

3 July 2019

Personal Data Protection Commission
(via email: corporate@pdpc.gov.sg)

Dear Sir / Madam,

Public Consultation on Proposed Data Portability and Data Innovation Provisions

We refer to the above-mentioned Public Consultation dated 22 May 2019 and wish to submit our views on the proposed provisions.

Please find our feedback in the Annex below for your consideration.

Thank you.

Yours sincerely,

Candy Yeap
Data Protection Officer

Encl. Annex

Annex

Feedback on the Public Consultation On Review Of The Personal Data Protection Act 2012 – Proposed Data Portability And Data Innovation Provisions

Question 1

What are your views on the impact of data portability, specifically on consumers, market and economy?

It is no doubt that digitalizing our economy allows our nation to stand out amid the competitions regionally and internationally. However, with the vast data movement across and within industries, it is critical to have an effective oversight on and communication of scope of data to be covered in data portability request. CBS would like to propose an oversight board / steering committee to govern and control over processes relating to porting request. For example, having the availability of national data registry whereby individuals can find out the types of data available for porting by each organisation. It is encouraged for all organisations to publish the types of data (headers, not contents) possessed onto the national registry. This in turn promotes collaboration across organisations and encourage transparency to consumers. Information literacy can be promoted to the masses which ultimately align with the Regulator's initiative to boost digital economy.

However, the effect to empower consumers to move to new or competing service provider will not be desirable in credit bureau context.

The concern is if CBS is instructed to transfer an individual's historical data, as a whole or even partial, to the next party, there will be fragmentation of data, causing the credit reports to be incomplete to provide a reliable credit rating. What happens if the consumer requests for the data to be transferred back to CBS e.g. When the new repository is not recognized or if the consumer's main intention is simply trying to hide his negative data or avoid detection of his negative data?

Despite lowering the barrier of entry to gather more data and support data innovation, it is more important that CBS only obtain the right and accurate data for our business purposes. Over the years, CBS has derived a set of studied attributes essential for credit providers to make faster and objective lending decisions. That is to say, CBS only collects selected credit data for credit assessment. If individuals instructed transfer of data without the knowledge of relevancy, excessive data hold by CBS would possibly result in 'InfoObesity' (aka information overload). Our ability to support, manage and extract valuable data from the ported data pool may not be able to catch with the rapid rise in data collected. With access to more data, CBS will have to filter all requests of ported data to detect any irrelevancy.

Question 2

What are your views on the proposed Data Portability Obligation, specifically:

- (a) scope of organisations covered; and
(b) scope of data covered?***

CBS agrees with the exclusion of data intermediary. Being an approved and controlled data intermediary for the purposes of creating and providing commercial and individual credit reports, CBS relies on data provided by the sources. However, it is worth noting the

aforementioned effect on credit risk assessment if our sources (i.e. organisations that collect and provide data to CBS) have instructed CBS to assist with processing and responding to a data portability request on its behalf. Are we ready or prepared to regress to potentially a state of fragmented and/or outdated credit information for credit risk assessment? We would hence like to propose that CBS be excluded from any request to transmit data already provided by our sources.

No comments on the proposed obligation on requesting individuals as CBS has existing process to verify the identity of individual acting on behalf of another individual for the collection, use or disclosure of the individual's personal data. CBS will continue to review the internal process periodically and make necessary enhancement to ensure that all requests are valid and authorized.

For the scope of data covered, CBS will have to rely on our data providers or the Regulator to provide advice on the data classification in order to fulfil the proposed Data Portability Obligation. As a data intermediary, all, except CBS credit scores, data are deemed to be user provided data and user activity data and belong to our data providers.

Question 3

What are your views on the proposed exceptions to the Data Portability Obligation, specifically:

(a) the proposed exception relating to commercial confidential information that could harm the competitive position of the organisation, to strike a balance between consumer interests and preserving the incentive for first movers' business innovation; and

(b) the proposed exception for "derived data"?

CBS has no issue on the proposed exceptions since it is true that our current credit scoring (a derived data) requires proper framework encompassing accuracy, data integrity, and completeness of sufficient data mass to reflect a meaningful understanding of consumers' credit worthiness for lenders to make better lending decisions quickly and objectively. Without the proposed exceptions, if CBS was instructed to transmit "derived data" to receiving organisation, how will the data accuracy and completeness affect CBS in terms of liability under the data portability? Who will be liable to address dispute(s) on the ported data? Will there be any appropriate obligations of the receiving party with respect to the continuing accuracy, completeness and integrity of ported data?

Also, data retained by CBS are essential for developing our credit scoring and statistical reports required by Public Agencies (e.g. MAS). Without the highlighted exceptions to Data Portability Obligation, the porting of bureau data to competitor may be akin to us passing our products to competitors or unable to meet our obligatory requirement to submit complete and comprehensive reports.

Question 4

What are your views on the proposed requirements for handling data portability requests?

Referring to the proposed framework for handling data portability requests, CBS would like to clarify on the extent of responsibility by data intermediary in order to fulfil data portability requests received by our data providers (i.e. CBS Members). Can individuals submit the data portability request directly to data intermediary like CBS? CBS will have to rely on the

Regulator to provide advice on requirements for data intermediary to handle data portability requests.

On the reasonability of fee chargeable to port any requested data, CBS would like to feedback that each data porting request should be benchmark against the current fee per credit report. If the porting fee is seen less than the application fee for a credit report, this may create a competitive advantage for receiving organisation whereby it can collect credit information at the expense of offering “free” credit report (to forgo any revenue) to individuals for first-time porting request.

Question 5

What are your views on the proposed powers for PDPC to review an organisation's refusal to port data, failure to port data within a reasonable time, and fees for porting data?

CBS agrees with the proposed powers to review. There are existing obligatory requirements to assist Regulator in conducting any investigation, should there be any event of breach under the PDPA.

Question 6

What are your views on the proposed binding codes of practices that set out specific requirements and standards for the porting of data in specific clusters or sectors?

CBS has no issue on the proposed codes of practices since every industry and sector function differently. Based on the highlighted matters under consideration, CBS would like the Regulator to also consider coverage on post transmission (i.e. continuing responsibilities of individual, receiving organisation and porting organisation). The current proposal appears to consider ad-hoc data portability request. Will there be a possibility for individuals to request for recurring or ongoing transmission?

Question 7

What are your views on the proposed approach for organisations to use personal data for the specified businesses innovation purposes, without the requirement to notify and seek consent to use the personal data for these purpose?

No comments as CBS' existing business practices are already operating on the proposed requirements. It will not be necessary for CBS to notify and seek individuals' consent to use their personal data in possession or under the control of CBS for business innovation purposes (e.g. current credit scoring).

Question 8

What are your views on the proposed definition of “derived data”?

CBS agrees with proposed definition as it should clearly be differentiated from other data. By having the element of business-specific input and processing in a data which is in possession or under the control of porting organisation, it will preserve the incentive for first movers' business innovation.

Question 9

What are your views on the proposal for the Access, Correction and proposed Data Portability Obligations not to apply to derived personal data?

It is more appropriate for correction to be done by the creator of derived personal data, especially with regards to the integrity and understanding of such data. The concern is if CBS grants individuals to access and correct our derived personal data, how will the accuracy and completeness affect CBS in terms of liability, especially so under the Data Portability request? What contractual safeguards are required on the integrity of CBS' derived personal data to the receiving organisation? Eventually when the request to access and correct derived personal data increases over the periods, trust on these data created by CBS will diminish. CBS Members and users of CBS' credit report and score, and even consumers, will ultimately be affected.

As such, CBS agrees that due to the element of business-specific input and processing present, it is not beneficial for organisation to grant requests for access and/or correction by individuals who do not know the full set of rules/algorithm.