



Feedback to PDPC's Public Consultation on Proposed Advisory Guidelines on use of Personal Data in AI Recommendation and Decision System

Please refer to our comments on the above Proposed Advisory Guidelines for your consideration.

For clarifications, you may contact the following parties:

- 1) Paul Chung, Chief Compliance Officer, and Data Protection Officer
Email: paul.chung@trustbank.sg
- 2) Chung Suk Yen, Regulatory Compliance Lead
Email: sukyen.chung@trustbank.sg

Thank you.

1) Part I - Introduction and Scope

AI includes several approaches and techniques, such as machine learning (which includes deep learning and reinforcement learning) and machine reasoning (which includes planning, scheduling, knowledge representation and reasoning, search, and optimisation – which can assist a human decision). Is the intention of the Guidelines to be applicable to use of personal data by machine learning models only or all AI? We suggest that the Guidelines clarify this and explicitly set out what is not in scope. For instance, machine reasoning systems, processes or tools that are driven by a set of pre-defined rules.

Paragraph 1.2 of the Guidelines defines AI Systems as systems which embed ML models. However, as we go into other sections such as paragraphs 5.4 and 5.5 of the Guidelines, there seems to be a distinction made between the two. (E.g., paragraph 5.4 – Use of **AI Systems or ML models** to provide new product features...). We suggest that the Guidelines clarify why such distinction is necessary.

2) Part II - Using personal data in AI Systems Development, Testing and Monitoring

We refer to paragraph 5.5(c) of the Guidelines, AI is relatively nascent in the industry and common market practices and standards have not evolved yet. We request the PDPC to kindly share its view on the establishment of the common industry practices and standards.

3) Part III - Collection and Use of Personal Data in AI Systems

We would like to seek clarification if an opt-in consent is required for collection and use of personal data in AI Systems in scenarios where deemed consent and Business Improvement Exception will apply? Based on the example provided under paragraph 9.6 of the Guidelines, it appears that express consent should be sought from a user even if it falls within the purview of "Business Improvement Exception".

Our view is that express opt-in consent is not necessary if an organisation's customer privacy notice is clear and transparent that AI is used and how it is used, this should be sufficient to obtain a customer's consent as is the case for most other processing activities. We also do not think the use of AI is covered sufficiently alone under the Business Improvement Exception or the Research Exception as provided in the Guidelines. Being transparent to customers about the use of AI in an organisation's privacy policy/notice is an important point because it will help to build trust in customers.



4) Part III - Accountability Obligation

With reference to paragraphs 10.4 and 10.6 of the Guidelines, we agree that individuals should be informed about how their personal data are collected and use. We seek clarification if these written policies should be use case specific or would the organisation's privacy policy suffice if it covers broadly the security measures and accountability provisions. Our view is that it will be appropriate to allow organisations to have the flexibility to decide the approach and what information to be included in the written policies to communicate effectively and transparently with customers about their AI Systems.

We also suggest the PDPC to share its expectation on how organisation should ensure accountability throughout the AI Systems lifecycle and give examples of what kinds of things are unfair discrimination /undermine rights and what it expects by way of oversight. Ideally this should not be prescriptive and should allow flexibility for organisations. In addition, where there is sectoral guidance (for example the FEAT principles) available, referencing to such guidance should suffice. This would set the right direction of travel by organisations and would also help to strengthen trust with the public in connection with AI usage by organisations, knowing that this is the regulator's expectation.