Personal Data Protection Regime
Singapore

21 January 2014
1 Overview
In Brief

- **Singapore’s Personal Data Protection Act 2012 (PDPA)** was enacted in Nov 2012 and parts relating to the administration of the Act came into operation on 2 Jan 2013.

- **Do Not Call (DNC) provisions** came into operation on 2 Jan 2014 and **Data Protection (DP) provisions** will come into operation by 2 Jul 2014 – giving organisations time to prepare.

- **Personal Data Protection Commission (PDPC)** was formed on 2 Jan 2013 - to administer and enforce the PDPA.

- **Data Protection Advisory Committee (DPAC)** comprising members from a wider segment of society formed on 2 Jan 2013 -to advise the PDPC.
Objectives of the Data Protection Regime

**Individual Interest**
- Put in safeguards to protect individuals’ data from misuse by regulating proper management of personal data
- Give individuals greater control over their personal data

**Economic Interest**
- Strengthen position as trusted hub and choice location for data hosting and processing activities - enhance Singapore’s overall competitiveness
- Facilitate cross-border transfer

Baseline Data Protection Requirements
Approach for the Data Protection Regime

- **Protect individuals’ personal data**, while ensuring national interest, govt functions & public service delivery not unduly impeded

- **Help businesses gain consumer confidence** through proper handling of personal data

- **Keep compliance costs manageable**, sufficient to address economic objectives

- **Take into account international standards**, to enhance Singapore’s status as trusted hub for data mgmt & processing activities
Overview of Data Protection Regime

**Technology-neutral**
- Individuals to be aware and have consented to data activities
  - Notification Obligation
- Consent Obligation

**Principles-based**
- Data activities limited by consent and purpose
  - Purpose Limitation Obligation (Limiting Collection, Use, Disclosure)
- Organisations’ obligations to care for personal data
  - Accuracy Obligation
  - Protection Obligation
  - Retention Limitation Obligation
  - Transfer Limitation Obligation
- Organisations’ accountability to individuals
  - Openness Obligation (Accountability and Challenging Compliance)
  - Access and Correction Obligation

**Complaints-based Regime**
Overview of Organisations Covered

Organisations engaged in data activities within Singapore

Data Intermediaries (Only Protection and Retention Limitation Obligations)

Public agencies and agents

Individuals acting in personal or domestic capacity or as an employee

Organisations engaged in data activities within Singapore

Relevant Sectoral Legislation

Personal Data Protection Act

Internal Govt Rules

Other Relevant Legislation

Common Law

Applicable Frameworks

©2013 PDPC Singapore All Rights Reserved
Key Features of the PDPA
Definition
“Personal data” refers to data about an individual who can be identified from that data; or from that data & other info that the organisation has or is likely to have access.

Covers electronic & non-electronic data;
Focuses on protection of personal data, regardless of whether data is true or false

Personal Data of Deceased Individuals
- Only disclosure & safeguarding rules apply
- Protection for up to 10 years after death
Business Contact Information (BCI)

**Definition**

“*business contact information*” is defined in the PDPA as “an individual’s name, position name or title, business telephone number, business address, business electronic mail address or business fax number and any other similar information about the individual, not provided by the individual solely for his personal purposes”.

The PDPA does not cover BCI.
**Definition**

“organisation” is defined in the PDPA as including “any individual, company, association or body of persons, corporate or incorporated, whether or not —
(a) formed or recognised under the law of Singapore; or
(b) resident, or having an office or a place of business, in Singapore;”

---

**The PDPA does not cover:**
(a) Any individual acting in a personal or domestic capacity
(b) Any employee acting in the course of his employment with an organisation
(c) Any public agency or an organisation in the course of acting on behalf of a public agency in relation to the collection, use or disclosure of the personal data.
Definition
“data intermediary” is defined in the PDPA as “an organisation which processes personal data on behalf of another organisation but does not include an employee of that other organisation”.

Processing is the carrying out of any operation or set of operations in relation to the personal data, such as:
- recording
- holding
- organisation
- adaptation or alteration
- Retrieval
- Combination
- Transmission
- erasure
- destruction
Only the Protection Obligation and Retention Limitation Obligation apply in relation to the processing of personal data by a DI –
• on behalf and for the purposes of another organisation,
• pursuant to a contract which is evidenced or made in writing.

The other organisation has the same obligations under the PDPA in respect of personal data that is processed on its behalf and for its purposes by a DI as if the personal data were processed by the organisation itself.
DNC Registry

Included in scope of DNC

Covered:
• B2C marketing messages, e.g.
  • offer to supply, advertise or promote (suppliers of) goods or services;
  • supply/advertise/promote land, interests in land, business/investment opportunities, etc.

Not included in scope

Not covered:
• B2B marketing
• Personal calls & SMSes
• Market research / surveys
• Messages by public agencies for non-commercial programmes

©2013 PDPC Singapore
All Rights Reserved
**DNC Registry**

---

**Included in scope of DNC**
- Voice calls
- SMS / MMS / Texts
- Faxes

**Not included in scope**
- Messages that can be sent **without use of phone numbers** e.g. cell-broadcast

---

**Sent to Singapore Phone Numbers:**
- Business number registration allowed

---

**Organisations’ key obligations:**
- check against DNC registry within 30 days before doing marketing (**60 days in the first 6 months**) unless they have **clear and unambiguous consent in evidential form**;
- display their ID, contact info and (for phone calls) originating number.
Individual registers phone number with DNC Registry

- Free of charge
- Access to device
- Register via
  - Online via DNC Registry website
  - SMS
  - IVRS

Number is added to DNC Register(s)

- Three separate registers:
  - Voice calls
  - Text messages
  - Fax messages
- 60/30 days before it is effective

Number remains in DNC register(s) unless Individual deregisters or terminates service

- Registration does not expire
- DNC Registry purges terminated phone numbers
DNC Operational Rules

Org apply for an account

- Need to apply for a main account at DNC Registry website
- Can apply for sub accounts
- Main account gets free credits annually
- Pay a fee for each account

Orgs must submit their lists of numbers to DNC

- Responsibility lies with the org which sends the message, causes the message to be sent and authorises the sending of the message
- Tiered fees payable
- 2 functions
  - Small Number Lookup (Up to 10 numbers)
  - Bulk Filtering (As many numbers as required)

DNC Registry checks through the lists

- Clear & unambiguous consent by individual overrides registration with DNC Registry
- Small Number Lookup results returned immediately online
- Bulk Filtering results will be returned within 24 hrs
Exemption Order in Brief

Organisations **only exempt from duty to check the relevant DNC Register** (Section 43(1)) where:

- **Current ongoing relationship** with recipient
  - Past relationships or one-off transactions not included
- **Message relates to subject of ongoing relationship**
  - Unrelated messages not exempted
- **Text or Fax message** only
  - Does not apply to voice calls

Other conditions:

- **Opt out facility** provided in the message
  - Same mode as message (i.e. by SMS or fax), no additional charges
  - Once opt out, NO further exempt message may be sent to the same number after 30 days
- Has not withdrawn consent for or indicated that do not consent to the sending of any specified message
Ongoing Relationship – What it is or Not

- Ongoing relationship – examples:
  - Membership
  - Subscription

- Not ongoing relationship: one-time transactions
  - Individual calls salesperson to enquire about a property
  - Individual visits a showflat
  - Individual made an appointment/reservation and left his number
Message Related to Subject of Ongoing Relationship – Examples

• Telco reminds you to top up pre-paid card, and informs you of special plans (e.g. plan with cheaper IDD to certain countries, etc)

• Credit card company informing you if you use your credit card at a department store, you can enjoy additional discounts.

• The credit card company **CANNOT** rely on this exemption to notify you of a launch of property development (this is unrelated to the service they provide you).
With the Exemption

Generally:

• Before: 2 options for consumers with DNC Registry
  – Do not register = any specified message
  – Register = only specified messages for which requisite consent given

• After: 3 options for consumers with DNC Registry
  – Do not register = any specified message
  – Register = only exempt messages and specified messages for which requisite consent given
  – Register + opt out / withdrawn or indicated do not consent to any specified message = no specified messages

Note: DP Provisions will apply concurrently from 2 July 2014
## Penalty and Enforcement Regime

### Personal Data Protection Commission

#### DP

- **Powers to investigate, issue directions etc**

- Financial penalty per contravention up to $1m

- Individuals can separately seek redress via civil proceedings

- Provision for reconsideration request before appeal

- Independent Appeal Committee to hear appeals; further appeals to the courts

### DNC

- Fine per contravention capped at $10,000

- Composition: capped at $1,000
Considerations for your Organisation
New rules apply to collection activities after the law is in effect

Existing PD can be used for reasonable existing uses without fresh consent
Consent must be obtained for new uses and new PD

Orgs must obtain consent for disclosure, unless consent has been obtained previously

New rules apply to all data

• Law will come into effect from 2 Jul 2014
• DNC Registry will be set up on 2 Jan 2014
Possible Next Steps

18 months transition period (PDPA)

12 months transition period (DNC)

PDPA gazetted
(Dec 2012)

DNC comes into effect
(2 Jan 2014)

Rest of PDPA
comes into effect
(2 Jul 2014)

Issue of guidelines & regulations

1. Take stock
- Understand your organisation’s personal data inventory

2. Review policies and processes
- Appoint a Data Protection Officer
- Implement Data Protection Policy
Help for Organisations

Understanding the PDPA

Building Capabilities

Seeking Advice/Guidance

PDPA Briefing

DNC Briefing

PDP Workshop

Informal guidance

Resources on www.pdpc.gov.sg:

Overview of the Act
FAQs
Help for Organisations

Business Checklist
Advisory Guidelines
Proposed Regulations
Help for Organisations

1. PDPA Briefing
   1-2 hour briefing which will includes a presentation and Q&A session to provide organisations an overview of the PDPA.

2. Do Not Call (DNC) Industry Briefing
   1-2 hour briefing to provide organisations an overview of the Do Not Call operational rules.

3. Personal Data Protection Workshop
   1-day workshop to deepen understanding of the key concepts and obligations of organisation under the PDPA and to attain a practical guide on getting started with the Act.

PDPC Website : www.pdpc.gov.sg
Q&A Session
Thank You

www.pdpc.gov.sg

No part of these slides may be transmitted or reproduced, in any form or by any means, without the prior written permission of the PDPC