

Please see below our comments for the Public Consultation on Draft Personal Data Protection (PDP) Amendment Bill.

Personal Data Protection (Amendment) Bill 2020 for Online Public Consultation		
	Proposed Amendments	Comments from Bayer
Part A	STRENGTHENING ACCOUNTABILITY	
1	Mandatory data breach notification to Singapore’s Personal Data Protection Commission (the Commission) and affected individuals	
1a	The timeline for notifying the Commission has been tweaked to within three calendar days from the day an organization assesses that a breach is notifiable	This is very similar to many privacy laws including the European Union General Data Protection Act (“EU GDPR”) and we welcome clarity on the timelines. We request that the Commission change this to three business days instead of three calendar days.
1b	Organizations will be required to notify PDPC of a data breach that (i) results in, or is likely to result, in significant harm to the individuals to whom any personal data affected by a data breach relates (the “affected individuals”); ii) categories of personal data which, if compromised in a data breach, will be considered likely to result in significant harm to the individuals. or	Like other regulators in the world we expect that the Commission to publish a <i>whitelist of categories of personal data</i> . This will help organizations to make an assessment on the reporting to the PDPC & the affected individuals.
1c	(iii) is of a significant scale i.e. 500 or more individuals would be an appropriate threshold. Organizations will also be required to notify affected individuals if the data breach is likely to result in significant harm to them.	No comments.
1d	Where a data breach is discovered by a data intermediary (“DI”) that is processing personal data on behalf of and for the purposes of an organization, the DI is required to notify the organization without undue delay from the time it has credible grounds to believe that a data breach has occurred.	We welcome the inclusion of an DI to be included in the data breach notification to the organization.

2	<p>PDPC will also strengthen the accountability of individuals who handle or have access to personal data (e.g. employment or engagement by an organization). Individuals found guilty of each offence will be liable on conviction to a fine not exceeding S\$5,000 or to imprisonment for a term not exceeding two years, or both.</p> <p>The individuals will likely face criminal penalties only when:</p> <p>a) Knowing or reckless unauthorized disclosure of personal data;</p> <p>b) Knowing or reckless unauthorized use of personal data for a wrongful gain or a wrongful loss to any person; and</p> <p>c) Knowing or reckless unauthorized re-identification of anonymized data.</p>	<p>While we welcome this change, we would like to seek clarity on the impacted individual(s). As any organization would do, Bayer could have an internal investigation post a data breach to find out the causes and remedies. We would like to seek clarity on the impacted individual(s) i.e. is it the staff liable or is the management.</p>
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Part B	ENABLING MEANINGFUL CONSENT	
1	DEEMED CONSENT	
1a	<p>Deemed Consent by contractual necessity relates to situations where the collection, use and disclosure of personal data is reasonably necessary to conclude or perform a contract or transaction</p>	<p>We welcome this change and would request the PDPC to set out clear guidelines on the proposed amendments</p>
1b	<p>Deemed consent by notification relates to situations where individuals have been notified of the purpose of the data processing and given an opportunity to opt out but have not done so</p>	<p>We welcome this change and would request the PDPC to set out clear guidelines on the proposed amendments</p>
2	NEW EXCEPTIONS TO CONSNET	
2a	<p>Legitimate interests: Subject to the fulfilment of certain conditions, consent will not be required to collect, use or disclose personal data where it is in the legitimate interests of the organization, and the benefit to the public (or any section thereof) is greater than any adverse effect on the individual. This could include, for instance, detecting or preventing illegal activities or threats to physical safety and security and ensuring IT and network security.</p>	<p>We welcome this change in the law and to use personal data without consent. We would request the Commission to support the organizations with a good practice document or examples on legitimate interest</p>

2b	<p>Business improvement: Organizations may use personal data without consent for the following business improvement purposes: (i) operational efficiency and service improvements; (ii) developing or enhancing products/services; and (iii) knowing the organization's customers</p>	We welcome this change in the law and for processing of personal data for business improvement. We would request the Commission to support the organizations with a good practice document or examples on legitimate interest
2c	<p>Revisions for research exception To permit organizations' use and disclosure of personal data without consent for research purposes, while ensuring appropriate accountability measures are in place. The research exception will be revised to introduce conditions such that: a) The use of personal data or the results of the research will not have an adverse effect on individuals; and b) Results of the research will not be published in a form which identifies any individual.</p>	We welcome this revision.
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PART C	DATA PORTABILITY	
	<p>Data portability allows individuals to request an organization to transmit a copy of their personal data to another organization. Under the Data Portability Obligation, an organization must, at the request of an individual, transmit his/her personal data that is in the organization's possession or under its control, to another organization in a commonly used machine-readable format.</p>	We will await the prescribed requirements and work with the PDPC.
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PART E	IMPROVED CONTROLS FOR UNSOLICITED COMMERCIAL MESSAGE	
1	<p>The Spam Control Act will cover the bulk sending of commercial text messages to instant messaging ("IM") accounts. The SCA will be amended to cover messages sent to IM accounts via IM platforms, including platforms such as Telegram and WeChat.</p>	We welcome this change in the SCA.
2	<p>Third party checkers will be required to communicate accurate DNC register results to the organizations on behalf of which they are checking the DNC register, and the checkers will be liable for DNC infringements resulting from any erroneous information provided by them.</p>	We welcome this change to include third party in the DNC checks