

PUBLIC CONSULTATION ON THE PROPOSED
PERSONAL DATA PROTECTION BILL

SUBMISSION OF COMMENTS BY
MEDIACORP PTE. LTD.

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SUMMARY OF MAJOR POINTS

1. Definition of “news organization” – MediaCorp group companies to be gazetted

- MediaCorp is seeking confirmation on the MediaCorp group companies which will be gazetted as “news organisations” for the purposes of the Personal Data Protection Act (“PDPA”).

2. Critical impact on filming activities

- Based on the PDPA as currently drafted, filming activities will be severely affected as images of individuals captured in the course of filming activities will come within the ambit of PDPA, regardless of whether such appearance was incidental or otherwise. This will render filming outside of a controlled studio environment impossible.
- Even in a controlled studio environment, programmes where audience members are present during filming, such as game shows, variety programmes etc, will also be affected as audience members are frequently shown on camera.
- MediaCorp is therefore seeking amendments to the definition of “personal data” under the PDPA, or alternatively, further exclusions in the Third, Fourth and Fifth Schedules for filming activities.

3. Section 20 – Limitation of purposes and extent - To satisfy either one requirement instead of both

- Section 20 states that purposes for which an organization may collect, use or disclose personal data must satisfy two requirements stated therein.
- MediaCorp is proposing that it should be sufficient to satisfy either one of the above 2 requirements, and not both.

4. Clarification on whether charging of fees is permissible under Sections 23 and 24 for requests to access and correct personal data

- MediaCorp is proposing that Sections 23 and 24 be amended to specifically allow organisations to charge fees for requests made by individuals under these two sections.

COMMENTS

1. Definition of “news organization – MediaCorp group companies to be gazetted

1.1 There are 4 companies in the MediaCorp group which carry out “news activities” as defined in the PDPA –

MediaCorp Pte. Ltd.
MediaCorp Press Ltd.
MediaCorp TV Singapore Pte Ltd
MCN International Pte. Ltd.

1.2 MediaCorp is seeking confirmation that the above companies will be gazetted as “news organizations” for the purposes of the PDPA (section 2).

2. Critical impact on filming activities

2.1 Based on the PDPA as currently drafted, filming activities will be severely affected as images of individuals captured in the course of filming activities will come within the definition of “personal data” under the PDPA, regardless of whether such appearance was incidental or otherwise. This will render filming outside of a controlled studio environment impossible.

2.2 Even in a controlled studio environment, programmes where audience members are present during filming, such as game shows, variety programmes etc, will also be affected as audience members are frequently shown on camera.

2.3 This will have a crippling effect on all forms of filming activities, not only for the entire MediaCorp group of companies as this is our core business, but also for the entire film industry in Singapore.

2.4 MediaCorp is therefore seeking amendments to the definition of “personal data” under the PDPA, or alternatively, further exclusions in the Third, Fourth and Fifth Schedules for filming activities.

Impact on filming activities

2.5 Because the current definition of “personal data” in the PDPA is drafted in very broad terms, it will include images of individuals captured in the course of filming activities. Producers will therefore be required to seek consent from each and every such individual for the collection, use and disclosure of their images captured in the programme or film, regardless of whether such images were captured incidentally or otherwise.

2.6 In practical terms, it is impossible for a producer to seek consent from each and every individual as described above. To illustrate how filming activities will be affected, we have set out some examples of filming activities below.

(1) During filming on location for a film or a television drama series, for example a street scene with many pedestrians, a scene in a shopping mall with many shoppers etc, there will be countless images of pedestrians, passersby etc captured on camera incidentally.

- (2) During filming of variety or reality programmes outside of the studios, for example where contestants are required to carry out challenges at various locations in Singapore, food programmes featuring food outlets in public places such as hawker centres, coffeeshops etc, again there will be many images of passersby, diners etc captured on camera incidentally.
- (3) For certain programmes, persons on the street may be approached on an impromptu basis to share personal opinions, comments, or even to participate in games etc. While these persons will be aware that they are being filmed, given the impromptu nature of such filming, it is not possible for producers to seek explicit consent.
- (4) During filming of game shows and variety programmes in the studios and in the presence of audience members, images of the audience members are often shown on camera giving support to the participants or to capture their reactions to the show. All this adds to the entertainment value of the programme, but it is not practically possible to seek explicit consent from each and every audience member.

Crippling effect on film industry

- 2.7 As can be seen from the above examples, if producers are required to comply with the PDPA as currently drafted, it would be impossible to conduct filming activities outside of a controlled studio environment, or even to have audience members present for programmes filmed in the studios. This will greatly affect the creative quality of content produced in Singapore. Producers will be severely restricted in their ability to develop new innovative content and programme formats.
- 2.8 MediaCorp is very concerned as this will have a crippling effect on all forms of filming activities, not only for the MediaCorp group of companies as this is our core business, but for the entire film industry in Singapore. At a time when Singapore is actively promoting and developing the film industry in Singapore and seeking to attract top international film producers to work in Singapore, it will present a huge setback to the film industry here. Producers in Singapore already face significant challenges in producing content to meet the demands of an increasingly sophisticated audience that is able to access a plethora of content from overseas through new media platforms. To impose additional burdens through the introduction of the PDPA will greatly hamper the ability of Singapore productions to compete effectively with international productions.
- 2.9 In view of the above, we would therefore like to propose that the definition of “personal data” be amended to exclude images of persons who are (i) captured incidentally in the course of filming activities, or (ii) aware or has been notified of the fact that he/she is being filmed.
- 2.10 Or alternatively, we would like to propose that the exception for “artistic and literary purposes” be expanded to include filming activities and either (i) such collection/use/disclosure is incidental to the filming, or (ii) the individual is either aware or has been notified of the fact that he is being filmed.
- 2.11 Or alternatively, an additional exception be included in the Third, Fourth and Fifth Schedules to specifically address filming activities.

2.12 It would also be very helpful if MICA could issue specific guidelines or examples to give organisations a better idea of what would be deemed as “artistic or literary purposes” under the Third, Fourth and Fifth Schedules.

3. Section 20 – Limitation of purposes and extent - To satisfy either one requirement instead of both

3.1 We note that section 20 states that the purposes for which an organization may collect, use or disclose personal data must satisfy 2 requirements – (i) it must be purposes which a reasonable person would consider appropriate in the circumstances, AND (ii) the organization must have informed the individual of these purposes.

3.2 We would like to propose that section 20 be amended to remove the word “and” in section 20(a), so that only one of the 2 requirements need to be satisfied, and not both.

3.3 We believe that it is not necessary to satisfy both requirements because: –

(1) If an organization has already informed an individual of the purposes for which it intends to collect, use or disclose his personal data, and such individual has given consent as per section 15 of the PDPA based on the purposes disclosed by the organisation, then the individual should be deemed to have no objections to such purposes.

(2) If notwithstanding that informed consent has already been obtained from the individual, the organization is additionally required to limit the purposes only to those which “a reasonable person would consider appropriate in the circumstances”, it would create uncertainty as organizations would find it difficult to determine what purposes would be deemed reasonable or appropriate in each set of circumstances. This would impose a heavy compliance burden on organisations.

4. Clarification on whether charging of fees is permissible under Sections 23 and 24 for requests to access and correct personal data

4.1 It is not clear from sections 23 and 24 whether organisations are allowed to charge fees for responding to requests under these sections. Although this is implied in section 30(b), it is not expressly stated in sections 23 and 24.

4.2 We would suggest that for the avoidance of doubt, the right for organisations to charge fees should be expressly provided for in sections 23 and 24.

CONCLUSION

1. We hope MICA will take into consideration our various comments as set out above, in particular our concerns with respect to the impact of the PDPA on filming activities in Singapore. We are very much concerned that if these issues are not addressed, the filming industry in Singapore will be very much crippled and no longer able to produce quality content that can compete on the international stage. We believe that is surely not the intent of the PDPA, and would therefore urge MICA to look into and address these concerns.
2. If you should have any queries on our above comments, we would be most happy to assist. Please do not hesitate to contact the following persons:

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