

**PUBLIC CONSULTATION FOR  
APPROACHES TO MANAGING PERSONAL DATA  
IN THE DIGITAL ECONOMY**

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

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## 1. INTRODUCTION

StarHub welcomes the opportunity to provide feedback on the Public Consultation for Approaches to Managing Personal Data in the Digital Economy (the “Consultation”).

StarHub is pleased to provide its comments on the Consultation in the following section 2.

## 2. STARHUB’S COMMENTS ON THE CONSULTATION

### Part II

#### (a) **Question 1: Should the PDPA provide for Notification of Purpose as a basis for collecting, using and disclosing personal data without consent?**

StarHub agrees that Notification of Purpose is a sufficient basis for an organisation to collect, use and disclose personal data. So long as there are avenues to change or control individuals’ consent, the notification would constitute seeking of consent. As such, the means by which the consent is first obtained should not be unduly restrictive.

In addition, it is also important to recognise that notifications may not be able to reach 100% of individuals. For example, in its Consultation document, the PDPC has suggested signage as a means of notification. However, it is not possible to guarantee that all individuals will read the signage. Therefore, we agree that it should be up to the individual organisations to determine on the appropriate notification method(s).

#### (b) **Question 2: Should the proposed Notification of Purpose approach be subject to conditions? If so, what are your view on the proposed conditions (i.e., impractical to obtain consent and not expected to have any adverse impact on the individual)?**

StarHub takes the view that the proposed Notification of Purpose need not be subject to conditions.

However, if conditions are imposed, StarHub submits that:

- (i) In relation to the condition that it should be impractical for the organisation to obtain consent: The ‘impractical’ condition is too vague, and organisations would require greater certainty in order to be able to ascertain whether a situation falls within this condition. StarHub would submit that, in particular, the assessment of practicality should take into account costs incurred by organisations in obtaining such consent.
- (ii) In relation to the condition that the collection, use or disclosure of personal data is not expected to have any adverse impact on the individuals: StarHub notes that the condition refers to *any* adverse impact, and submits that it is unreasonable to have no materiality threshold. In assessing the impact to individuals, only significant impact should be taken into account.

#### (c) **Question 3: Should the PDPA provide for Legal or Business purpose as a basis for collecting, using and disclosing personal data without consent and notification?**

StarHub agrees that collection, use or disclosure of personal data for Legal or Business purposes should be provided as a basis for collecting, using and disclosing personal data without consent and notification. However, greater clarity needs to be provided on what constitutes Legal or Business purposes.

- (d) **Question 4: Should the proposed Legal or Business Purpose approach be subject to conditions? If so, what are your views on the proposed conditions (i.e., not desirable or appropriate to obtain consent and benefits to the public clearly outweigh any adverse impact or risks to the individual?)**

StarHub submits that, to facilitate the progress of the Digital Economy, there should be minimal restrictions on the Legal or Business Purpose approach. As PDPC has acknowledged, the growth of the Digital Economy has the potential to yield enormous benefits for individuals and society. While individual data protection is important, this must be carefully weighed against the welfare that can be derived from improving the ease of doing business in Singapore, and allowing organisations to effectively collect and use customer data.

However, if conditions are imposed, StarHub submits that:

- (i) Not desirable or appropriate to obtain consent: StarHub would add that, similar to the Notification of Purpose approach, impracticality of obtaining consent or providing a notification should be a factor in determining whether the Legal or Business Purpose approach would be suitable.
- (ii) Benefits to the public outweigh adverse impact to the individual: Again, greater clarity needs to be provided in terms of what would constitute benefit to the public, or adverse impact to the individual.

### Part III

- (e) **Question 5: What are your views on the proposed criteria for data breach notification to affected individuals and to PDPC? Specifically, what are your views on the proposed number of affected individuals (i.e., 500 or more) for a data breach to be considered of a significant scale to be notified to PDPC?**

In relation to the proposed criteria for data breach notification:

- (i) Risk or impact or harm to affected individuals: StarHub notes that the criteria refers to *any* risk of impact or harm to the affected individuals. StarHub reiterates that it is unreasonable to have no materiality threshold, and only significant impact to individuals should trigger notification to the individuals and PDPC. It should also be emphasised that in a data breach, there would be impact only if personally identifiable information tied to specific individuals is disclosed. Otherwise, if non-personally identifiable information is the subject of the data breach, there can be no impact to individuals.<sup>1</sup> We would also add that the “technological protection exception” should also apply for notifications to PDPC. If the breached data has been reasonably encrypted, there will also be no risk of impact to individuals, and this negates the need for reporting.
- (ii) Significant scale of breach: StarHub disagrees that PDPC should be notified of a significant scale of breach even if there is no risk or impact or harm to affected individuals. Imposing such an obligation merely increases the compliance costs for organisations.

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<sup>1</sup> Taking the example provided in the Consultation document, an NRIC number, in of itself, is not personally identifiable data, as it cannot be used to trace back to specific individuals.

**(f) Question 6: What are your views on the proposed concurrent application of PDPA's data breach notification requirements with that of other laws and sectoral regulations?**

StarHub notes that there are various other applicable legislation and guidelines that may be applicable, depending on the data breach situation, e.g. the draft Cybersecurity Bill. There are inconsistencies and there is a lack of coordination between the various applicable legislation and guidelines (both in terms of thresholds as well as timelines for reporting). As there may be areas of overlap between the proposed notification regime, other legislation and sectoral regimes, this may result in confusion as to which standard should apply and an organisation may be subject to duplicate notification obligations under varying regimes. Further, at the time of a breach, an organisation's priority would be to rectify and restore, rather than to notify multiple organisations. It is also unclear whether an organisation would be expected to follow up with each and every sectoral regulator or law enforcement agency – if so, this would add to costs of compliance and, again, affect recovery time. For this reason, there needs to be coordination amongst the various Government agencies, and all organisations should only be required to make one report to one lead Government agency. This creates efficiencies, and reduces the administrative burden imposed on organisations.

**(g) Question 7: What are your views on the proposed exceptions and exemptions from the data breach notification requirements?**

In relation to the proposed obligation of a data intermediary to immediately inform the organisation of a data breach, StarHub submits that this should apply equally to data intermediaries who are government or public agencies. The legislation should also make clear that if a data intermediary does not inform the organisation, the organisation should not have any responsibility for notification, nor bear any liability for any failure to do so.

In relation to the proposed exceptions to notify affected individuals:

- (i) Law enforcement exception: StarHub submits that this exception should extend to not just notification of affected individuals, but also notification to PDPC. StarHub also suggests that this exception be extended beyond law enforcement agencies, to other public, statutory and governmental agencies who are investigating a situation. One example would be the Cybersecurity Agency of Singapore, for a cyber-attack situation.
- (ii) Technological protection exception: StarHub agrees with this exception, but seeks greater clarity on what would constitute 'a reasonable standard'.

**(h) Question 8: What are your views on the proposed time frames for data breach notifications to affected individuals and to PDPC?**

StarHub agrees with the 72 hour time frame, on the following conditions:

- (i) It must be understood that rectification is a priority for organisations in a data breach scenario;
- (ii) There may be a need, in certain situations, to inform affected individuals before PDPC; and
- (iii) StarHub notes that the time frame for informing affected individuals is 'as soon as practicable', and submits that the existence of 2 different time frames in relation to the same data breach situation would cause confusion. A better approach would be for the 72 hour timeframe to apply to both affected individuals and PDPC.

### **3. CONCLUSION**

In conclusion, while StarHub welcomes the direction of the Consultation, StarHub is of the view that the Notification of Purpose can and should be extended further to give individuals the full benefit of all the options available to them.

StarHub is grateful for the opportunity to provide feedback on the Consultation, and we hope that the Commission will consider our comments. Thank you.

**StarHub Group**

**18 September 2017**