

**RESPONSE TO PUBLIC CONSULTATION PAPER**

<b>Consultation topic:</b>	<b>PUBLIC CONSULTATION ON REVIEW OF THE PERSONAL DATA PROTECTION ACT 2012 – PROPOSED DATA PORTABILITY AND DATA INNOVATION PROVISIONS</b>
<b>Name<sup>1</sup>/Organisation:</b> <sup>1</sup> if responding in a personal capacity	FWD Singapore Pte. Ltd.

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

**Comments:**

- i. The data portability request is useful and convenient for individuals. However, this may have a negative impact to organisations, particularly when the organisations are required to share user activity data (as required under paragraph 2.24(b) of the consult paper).

For example:

Organisation A had interacted with customers on various calls to understand the customers' profile (such as hobbies, holiday's plans, concerns, etc) for the purpose of providing a distinctive service standards and appropriate products.

Organisation A is now required to port these information to Organisation B.

Without much effort, Organisation B now has available information on the customers' profile, and will be able to provide a distinctive service standards and appropriate products to the customers.

The above will lead to organisations lowering their service level standards since the information obtained from their interactions with customers are subject to sharing with other organisations. Overall, this may result to customers receiving subpar service level.

- ii. The overall product and service cost charged to customers will increase in line with the higher compliance and operational costs to comply with the new requirements.
- iii. It is not uncommon for insurance agents to move from one insurer to another, and bringing their customers base. On advice by the agents, individuals may request for such data portability from the old insurer to be sent to the new insurer. Such requests may be high in numbers and impact the competitive advantage of the insurers.

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

**Comments:**

- i. We viewed that User Activity Data (e.g. individual's transactions, call logs) are deemed as organisation's intellectual property data and hence confidential information. The interaction with customers is what set one organisation apart from the other. These data, if disclosed, would reveal confidential commercial information that could harm the competitive position of the organisation.

As such, we viewed that only User Provided Data should be made in-scope. Alternatively, the proposed Data Portability Obligation should be implemented in stages, starting with User Provided Data only. We are of the view that most, if not all, consumers' concerns can be addressed just from the sharing of User Provided Data. Implementing the proposed Data Portability Obligations in stages will also give organisations sufficient time to make changes to our internal processes to ensure compliance with the obligations. In a few years, the Data Portability Obligation can be revisited and at that stage, views can be

sought via a second public consultation to see if there is still a need for data portability of User Activity Data.

- ii. How far back of data is included as covered data? Some information is static and some is not. Do we need to provide the latest information based on our knowledge, or all information (e.g. old address and new address) provided by the individuals? Porting organisation should not be held responsible to ensure if information provided is accurate and the most updated.

**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”?**

**Comments:**

At first glance, the proposed exceptions appear simple and easy to understand. However, it is the application of the exceptions to real life data sets that will be challenging. The application of the exceptions is subjective and up to each organisation’s interpretation on what information falls under a) commercial confidential information that could harm the competitive position of the organisation; or b) derived data.

Within organisations, various stakeholders will spend needless amounts of time to debate and defend on what information falls within the definition and what does not. Interpretation of the exceptions will also differ between organisations resulting in some organisations over disclosing and some under disclosing.

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

**Comments:**

- i. Instead of putting the obligation on porting organisations to port the information directly to receiving organisation, we suggest:
  - that the information can be placed in a centralised portal (e.g. the Merimen Portal for General Insurance Association) for view or download by another organisations; OR
  - that organisations utilise MyInfo to obtain individuals’ information. The information in MyInfo can be expanded to include standardised fields that are allowed to be shared with other organisations; OR
  - that individuals rely on the report provided by organisation when they request for access to their information. The individuals can share the report with another organisations.
- ii. There is data security risk as the other organisations may have a less stringent IT security controls than the porting organisation. Organisation shall not be held responsible for any data loss resulting from the lack of controls by the other organisation.

- iii. The data portability request applies to cross-industry. Organisations may not know what information to be provided for porting over to another organisation from a different industry. E.g. Insurance company transferring to telco.
- iv. Since there is no prescribed format for such data transfer, there may be high rejection case due to:
  - receiving organisation unable to receive certain type of information or certain information is irrelevant, even though the requesting individual has reviewed and confirmed on the information to be ported. This is especially true between different industries.
  - excessive information being ported over. There is no definition of excessive and the term can be interpreted differently between the porting and receiving organisations.

**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?**

NIL

**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?**

NIL

**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?**

NIL

**Question 8: What are your views on the proposed definition of "derived data"?**

NIL

**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?**

NIL