



CONSUMERS ASSOCIATION OF SINGAPORE

170 Ghim Moh Road, #05-01, Ulu Pandan Community Building, Singapore 279621

Hotline: 6100 0315 Fax: 6467 9055

Website: www.case.org.sg

RESPONSE TO MINISTRY OF INFORMATION, COMMUNICATIONS AND THE ARTS' PUBLIC CONSULTATION ON THE PROPOSED PERSONAL DATA PROTECTION BILL

Organisation : Consumers Association of Singapore (CASE)

Address : 170 Ghim Moh Road, #05-01 Ulu Pandan Community Building, Singapore 279621

Contact persons :

- 1) Mr T. Pillay, Assistant Director, Legal, CASE, at DID : 64611826 or pillay@case.org.sg
- 2) Ms Rachel Leong, Assistant Head, Legal, CASE, at DID : 64611816 or rachel@case.org.sg



CONSUMERS ASSOCIATION OF SINGAPORE

170 Ghim Moh Road, #05-01, Ulu Pandan Community Building, Singapore 279621

Hotline: 6100 0315 Fax: 6467 9055

Website: www.case.org.sg

30 April 2012

Ministry of Information, Communications and the Arts
140 High Street
#02-02 MICA Building
Singapore 179369

by email and post

Dear Sir / Madam

PUBLIC CONSULTATION ON THE PROPOSED PERSONAL DATA PROTECTION BILL

Thank you for the opportunity to share our views on the proposed personal data protection bill.

The Consumers Association of Singapore (CASE) had, in the public consultation exercise on the Do-Not-Call Registry, suggested that express consent given to organisations to receive marketing messages before the registration with the Do-Not-Call Registry should be taken to have been revoked upon registration with the Do-Not-Call Registry. We note MICA has however proposed to maintain its original position that express consent given would have to be withdrawn; otherwise, organisations can send advertising messages to an individual even after he / she has registered his / her number with the Do-Not-Call Registry (Section 47).

Our detailed comments follow.

Section 2 - Definition of Personal Data

We agree with the proposed definition of personal data : "data, whether true or not, about an individual who can be identified (a) from that data, or (b) from that data and other information to which the organisation is likely to have access."

Section 2 – Definition of Organisation

We propose that you extend the definition to include individuals who are carrying out business activities, whether or not the individual has registered his / her business entity under the Business Registration Act, Limited Liability Partnerships Act, Limited Partnerships Act, Partnership Act or Companies Act.

Section 4 – Exclusion of Data Intermediaries

We do not agree that data intermediaries do not have to comply with Parts III to VI (except Section 26) of the proposed Bill. For example, we are of the view that Section 15 should also apply to data intermediaries as they should have obtained express consent to use or disclose personal data about an individual.

Example : Company A appoints Company B to analyse personal data of its customers, separate them into categories by purchase value, then send the personal data of customers with purchases above \$10,000 to Company C, a luxurious spa, to send marketing collaterals. Company B proceeded to send the personal data of all customers to Company C.



CONSUMERS ASSOCIATION OF SINGAPORE

170 Ghim Moh Road, #05-01, Ulu Pandan Community Building, Singapore 279621

Hotline: 6100 0315 Fax: 6467 9055

Website: www.case.org.sg

In this instance, Company A should not be held responsible for Company B's action. Company B should be taken to task for not complying with Section 15. Company B can only claim deemed consent for divulging personal data of customers with purchase value above \$10,000 to Company C (express consent should have been obtained by Company A from this group of customers).

Section 16 – Not to Require more Consent than is Reasonable

We agree that an organisation shall not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal data beyond what is reasonable to provide the product or service to that individual.

Part V – Access to and Correction of Personal Data

We are strongly of the view that an individual should also be given the right to request deletion of personal data held by an organisation, not just access to and correction.

Section 26 – Protection of Personal Data

We agree that an organisation shall protect personal data in its custody or under its control by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification or disposal or similar risks.

Section 30 – Power to Review

Following our comments on Sections 16 and 26 above, we propose that Section 30 be amended to empower the Data Protection Commission to review a complaint made by an individual that an organisation (a) has required the complainant to consent to the collection, use or disclosure of personal data beyond what is reasonable to provide a product or service to the complainant, and (b) has not made reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification or disposal or similar risks.

Section 31 – Power to Give Directions

Please clarify under what circumstances the financial penalty of up to \$1 million will be imposed. It is stated that the financial penalty does not apply if the non-compliance is an offence under the proposed Bill. However, an offence would only attract a fine of up to \$100,000 for an organisation and up to \$10,000 for an individual. If a non-compliance is so serious as to warrant a up-to-\$1 million penalty, why would it not be classified as an offence under the proposed Bill?

Section 36 – Right of Private Action

The construction of this section seems to suggest that an individual cannot commence civil proceedings for relief until the Data Protection Commission has finalised their decision in respect of a contravention under Parts IV to VI of the proposed Bill. If our understanding is correct, this would prejudice the right of the aggrieved individual to seek redress or recourse expeditiously.



CONSUMERS ASSOCIATION OF SINGAPORE

170 Ghim Moh Road, #05-01, Ulu Pandan Community Building, Singapore 279621

Hotline: 6100 0315 Fax: 6467 9055

Website: www.case.org.sg

Sixth Schedule – Exceptions from Access Requirement

We disagree that a private hospital or medical clinic is not required to provide information in respect of medical records held by it (1(j)). Every individual should have the right to access his or her own medical records.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Seah Seng Choon', with a large, sweeping flourish at the end.

Seah Seng Choon
for Consumer Law Review Panel Committee
Consumers Association of Singapore (CASE)