Proposed Data Protection Regime for Singapore

IIC Asia Chapter Meeting, Singapore, 16 Nov 2011
Overview

• Proposed Data Protection ("DP") framework

• Feedback received

• Question & answer session
Singapore’s DP framework

General Data Protection Law
- Increasing consumer awareness of DP issues, esp with online use
- DP regime useful for businesses to increase trust with local and int’l customers

Sector-specific frameworks (Acts, Regulations, Mandatory Codes, Voluntary Model Codes, Trustmarks, etc)
General Data Protection Law
– Public Consultation Proposals

• Referenced Canada, Australia, New Zealand, Hong Kong, EU and UK models, and international guidelines in formulation

• Aims to set a general baseline standard for all sectors, working concurrently with existing sector-specific regimes

• Balances consumer interests with business costs

• Considers need for technology neutrality given rapid business model innovations
## Overview of DP

<table>
<thead>
<tr>
<th>Personal Data</th>
<th>Information relating to an identifiable individual</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Examples of personal data: IC number, Mobile phone number</td>
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<tr>
<td></td>
<td>Example of non-personal data: Financial corporate records</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Data Lifecycle Stages</th>
<th>Collection e.g. sign-up form or roadside survey</th>
<th>Use/Processing e.g. business analytics or telemarketing</th>
<th>Disclosure e.g. outsourcing operations or selling</th>
<th>Retention/Deletion i.e. storage on server</th>
</tr>
</thead>
<tbody>
<tr>
<td>Data Protection = Protection of Personal Data against:</td>
<td>Collection of excessive data (more than required for purpose) and collection without consent</td>
<td>Use/processing of data beyond consented purposes</td>
<td>Disclosure to parties without prior consent</td>
<td>Insecure retention/ (lack of sufficient security measures) and insufficient/ excessive length of retention</td>
</tr>
</tbody>
</table>
General Data Protection Law
– Public Consultation Proposals

• Structured according to internationally consistent DP principles

• With exclusions or exemptions for specific purposes
Key exclusions/ exemptions

General exclusions, *e.g.*
- personal data in court documents
- personal or domestic use

Other exclusions on collection, use and/or disclosure, *e.g.*
- for news activities
- clearly in the interest of the individual and consent cannot be obtained in a timely manner, such as medical emergencies
- relates to national security, defence, public security, such as terrorist threats
- for research and statistical purposes, under certain conditions
- for companies outsourcing, transfer of data solely for purposes the data was collected for
General Data Protection Law
– Public Consultation Proposals

Proposed set-up of Data Protection Commission (DPC)

- Powers to investigate
- Issue orders to rectify non-compliance
- Impose financial penalties <$1 million
- Appeal to Independent Tribunal then to the Courts
- Other powers e.g. referral to mediation, etc
General Data Protection Law
– Public Consultation Proposals: Do-Not-Call Registry

Consumers
Consumer registers phone number through website or toll-free number
Service is free

DNC Authority
DNC Authority verifies identity of consumer and updates DNC lists
3 DNC lists: 1. Phone Calls 2. SMS 3. Fax

Telemarketing companies
Telemarketing companies remove numbers on DNC lists from their own lists of numbers to call
Companies have ongoing obligation to check/filter lists and pay access fees
General Data Protection Law
– Public Consultation Responses: Overall views

• More clarity on definition of personal data

• Mixed views on various issues
  • Coverage of personal data of the deceased
  • Application of DP Act to organisations not in Singapore
  • Failure to ‘opt out’ as a form of consent
  • Penalty ceilings and private rights of action
  • Length of sunrise period
  • etc
General Data Protection Law
– Public Consultation Responses: Issues pertinent to ICT firms

• Differentiation between data controllers and data processors
  • Mixed views on whether data processors should be treated differently from data controllers
    • Related point: Some firms asked for exclusions or different treatment for internet intermediaries

• Coverage of organisations not in Singapore
  • Mixed views on whether organisations conducting data-related activities in Singapore while not in Singapore should be covered

• Treatment of data mining and business analytics activities
  • Suggestions on allowing firms to perform analytics on data ‘anonymised’ through firewalls, more exemptions, etc
General Data Protection Law

- **MICA announcement** that Govt will introduce DP legislation in 2012
- **Sep – 25 Oct ’11**: 1st Public Consultation
- **31 Oct’11**: Public Consultation on detailed Do-Not-Call Registry framework
- **TODAY**: Next Steps: Consultation on draft DP Bill
Thank you. Questions?