

16 July 2019

The Personal Data Protection Commission
10 Pasir Panjang Road
#03-01 Mapletree Business City
Singapore 117348

corporate@pdpc.gov.sg

Dear Sir/Madam,

**PDPC's Public Consultation on Review of the Personal Data Protection Act 2012 –
Proposed Data Portability and Data Innovation Provisions**

The Data-Driven Marketing Association of Singapore (**DMAS**) thanks the Personal Data Protection Commission for the opportunity to provide comments in its public consultation on Review of the Personal Data Protection Act 2012 – Proposed Data Portability and Data Innovation Provisions.

DMAS is a non-profit trade organisation established in 1983 as the Direct Marketing Association of Singapore representing the interests of its members in Singapore, of whom 45 percent are SMEs. The balance are MNCs. Its mission is to enable its members to keep abreast of industry trends and best practices in Singapore and the region.

DMAS champions and promotes the interests of its members. It helps to enhance knowledge by facilitating the sharing of information and ideas on data-driven marketing. Key areas include social media, search, direct mail, email, and mobile marketing. DMAS' activities offer the opportunity for members to network and build relationships to profitably grow their businesses.

Major points in this submission:

- DMAS safeguards members' interests by constantly seeking to raise the stature and standards of data-driven marketing and building consumer confidence with adherence to high ethical standards of practice. We focus consistently on maintaining consumer trust as the ultimate test for viability of proposed regulations.
- Overall, DMAS is supportive of Data Portability and Data Innovation as enablers of innovation and as positive initiatives for Singapore's economy and reputation. As with most initiatives that facilitate and drive change, the devil will be in the details.
- Our greatest concerns are in the need for robust Consumer Education and in three problematic areas within the Scope of Data to be Covered. All are set out in detail below.

In summary, while the Data-Driven Marketing Association of Singapore (DMAS) has some concerns on the details of the Commission's proposals for Data Portability and Data Innovation, we believe they can have a positive impact on both Singapore's consumers and business, and we would be happy to work with PDPC to ensure that outcome.

Data Portability

Question 1: What are your views on the impact of data portability, specifically on consumers, market and economy?

For the Economy

Overall, DMAS is supportive of Data Portability as an enabler of innovation and as a positive initiative for Singapore's economy and reputation. As with most initiatives that facilitate change, the devil will be in the details.

For Consumers

DMAS believes Data Portability can be a great convenience for consumers, will lower barriers to entry into new consumer services and will facilitate maximization of consumer benefits. However, Singapore consumers are still relatively naïve about possible data scams and could easily be taken advantage of by unscrupulous or unknowledgeable startups. Robust consumer education will be important in order to preserve consumer trust.

For Companies

Both data-holding and data-needing organizations can benefit significantly from effective implementation of a Data Portability program. However, we are of the view that there will be significant operational challenges on both sides which, because they extend beyond issues specific to marketing and should be covered in full detail by other organizations, will not be addressed in any detail in our submission.

Question 2: What are your views on the proposed Data Portability Obligation, specifically a.) scope of organisations covered; and b.) scope of data covered?

Scope of Organisations Covered

DMAS finds the scope of organizations covered to be acceptable, however, we see a bigger issue in the practical matter of a data-holder's ability to properly verify the efficacy of a data-requesting organization. An ACRA Bizfile listing isn't a badge of PDPA compliance, so while such simple verification may be necessary, it is far from sufficient to ensure a consumer's data is being ported to a trustworthy entity for a trustworthy purpose.

Our concern is a significant one, in that, in the event of a non-compliant requestor, there is potential loss of customer trust in the data-holder as well as in data-driven marketing practices in general. This would pose serious risks to both the data-holder's reputation and Singapore's position in the global landscape of data security and innovation.

Scope of Data Covered

DMAS sees potential issues on three fronts with the proposed guidelines for Scope of Data to be Covered:

1. **No Time Limit** DMAS is of the view that there should be a time limit applied to the extent of historical data that can be Ported (eg 12 or 24 months). This will serve to reduce the volume of data to be ported and to control the burden on both data-holding and data-requesting organizations.
2. **Business Contact Information (BCI)** DMAS finds the BCI provisions to be problematic in that consumers may be mixing both personal and business data in their contact lists. As an example, a consumer's Skype account can easily contain both PCI and BCI with the consumer unaware of which contacts are which. As such, a start-up B2B service could then expect to receive only BCI but, in fact, receive PCI when they could not reasonably be expected to have B2C data usage practices in place.
3. **Third Party Data** An additional complexity lies in allowing porting of Third-Party Data without the consent of such Third Parties. An important element of successfully launching a new product or service platform is to recruit highly connected and influential individuals who will promote the new product or service to their "influencees". In order to determine how influential an individual is, one needs to know not just how many contacts, friends or likes they have, but how influential those individuals are as well. And while it is possible to give each individual a score that would protect the "influencees'" personal data (as did the now-closed platform Klout.com), but there's clearly no business incentive for data-holding organizations to develop such a score in order to facilitate the requests of data-requesting organizations. It is DMAS's view that this area needs more investigation before being allowed under the Data Portability Obligation.

Question 3: What are your views on the proposed exceptions to the Data Portability Obligation, specifically 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 the proposed exception for "derived data"?

DMAS agrees with these exceptions to the Data Portability Obligation.

Question 4: What are your views on the proposed requirements for handling data portability requests?

DMAS is in agreement with most of the proposed requirements for handling Data Portability requests, however we find 7 calendar days for compliance to be insufficient given the level of care and validation that must be undertaken. We recommend a minimum of 10 working days but preferably 30 calendar days which would be consistent with the requirements under the Access Provision of PDPA.

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?

DMAS agrees with the proposed powers of review for PDPC.

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?

DMAS is of the view that while binding codes of practice may be effective and useful in certain sectors, they are impracticable for data-driven marketing which crosses all industry sectors and all types of companies and proprietorships worldwide. There is no universal certification, registration or regulation for marketers such as exists in sectors such as financial services or telco. Thus, at best, a marketing Code of Practice will serve as a guideline for best practices, but in the worst case, could actually become a competitive disadvantage for members of the issuing organization.

Data Innovation

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 purposes?

Overall, DMAS is supportive of the proposed approach. However, we see significant operational complexity in complying with 3.10 if/when consent is withdrawn. In any event, most responsible organizations anonymize data before using it for analytics purposes which may make it impossible to remove/delete upon request.

Question 8: What are your views on the proposed definition of “derived data”?

DMAS agrees with the proposed definition of derived data.

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?

DMAS strongly agrees with the proposed exception for derived personal data.

Thank you again for the opportunity to provide our feedback on the abovementioned matters.

Yours faithfully



Ms Lisa Watson, Chairman