

**PUBLIC CONSULTATION ON
PROPOSED DATA PORTABILITY AND DATA INNOVATION PROVISIONS**

**SUBMISSION BY THE STARHUB GROUP TO
THE PERSONAL DATA PROTECTION COMMISSION**

17th July 2019

1. INTRODUCTION:

StarHub Ltd (“**StarHub**”) welcomes the opportunity to provide feedback on the Public Consultation for Proposed Data Portability and Data Innovation Provisions.

StarHub is pleased to provide its comments on Questions 1 to 9 for Proposed Data Portability Obligations and Data Innovation Provisions.

2. STARHUB’S COMMENTS ON THE CONSULTATION:

(a) Question 1: What are your views on the impact of Data Portability, specifically on consumers, market and economy?

StarHub is concerned that the proposed Data Portability obligations are overly-broad; and that the time, effort and cost for companies to comply with the obligations (and to setup the systems to comply with the obligations) may outweigh any benefits the obligations provide.

We respectfully submit that it is necessary for the Commission to propose: (a) the sectors that the Data Portability obligation will apply to; and (b) the specific data sets that could be ported. This would then allow parties to better understand the potential benefits and costs of the proposed obligation, and provide more effective feedback to the Commission.

To illustrate this issue, we would highlight the example provided in Clause 2.7 (Page 5) of the Consultation Paper. The example suggests that a customer (“John”) could usefully transfer roaming data to his travel agent, in order to help plan his overseas holiday. However, in reality, John’s telecommunications provider will only have information on the countries John has visited, and the same level of information would be found in John’s passport. It would not be possible to provide further insights to the “*travel locations and patterns based on his mobile phone usage*” as contemplated in the example. Further, practically speaking, Data Portability is likely only to take place within industries/sectors, and not across different industries/sectors (given the different information sets that are held).

In addition, we respectfully submit that there is also a need to protect consumers if organizations require individuals to request data from porting organizations as a condition of providing service. There is a need for the Commission to safeguard consumers’ interests in such cases.

(b) Question 2: What are your views on the proposed Data Portability Obligation, specifically, i) scope of organizations covered; and ii) scope of data covered?

(i) As set out above, StarHub respectfully believes that the scope of proposed obligations needs to be further defined, to facilitate the implementation of Data Portability. Allowing Data Portability without defining the applicable industries, use cases and the specific datasets would have the following consequences:

- Organizations will have to spend substantial amounts of time, effort and money to prepare their data so as to comply with the obligations, only to find that such requests are far and few in between and hence, such costs would be unrecoverable; and
- Organizations will have to spend time defining the scope in accordance to their own interpretation, which may not be what the individuals are seeking for, and the receiving organization may not be able to readily accept the data and / or to further process it.

(ii) StarHub takes the view that the benefits of including “*User Provided Data*” (Clause 2.24a) in Data Portability are limited, given the existence of “myInfo” as a trusted source (if individuals wish to use it). We respectfully suggest that organizations should not be obliged to provide User Provided Data.

The Commission should also further define “*User Activity Data*” (Clause 2.24b) to give greater clarity to industries and individuals; and specify how “*machine readable form*” will be defined, to help organisations prepare for Data Portability.

In addition, StarHub notes that the Commission is proposing to include Business Contact Information (“BCI”) within the Data Portability Obligation (Clause 2.29). This will cause organizations to incur additional costs, as they will have separate customer databases for their consumer and business activities (since BCI is not considered personal data under the PDPA), and there is a further layer of processing (e.g. matching) before the information can be readily available. To add, there is no clear use case or a frequent scenario of an individual wanting to supply both personal and business contact information, or solely business contact information, to another organization that would justify such costs. We therefore submit that BCI should be excluded from the scope of the Data Portability Obligation

StarHub also notes that the Commission is proposing to include personal data of third parties as part of Data Portability (Clause 2.30). StarHub is of the view that this should be excluded, as third parties do not have a direct relationship with the contributing organization. Drawing inference from CCTV recordings, whereby all organizations are required to mask other individuals in the same footage before providing it to the requesting individual, the Commission should likewise omit the inclusion of third-party data in Data Portability.

(c) Question 3: What are your views on the proposed exceptions to the Data Portability Obligation, specifically -

- i) The proposed exception relating to commercial confidential information that could harm the competitive position of the organization, to strike a balance between consumer interests and preserving the incentive for first movers’ business innovation; and**

StarHub appreciates the Commission’s point on this and would like to seek further clarity on the definition and application of “*first movers’ business innovation*” stated in Clause 2.27, as well as “*potential commercial and business sensitivities*” in Clause 3.17.

ii) The proposed exception for “derived data”?

StarHub has no further comment to this proposed exception.

(d) Question 4: What are your views on the proposed requirements for handling Data Portability requests?

StarHub has concerns on the proposed handling approach, as outlined below:

1. The requesting individual has agreed to provide data to the receiving organization based for purposes that the porting organisation is not privy to. The porting organisation is merely preparing the data based on the requesting individual’s instructions and has no control over the *“relevancy or excessive(ness) of the data”* cited in Clause 2.39.
2. The porting organisation has to provide a *“cooling off”* period, to allow the individual to cancel their request, in event that the customer changes their mind. We submit that this proposal should be removed. The porting organisation should comply to the requests received from customers. If customers wish to consider whether or not to submit a Data Porting request, they should do so prior to submitting that request. If the obligation to provide a *“cooling off”* period is allowed, the porting organisation may incur significant costs, which may be unrecoverable.
3. It is unclear why porting organisations should be obliged to allow the requesting individual to view the data (or a sample of it) before transmitting it to the receiving organization. We are concerned that either:
 - (a) The number of records will be minimal, in which case the customer might simply take a screenshot of the *“sample”*, and therefore avoid paying the porting organization the cost of generating the information; or
 - (b) The number of records will be large, in which case the preview data may not be representative of the requested dataset.In both cases, the preview process does not appear to serve any practical purpose.
4. Clause 2.37(d)(i) states that the porting organisation could charge the requesting individual or the receiving organization. StarHub submits that greater clarity is needed on which party will be responsible for the cost of such requests. Otherwise, the porting organisation may find itself in a position where neither party wishes to make the payment, e.g. if the data has been provided and *“rejected”* by the individual (through preview mode cited in Clause 2.37c), or the receiving organization rejecting the data due to *“irrelevancy and excessive in relation to the product or service that it provides to the individual”* – Clause 2.39, when the porting organization is merely

acting upon instructions of the requesting individual. In addition, the proposed SLA can only start once payment has been made to the porting organisation.

5. We note the requirement for the porting organisation to provide the requested information to the receiving organization that *“has a presence in Singapore”* (Clause 2.18). Given the heightened need to transfer data in a secured manner, it is important to know who we are transferring the data to, and not simply to any *“other organizations that have a presence in Singapore”*. Transferring the data to unknown organizations without recognizing the associated risks, and putting the protection obligation on the contributing organization, does not create a safe environment for such data transfers to take place. We would note that once the requested data has been transmitted over to the receiving organization, it cannot be recalled by the porting organisation.

Also, we would like the Commission to more closely define what is meant by an organisation that *“has a presence in Singapore”*. For example, would a company that is not registered in Singapore, but whose services are available to users in Singapore, be considered as having *“a presence in Singapore”*? Similarly, if an organisation has a subsidiary, an affiliate, or a representative office, would this be considered *“a presence in Singapore”*?

6. The receiving organisation has to verify the completeness and conformity to formats and standards of data that are transmitted to it by a porting organization. However, the receiving organisation would not be in the position to comment if the data provided is complete, bearing in mind that the *“requesting individual may remove data that he or she does not wish to port”*. This would mean that the receiving organisation may be getting a set of incomplete data, or edited data that serves minimal value to the services that the receiving organisation intends to provide. We would instead propose that to eliminate the need to allow the individuals to preview the data, and send an uneditable format to the requesting individual directly. This approach would be simple and direct, with minimal confusion.
7. StarHub has concerns with the practicality of the proposed period of 7 calendar days (Clause 2.37(d) (ii)). With an open and ill-defined obligation to provide data, it would not be possible for porting obligations to meet all requests. Rather, we would propose that the Commission define precisely what data is to be portable, which would then allow the impacted sectors to determine how long it would take to generate such data. We would note that the timeline to provide data can only commence once the porting organisation receives the payment.
8. Considering the potential impracticability of the proposed handling framework, and above all, security concerns, StarHub would request that the porting organisation should provide the data directly to the requesting individual, rather than providing that data to a receiving organisation instead. All billing arrangements are to be settled with the individual.

9. In addition, we would note that it is not possible for organisations to hold data in perpetuity, in case an individual asks to port that data. Therefore, in line with the Access obligation, we would propose that individuals are only able to request data from no longer than 12 months prior to the date of their request. For telecommunications providers, the relevant data for Data Portability should be confined to the information found on a standard bill.

(e) Question 5: What are your views on the proposed powers for PDPC to review an organization’s refusal to port data, failure to post data within a reasonable time, and fees for porting data?

We would highlight that it takes time, effort and cost to set up the systems and processes to comply with Data Portability obligations. The initial cost to system setup would be significant, and may be irrecoverable with no forecast demand for Data Portability in sight. StarHub takes the view that Data Portability would be better managed if the types, format and duration of data is defined upfront to manage requesting individuals’ expectations, and for porting organisations to meet the demands and obligations (including SLAs) for Data Portability.

(f) 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?

StarHub supports the idea of clearly setting out the specific data that is to be ported, and the specific SLAs associated with it. For example, if a customer asks for their telephone number, the SLA for this might be very different than if the customer asks for all Call Detail Records associated with that telephone number over the last 12-months. The Commission should also specify upfront (in consultation with organisations), how “*machine readable*” will be defined. We believe that this should be specified upfront, rather than in subsequent codes of practice, to minimize confusion and customer dissatisfaction.

Further, in certain sectors such as the banking and telecommunications sectors, there are already mature processes in place for the sharing of data within the sector, and these processes should continue to be followed for Data Porting.

(g) Question 7: 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

Question 8: What are your views on 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?

StarHub welcomes the Commission’s move to support data-driven innovation and facilitate organizations’ use of data to better understand our customers

3. CONCLUSION

In conclusion, while StarHub appreciates the opportunity to comment on the Consultation, we are concerned that the Data Portability obligation is overly-broad and ill-defined. StarHub would respectfully suggest that it is necessary for the Commission to specify upfront precisely: (i) what entities will be covered by the obligation; (ii) what data is to be portable for those entities; (iii) what SLAs are appropriate for Data Portability requests; and (iv) what will be considered as “*machine readable*” for such requests. We submit that such clarity is needed in order to accurately set the expectations of all parties, and to avoid wasting resources, time and costs.

StarHub would also respectfully request the opportunity to meet with the Commission to discuss this matter further. StarHub is grateful for the opportunity to provide feedback on the Consultation, and we hope that the Commission will consider our comments.

StarHub Group
17th July 2019