

Public Consultation on the Proposed Personal Data Protection Bill: Dell's Feedback

General: Dell appreciates the opportunity to provide further comments on Singapore's Data Protection regime. Dell fully supports this initiative and is of the view that the implementation of data privacy legislation is paramount for further growth of e-commerce and entrenchment of Singapore's position as a trusted hub for international business.

We are also happy to note that MICA has taken into consideration feedback provided to-date on this proposed legislation. We applaud the continued efforts made by MICA in providing further consultation opportunities to industry players and the general public on this Bill.

Our comments on the propose Bill / DNC Registry are:

A. Personal Data Protection Bill:

1. Scope of the Act – unclear as to whether the Act is intended to apply to only Singapore based customer information? E.g. if a Singapore based company collects and uses information belonging to a customer based in say, Vietnam, will such a company be required to comply with the provisions of the PDPA given the fact that it collects and uses customer information in Singapore?
2. Intermediary obligations – propose a direct regulatory model where data processors themselves would be responsible for ensuring data is:
 - (a) only used for the purpose for which it was provided to them;
 - (b) secure and safeguarded; and
 - (c) erased once no longer required.
2. Data Privacy Officers & Officers of a Company – whilst MICA has clarified that the responsibility for compliance with the PDPA rests with the organization rather than the contact point, it is still unclear if the DPO and or officers of the Company may be held responsible for having allowed or authorized the sending of or non-compliance with the act. Is this a strict liability provision in so far as the organization is concerned if the acts were perpetrated by a rogue employee?
3. Consent: consent may be implied / deemed if an individual voluntarily provides personal data to an organization for its identified purposes (purpose to be reasonable not overly broad); The Consultation Paper then goes further to state that the DP regime will address situations based on specific circumstance where implied consent may be inferred – such piece meal adjudication is not very satisfactory. Might best be addressed by providing clearer guidelines;
4. Offences and Private Rights of Action – unclear where private right of action allowed only where a finding of non-compliance is made.

5. Penalty & Enforcement Regime – provisions seem rather high in comparison to other highly regulated jurisdictions in Asia. Also, it is unclear how maximum fines will be computed – on a per occurrence / incident basis?

B. DNC Registry

1. Business Contact information

Inclusion of business phone numbers under the DNC registry creates an unnecessary burden for organizations to verify whether contact particulars shared by a business contact be it via email signature blocks that come with phone details or an exchange of business cards would serve as explicit consent to override listing on DNC Registry. Requiring explicit consent to be provided by authorized representatives of an organization will pose huge practical difficulties and confusion thus impeding business relations and increasing administrative burden.

2. Status of Existing relationship

Where an organization has an existing relationship and perhaps even explicit consent, does the mere fact of seeking to list on the DNC Registry result in deemed withdrawal of consent?

3. Design of DNC Registry - Registrations do not expire unless the registration is withdrawn or the associated telco service is terminated – not very satisfactory as customers' preferences may change over the years. Propose introduction of renewal / relisting requirement at the end of 3/5 years. This will have dual purpose of updating obsolete information.

4. Scrubbing of DNC list

We find the proposed methodology too onerous & inefficient both from a cost and operational standpoint as it calls for organizations to upload the scrubbed information and re-format it to meet internal tool requirements/functionality before being in a position to use customer data thus necessitating investment in tools / IT infrastructure. In addition, the obligation to scrub an organization's customer list against the DNC Registry on a monthly basis would mean expansion of unnecessary cost if an organization does not propose to use the info on a 30 cycle period. The 30 day period for updating one's call list appears too short.

5. Penalty & Enforcement Regime – unclear whether maximum fine will be implemented on a per instance or per number basis?

6. Proposed implementation date: what is the rationale for providing 18th months' grace period for the PDPA and plan to implement the DNC Registry 12 months from enactment of PDPA?

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