



SINGAPORE TELECOMMUNICATIONS LIMITED

**SUBMISSION TO THE MINISTRY OF COMMUNICATIONS AND INFORMATION
AND THE PERSONAL DATA PROTECTION COMMISSION**

IN RESPONSE TO THE

**PUBLIC CONSULTATION FOR THE DRAFT PERSONAL DATA PROTECTION
(AMENDMENT) BILL**

DATE OF SUBMISSION: 28 MAY 2020



SINGAPORE TELECOMMUNICATIONS LIMITED

RESPONSE TO THE PUBLIC CONSULTATION FOR THE DRAFT PERSONAL DATA PROTECTION (AMENDMENT) BILL

1. CONTENTS

1.1. This submission is structured as follows:

Section 2 – Summary of major points;

Section 3 – Statement of interest

Section 3 – Comments; and

Section 4 – Conclusion.

2. SUMMARY OF MAJOR POINTS

2.1. Singapore Telecommunications Limited (**Singtel**) is generally supportive of the proposed amendments to the Personal Data Protection Act (**PDPA**) and the Spam Control Act.

2.2. Singtel notes that the Ministry of Communications and Information (**MCI**) and the Personal Data Protection Commission (**PDPC**) has introduced some new concepts and principles to the PDPA, namely Data Portability and Alternative Dispute Resolution. Singtel submits that these have considerable implications and the PDPC should provide further guidelines in relation to these. Furthermore, the PDPC should provide industry with an opportunity to be consulted and provide feedback on any proposed guidelines.

2.3. Singtel also has specific points on various amendments proposed by the MCI and PDPC and we provide more details in the following section.

2.4. In view of the onerous operational and compliance responsibilities placed upon organisations following the introduction of the data porting obligations, Singtel is of the view that a 12-month transitional period for organisations to comply with the Data Porting Obligations would be appropriate. Transitional provisions should be introduced to support this.

3. STATEMENT OF INTEREST

- 3.1. Singtel and its subsidiaries are licensed to provide info-communications services in Singapore. Singtel is committed to the provision of state-of-the-art info-communications technologies and services in Singapore.
- 3.2. Singtel has a comprehensive portfolio of services that includes voice and data services over fixed, wireless and Internet platforms. Singtel services both corporate and residential customers and is committed to bringing the best of global info-communications to its customers in Asia Pacific and beyond.
- 3.3. Singtel welcomes the opportunity to make this submission on the Public Consultation for the Personal Data Protection (Amendment) Bill (**Consultation Paper**) issued by the MCI and PDPC.
- 3.4. Singtel would be pleased to clarify any of the views and comments made in this submission, as appropriate.

4. COMMENTS

Prescribed requirements and Regulations

- 4.1. Within the Personal Data Protection (Amendment) Bill (**PDP Bill**), there are amendments containing prescribed requirements that have not been detailed. For instance, would the information at paragraph 49¹ of the Consultation Paper be prescribed in a set of subsidiary legislation to reflect the proposed amendment to section 2(1) of the PDP Bill on the definition of ‘derived personal data’.
- 4.2. Singtel seeks clarification on whether another round of public consultation will be held for amendments to subsidiary legislation(s) that will be introduced with and/or following the PDP Bill, other than for the Data Portability obligations.

¹ Paragraph 49 states that “derived personal data does not include data that is derived by the organisation using simple sorting nor common mathematical functions like averaging and summation.”

Insertion of Part VIA sections 26A to 26D – Notification of Data Breaches

- 4.3. Organisations require some level of freedom to determine when to notify their customers, and it may not be feasible for the organisation to put on hold notification to affected individuals pending assessment by the PDPC, if any.
- 4.4. Singtel therefore seeks clarification on the operation of sections 26D(1), (2) and (6). It is not clear how the organisation is to proceed if, upon determining a data breach is notifiable, the organisation proceeds to notify the PDPC and affected individuals concurrently (to safeguard customers' interests), and then the PDPC subsequently directs the organisation not to notify affected individuals (based on overriding national security).

Insertion of Part VIB sections 26E to 26H - Data Portability

- 4.5. Singtel submits that at a minimum, a 12-month transitional period for organisations to comply with the new amendments would be appropriate following the issuance of the Regulations to prescribe requirements for the Data Portability Obligations. To comply with the Data Portability Obligations, organisations would need to review the feasibility of integrating data porting requirements into existing systems, implement updates and upgrades to their systems to facilitate data porting and to enable data elements to be stored in a commonly used machine-readable format.
- 4.6. Singtel looks forward to discussions with PDPC, the industry and relevant sector regulators to develop the requirements to be prescribed in the Regulations

Amendment of section 27 – Alternative Dispute Resolution

- 4.7. Singtel suggests that section 27 be more appropriately renamed as "Mediation" instead of "Alternative Dispute Resolution" since the proposed sections 27(1), (3) and (4) refer to mediation schemes.
- 4.8. Singtel seeks clarification that 'direct' and 'directed' as it appears that the existing section 27(2) refers to the exercise of PDPC's power to give directions under existing

section 29. Should, for any reason, mediation not take place or the matter is not amicably resolved through mediation, the matter will be resolved through a direction given under section 29.

- 4.9. We also seek clarification on section 27(2) as the provision could be interpreted as directing the parties to other means of alternative dispute resolution.

Amendment of section 27 – Referrals to mediation

- 4.10. Referrals to mediation should be a last resort measure, i.e. only where the complainant and the organisation are unable to resolve the matter directly should the PDPC exercise its powers under the proposed section 27(1).
- 4.11. In the case of data breaches, Singtel is of the view that mediation is not a suitable means to resolve complaints between the individual and the organisation, especially where the data breach may involve other individuals. In some cases, a data breach may also involve sensitive security matters, such as cybersecurity. The PDPC should therefore either exclude complaints arising from data breaches from the purview of mediation, or limit mediation to only matters which concern a one-to-one relationship between the complainant and the organisation.
- 4.12. Singtel proposes that the following points be considered when the PDPC makes regulations under the proposed section 27(4):
- a. The PDPC should only refer a matter to mediation after a minimum period has passed since the organisation first receives notice of a complaint from an individual (“Complainant”). We propose 3 months as a suitable period;
 - b. Should the PDPC refer a matter to mediation, there should be a minimum notice period of one (1) month before the mediation occurs to allow sufficient time for the organisation and the Complainant to prepare the necessary information for mediation;
 - c. The organisation should not be penalised during the mediation process where it decides not to provide information on issues relating to other confidential matters such as matters concerning security;
 - d. Details and results of the mediation should not be publicised and should be kept strictly confidential between the Complainant and the organisation. This should include prohibiting disclosure on social media; and

- e. As matters may be referred to mediation without consent of the Complainant and the organisation, fees for mediation should be borne by both parties equally.

4.13. Singtel requests that the PDPC consult the industry in relation to the regulations for the mediation scheme.

Amendment of section 29(2A) - Financial penalty

4.14. Singtel submits that the increased financial penalty of up to 10% of an organisation's annual gross turnover in Singapore is too high and a lower capped quantum be considered. As the policy intent is to provide stronger deterrence, other non-monetary penalties should be considered in place of the increased cap to secure compliance and accountability.

4.15. For example, the PDPC could look at a maximum financial penalty at double the current level, ie S\$2 million. Should it decide to use the 10% of AGTO format, it should apply it on the applicable or relevant business revenues involved and not the AGTO of the entire organisation per se.

4.16. In any case, Singtel proposes that the maximum financial penalty be amended to "annual *gross* turnover *in Singapore*" for clarity as described in paragraph 58 of the Consultation Paper. This will limit exposure of multinational companies and firms with overseas branches and head offices, operating within Singapore.

Amendment of section 32A(2) – Preservation of personal data

4.17. The proposed section 32A(1) requires organisations to preserve personal data for the prescribed period of (a) at least 30 calendar days after rejection of the request, or (b) until the individual has exhausted his/her right to apply for reconsideration or appeal, whichever is later. Singtel submits that (b) is not feasible for organisations to track. The organisation would not know if the individual has exhausted his/her right to apply for reconsideration or appeal and may end up having to preserve the data for a much longer indeterminate period. Singtel submits a prescribed fixed period of 90 calendar days is more feasible and provides clarity to both the individual and the organisation.

4.18. Section 32A(2) also requires the preservation of personal data transmitted by a porting organisation pursuant to a data porting request for not less than the prescribed period. As managing storage is a compliance burden, Singtel seeks clarification for the policy rationale behind this provision as section 26G² on porting of applicable data is not subject to appeal. We submit that if the porting organisation has transmitted the applicable data in the data porting request to the receiving organisation in accordance with the prescribed requirements, the porting organisation should not be subjected to additional preservation requirements stated in the proposed section 32A(2).

5. CONCLUSION

5.1. Singtel appreciates the opportunity to contribute to the consultation process on this important area of public policy. Singtel would be pleased to clarify any of the views and comments made in this submission, as appropriate.

² We note that requirements under s.26G(4) have not been prescribed and which may have implications on the policy rationale behind the proposed s.32A(2).