

SUBMISSION OF COMMENTARY ON TOPIC:

**PUBLIC CONSULTATION ON PROPOSED ADVISORY
GUIDELINES ON USE OF PERSONAL DATA IN AI
RECOMMENDATION AND DECISION SYSTEMS (ISSUED
18TH JULY 2023 BY PERSONAL DATA PROTECTION COMMISSION SINGAPORE)**

BY: KATHY TAN

CONTACT: orchid8288@outlook.com

SUMMARY OF MAJOR POINTS

In general, I'm thankful and welcome the additional clarity provided by the Commission on use of Personal Data in AI Recommendation and Decision Systems. I have set my views and proposal in greater detail in the following pages.

Below are summary major points from me for PDPC considerations.

- AI is a 'new technology' with many uncertainties over its impacts toward human lives, society, and national security. As such, even the decisions on use of personal data at any stage of AI systems development, testing and monitoring are particularly sensitive. Propose the Commission to consider impose compulsory requirement for organisations to undertake DPIA for used of personal data in AI systems development, testing and monitoring.
- Greater emphasize and set firm tone of expectation that it is important for organisations to primarily explore and / or use other means such as synthetic data to develop, test or monitor the AI Systems or ML Models without using personal data. The use of personal data and encouragement to pseudonymise or de-identify the personal data should be positioned as alternative option that need organisations thorough consideration.
- Encourage adoption of Privacy-Enhancing Technology (PET) by way of exploring potential use of synthetic data in develop, test, or monitor the AI Systems or ML Models. Synthetic data widely echo the desire to preserve privacy while possess the potential in making good representation in terms of accuracy needed in AI Systems development.

COMMENTS TO SPECIFIC SECTIONS OF PROPOSED ADVISORY GUIDELINES ON USE OF PERSONAL DATA IN AI RECOMMENDATION AND DECISION SYSTEMS (“PROPOSED ADVISORY”)

Part II: Using Personal Data in AI System Development, Testing and Monitoring

4. Business Improvement Exception and Research Exception

4.2 Undertake data protection impact assessment

The Commission has encouraged organisations to undertake a data protection impact assessment (DPIA) to consider the effectiveness of risk mitigation and remediation measures applied on used of personal data in AI systems development, testing and monitoring.

I take the view that AI is a ‘new technology’ with many uncertainties over its impacts toward human lives, society, and national security, and no to forget as well as its associated pacing problem. As such, even the decisions on use of personal data at any stage of AI systems development, testing and monitoring are particularly sensitive. Therefore, I proposed Commission to consider impose compulsory requirement for organisations to undertake DPIA for used of personal data in AI systems development, testing and monitoring.

5. Application of the Business Improvement Exception

5.1 Sharing of data with related companies within a group of companies including interdepartmental of a company

The Commission has stated at Section 5.1 of the Proposed Advisory that the Business Improvement Exception caters for sharing with related companies within a group of companies, as well as interdepartmental sharing of data within a company. I believe it would nonetheless be helpful to organisations if the Commission to further add that the organisations will need to ensure the following:

- a) The business improvement purpose cannot reasonably be achieved without sharing the personal data,
- b) The organisations’ sharing of personal data for the business improvement purpose is one that a reasonable person would consider appropriate in the circumstances, and
- c) The organisations involved in the sharing are bound by any contract or other agreement or binding corporate rules requiring the recipient(s) of personal data to implement and maintain appropriate safeguards for the personal data.

5.5 Justify use of personal data to test AI Systems

The Commission has listed in Section 5.5 of Proposed Advisory the relevant considerations for organisation vis-a-vis whether to rely on the Business Improvement Exception to justify the use of personal data for the development, testing and monitoring of AI systems.

In my view there should be an effort to mention in Proposed Advisory, the encouragement for organisations to explore use of synthetic data which widely echo the desire to preserve privacy while making good representation in terms of accuracy needed in AI systems development.

Synthetic data is close enough to real data and it could help to address all privacy problems such as use of personal data in test environment of AI systems that create unnecessary risk exposure in event of data breach or unauthorized access. Synthetic data also able to replace use of personal data for bias assessment and even better trained the AI systems with fair synthetic datasets. The use of synthetic data to replace anonymized data and personal data are widely discussed and explored in Europe.

5.6 & 5.7 Use personal data to test AI Systems

Please refer my response to Section 5.5.

5.8 & 5.9 Use personal data to for bias assessment

Please refer my response to Section 5.5

7. Data Protection Consideration when using Personal Data

7.1 Encouragement to pseudonymise or de-identify personal data as basic data protection control

The Commission has begun Section 7 with 7.1 stated 'Organisations are reminded that when designing, training, testing, or monitoring AI systems using personal data, appropriate technical, process and / or legal controls for data protection should be included. Where possible, organisations are encouraged to pseudonymise or de-identify the personal data used as a basic data protection control'.

I respectfully submit there is a need for Commission to re-phrase Section 7.1 to set firm tone of expectation that it is important for organisations to primarily explore and / or use other means such as synthetic data to develop, test or monitor the AI Systems or ML Models without using personal data. The use of personal data and encouragement to pseudonymise or de-identify the personal data should be positioned as alternative option that need thorough consideration in balancing both aspects of preserving privacy of individuals versus support for technology innovation.

7.4 Organisations protection obligation under PDPA

Similar to Section 4.2 of the Proposed Advisory, the Commission again in Section 7.4 of the Proposed Advisory encouraged organisations to undertake data protection impact assessment (DPIA) as well as remind organisations to pay attention on data security and protection measures around the AI development environment.

Again, I take the view that AI is a 'new technology' with many uncertainties over its impacts toward human lives, society, and national security, and no to forget as well as its associated pacing problem. Therefore, I propose Commission to consider impose compulsory requirement for organisations to undertake DPIA for used of personal data in AI systems development, testing and monitoring.

7.6 Updated policies and established practices regarding the use of personal data to develop AI systems

The Commission has stated at Section 7.6 of Proposed Advisory that as per Accountability Obligation under PDPA, organisations must ensure their policies regarding the use of personal data in develop AI Systems are updated and practices are established.

I propose the Commission to also state that it is for organisations consideration to include the personal data processing activities in develop AI systems as part of the organisations' personal data inventory tracking. The organisations can better understand their data landscape and ease to spot potential risks and impacts associated, such as data breach.

Part III: Deployment – Collection and Use of Personal Data in AI Systems

10. The Accountability Obligation

10.4 Pre-emptive approach by making written policies available through organisation website

In Section 10.4 of Proposed Advisory, the Commission has quoted Section 12(d) of PDPA and explained the reason for such external communications with consumers. The Commission has suggested organisations to consider pre-emptively making written policies available through organisation website rather than upon request by individual.

To provide better clarity, I propose Section 10.4 of Proposed Advisory be re-phrase such that the act of making written policies available through organisations website is just an example of proactive approach to help organisations build trust with data subjects. Commission should provide few more examples on the context about building trust with data subject in relation to organisations use of personal data in AI.

Also, in drafting the Proposed Advisory, I respectfully suggest the Commission to avoid the unnecessary use of foreign-language expression such as *raison d'être* which can be best and easily express in English considering the Proposed Advisory is a guidelines document to be widely referred by reader from both legal and non-legal background.

PAGE END
