



The Asia Cloud Computing Association (ACCA) is the apex industry association for Asia Pacific stakeholders in the cloud computing ecosystem. We represent a vendor-neutral voice of the private sector to government and other stakeholders, with the mission to accelerate the adoption of cloud computing through Asia Pacific by helping to create a trusted and compelling market environment, and a safe and consistent regulatory environment for cloud computing products and services.

Mr. Lew Chuen Hong
Commissioner
Personal Data Protection Commission (PDPC)
10 Pasir Panjang Road, #03-01 Mapletree Business City
Singapore 117438

30 August 2023

Dear Mr. Lew,

Re: Asia Cloud Computing Association's (ACCA) Response to the Proposed Advisory Guidelines on Use of Personal Data in AI Recommendation and Decision Systems, issued by the Personal Data Protection Commission

The Asia Cloud Computing Association (ACCA) is pleased to submit our comments and suggestions on the Proposed Advisory Guidelines on Use of Personal Data in AI Recommendation and Decision Systems ("Proposed Advisory Guidelines"). We appreciate the PDPC for developing the Proposed Advisory Guidelines to address concerns around the usage and collection of personal data by AI systems.

Summary of Major Points: Following our discussions with members, we are submitting our comments on these specific sections in the Proposed Advisory Guidelines:

- Paragraph 1.2
- Paragraph 3.2
- Paragraph 7.3
- Paragraph 9.5
- Paragraph 9.6
- Part IV
- Paragraph 11.5

Statement of Interest: We thank the PDPC for the opportunity to submit feedback on the Proposed Advisory Guidelines. As the apex industry association, the ACCA's mission is to accelerate the adoption of cloud computing in the Asia-Pacific by helping to create a safe and consistent regulatory environment for cloud computing products and services. We are committed to creating a secure ecosystem where data is protected by principles-based regulatory frameworks and policies.

Comments: The detailed comments are included in the Annex which follows this cover letter.

Conclusion: Should you have any questions about our comments, we would be pleased to arrange a virtual meeting to discuss this further. Thank you and I look forward to hearing from you on the comments soon.

Best regards,
Lim May-Ann
Emeritus Director
Asia Cloud Computing Association
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Annex: Asia Cloud Computing Association's (ACCA) Response to the Proposed Advisory Guidelines on Use of Personal Data in AI Recommendation and Decision Systems, issued by the Personal Data Protection Commission

Texts from the Proposed Advisory Guidelines	Suggested Amendments	Rationale
<p>1) Paragraph 1.2</p> <p>“The focus of the Advisory Guidelines on the Use of Personal Data in AI Recommendation and Decision Systems under the Personal Data Protection Act (“Guidelines”) is to clarify how the PDPA applies to the collection and use of personal data by organisations to develop and deploy systems that embed machine learning (ML) models (“AI Systems”) which are used to make decisions autonomously or to assist a human decision-maker through recommendations and predictions.”</p>	<p>“The focus of the Advisory Guidelines on the Use of Personal Data in AI Recommendation and Decision Systems under the Personal Data Protection Act (“Guidelines”) is to clarify how the PDPA applies to the collection and use of personal data by organisations to develop and deploy systems that embed machine learning (ML) models (“AI Systems”) which are used to make decisions autonomously or play a material role in to assisting a human decision-maker through recommendations and predictions.”</p>	<p>With AI increasingly embedded in the delivery of numerous products and services, humans may invariably use some form of AI in making decisions to varying degrees.</p> <p>The ACCA recommends that PDPC adopt a risk-based and proportionate approach by applying a materiality threshold.</p>
<p>2) Paragraph 3.2</p> <p>“These Guidelines are organised according to the stages of AI System implementation as follows:...”</p>	<p>“These Guidelines are organised according to the typical stages of AI System implementation, which are meant to be illustrative only, as an AI System in reality could be in more than one stage at the same time, or loop back to a previous stage. as follows:...”</p>	<p>With the rapid advancement of technology and the shortening of timelines for products and services to go to market, a product or service could undergo testing and monitoring for continuous improvement and enhancement even after it has been deployed. The stages of AI System implementation may therefore not be linear, in the way the current draft depicts.</p>

Texts from the Proposed Advisory Guidelines	Suggested Amendments	Rationale
		<p>The ACCA recommends PDPC to acknowledge this reality in the Proposed Advisory Guidelines so that exceptions such as the Business Improvement and Research Exceptions may still be applicable.</p>
<p>3) Paragraph 7.3</p> <p>“In the context of developing AI Systems, organisations should practise data minimisation as good practice. Using only personal data containing attributes required to train and improve the AI System or ML model will also reduce unnecessary data protection and cyber threat risk to the AI System. To similarly reduce such risks, organisations should use the volume of personal data necessary to train the AI System or ML model and base this on relevant time periods and any other relevant filter e.g., market/customer segment, attributes, etc. Organisations may wish to refer to the PDPC’s Guide to Data Protection Practices for ICT systems for further guidance in this area.”</p>	<p>“In the context of developing AI Systems, organisations should are encouraged to practise data minimisation as good practice. Using only personal data containing attributes required to train and improve the AI System or ML model will also reduce unnecessary data protection and cyber threat risk to the AI System. To similarly reduce such risks, organisations should use the volume of personal data necessary to train the AI System or ML model and base this on relevant time periods and any other relevant filter e.g., market/customer segment, attributes, etc. An example of a situation where data minimisation may not be desirable is the need to collect personal data for bias assessment, as explained in paragraphs 5.8 and 5.9. Organisations may wish to refer to the PDPC’s Guide to Data Protection Practices for ICT systems for further guidance in this area.</p>	<p>The ACCA understands that the PDPA does not contain a “data minimisation” obligation. Therefore, any calls for data minimisation should be encouraged, and not required.</p> <p>It is reassuring that PDPC acknowledges the need to use personal data for bias assessment in paragraphs 5.8 and 5.9. In the absence of personal data, organisations may not be able to assess their AI Systems against fairness metrics, much less to say minimise any systematic biases in the AI Systems. Traditional privacy best practices such as data minimisation may not therefore be completely aligned with fairness objectives.</p> <p>We recommend that PDPC highlight this situation in the Proposed Advisory Guidelines.</p>

Text from the Proposed Advisory Guidelines	Suggested Amendments	Rationale
<p>4) Paragraph 9.5</p> <p>“Bearing in mind the above, organisations are encouraged to provide information on the following in crafting their notifications: ...</p> <p>d) Identify specific features of personal data that are more likely to influence the product feature (e.g., whether movie was viewed completely, viewed multiple times, etc.).”</p>	<p>“Bearing in mind the above, organisations are encouraged to provide information on such as the following in crafting their notifications:...</p> <p>d) Identify specific features of personal data that are more likely to influence the product feature (e.g., whether movie was viewed completely, viewed multiple times, etc.).”</p>	<p>While the ACCA supports giving data subjects greater transparency, these guidelines should not lead to overly burdensome requirements. Requirements should be flexible so that they can be tailored to the particular service and protect against bad actors gaming the AI systems.</p> <p>We want to ensure data subjects are appropriately informed, while also ensuring that platforms can protect commercially sensitive information. Overly broad disclosure requirements could have an impact on commercial operations.</p>
<p>5) Paragraph 9.6</p> <p>“... Example: A bank uses AI to assist in credit scoring...”</p>	<p>The ACCA suggests using a different example instead for illustration.</p>	<p>Most banks rely on third-party credit bureaus to provide credit scores. This has implications related to the responsibilities of service providers, as addressed in Part IV. While we understand that the example is more for illustration, we would recommend that a more realistic example be used instead.</p>

Texts from the Proposed Advisory Guidelines	Suggested Amendments	Rationale
<p>6) Part IV</p> <p>Terminology used to describe organisations, service providers, and users</p>	<p>The ACCA suggests using the term “organisations” to refer to those that engage service providers;</p> <p>“AI service providers” to refer to service providers that provide professional services for the development and deployment of bespoke or fully customisable AI Systems;</p> <p>“Users” to refer to the organisations’ customers.</p>	<p>The Proposed Advisory Guidelines use different terminology to refer to the same entity. For instance, “customers”, “user organisations” and “operators” are used to refer to organisations; “supply-side businesses” is sometimes used to refer to the service providers; “customers”, “users” and “individuals” are used to refer to the organisations’ customers.</p> <p>The ACCA recommends standardising the terminology used throughout the Guidelines to avoid confusion.</p>
<p>7) Paragraph 11.5</p> <p>“...To do so, supply-side businesses will have to pay attention to the context and impact the AI System will have on individuals. Information that is likely to be relevant should be identified, and supply-side businesses are encouraged to engage their customers on what will be helpful for them.”</p>	<p>“...To do so, supply-side businesses will AI service providers may have to pay attention work with the organisations to understand the context and impact the AI System will may have on individuals users and data subjects. Information that is likely to be relevant should be identified, and supply-side businesses are encouraged to engage their customers on what will be helpful for them by organisations and their AI service providers.”</p>	<p>AI service providers may not always understand how organisations deploy the AI Systems. Even if they understand the context at the point of procurement, organisations can always deploy the same AI Systems to a different context.</p> <p>The Proposed Advisory Guidelines therefore impose obligations that may be impracticable for AI service providers to fulfil. The ACCA recommends that the guidelines be amended to reflect the shared responsibilities between organisations and their AI service providers.</p>