance on the use of personal data in other types of AI systems through advisory guidelines, technical guides or other resources to assist organisations in meeting their obligations under the PDPA. Organisations should visit www.pdpc.gov.sg for more information.

6.2 Once again, the Commission thanks all respondents for their comments and participation in this public consultation.

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