

**BRIEF RESPONSE TO
PUBLIC CONSULTATION ISSUED BY MINISTRY OF INFORMATION,
COMMUNICATIONS AND THE ARTS' PROPOSED PERSONAL DATA
PROTECTION BILL**



By Quotient Consulting (QC) Sdn. Bhd.
Data Diagnosis | Privacy Impact Assessment | Data Protection & Privacy Strategy
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Introduction

QC applauds MICA's consolidated feedback from the public and issued the next call for consultation in relation to the proposed personal data protection bill dated 19 March 2012. This time, QC takes the position to provide 3 brief strands. We have divided these into: Government exclusion; technology-neutral legislation and guidance, guidelines and practice notes.

1. Government exclusion

MICA's stands to exclude the application of the Personal Data Protection Act (PDPA) towards the government is partly rationalised from paragraphs 2.12 to 2.15. Nonetheless, QC views that it's still best for MICA to include the government within the PDPA application or alternatively to review the existing Government's data protection rules (whether it still remains relevant, outdated and needs to be reviewed in keeping abreast with the technological developments).

From the outset, QC views that the 'flexibility' granted to the government in relation to data protection are based on 'different principles and different approaches' that are mosaic. From the inset, QC views that if MICA maintains to exclude the government, it is recommended to briefly tabulate the relevant Government's data protection rules in the PDPA as appendix (for the ease of cross reference and application) and relates how it may be applied.

2. Technology-neutral legislation

In paragraphs 2.23 to 2.25, MICA has briefly put its stance on the concept of data processors or intermediaries. Prior to that, the notion of data controller is also discussed. Whilst the view is commendable, nonetheless, QC intends to highlight that the context of data controller and data processor is very much complex based on the business and technological models. To attempt every single model and complexity is beyond reach and solution in the PDPA would be slightly impractical. In other words, the PDPA might be inclined to being a 'technology-specific' legislation instead of a 'technology-neutral' legislation.

Based on this observation, as a prelude, QC suggests MICA to cautiously appraise the approaches by the European Commission's Article 29 Working Party's independent opinions in relation to such business and technological issues relating to data protection. Bearing in mind that most, and some of the opinions, carry value, nonetheless, it has to be contextualised within Singapore's context. Most importantly, the context of data controller, data processor and intermediaries need to be 'cautiously examined' from the context of technological convergence and development, i.e., radio frequency identification technology, cloud computing and the 'big data' trend. Of these, QC proposed MICA to relook and revisit the Government data protection

rules' application and interaction with PDPA especially when such 'big data' convergence and consolidation takes place in the forthcoming years.

3. Guidance, guidelines and practice notes

Perhaps, the most challenging part for MICA is to issue series of guidance, guidelines and practice notes accompanying the PDPA. In this respect, QC views that it's best to issue these based on the contextual needs of the government to suit and achieve the consumer's data protection implementation. As this takes a considerable period of time (generally, 3 to 5 years), to develop and mature, QC is of the view that such guidance, guidelines and practice notes should consider the sector specific legislation and the Government's data protection rules as well. Such models could be inferred upon the existing data protection authorities of selected European Union member states and countries such as Canada, Australia, New Zealand and Hong Kong Special Administrative Region, People's Republic of China.

In short, with these 3 brief strands, QC fervently hopes MICA will generally consider these high level thoughts towards the passing of PDPA in the distant future.

Respectfully submitted.

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