

## Road to personal data protection

By Ivan Png

THE Ministry of Information, Communications and the Arts (Mica) has opened consultation on a law to protect consumer data. As far back as 1990, a government-appointed committee, chaired by Associate Professor Chin Tet Yung of the National University of Singapore's (NUS) Faculty of Law, reported on a privacy law.

In 2006, then Minister Lee Boon Yang, in Parliament, accepted the need to regulate privacy. He said that the Government had been studying the issue and had appointed an inter-ministerial committee to work on a privacy law.

Five years on, the Government has now completed its work. Mica's consultation paper suggests the new law will comprise two parts: one for protection of data, while the other establishes a Do-Not-Call Registry.

The privacy of personal data is an issue that continually crops up in Singapore. In 2002, national serviceman Dennis Tan complained that the Ministry of Defence had passed his personal data to the Social Development Unit. Just last month, NUS graduates were appalled to be billed for 'pre-approved' Standard Chartered Bank Affinity credit cards that they did not apply for and did not agree to.

But privacy and data protection is a business issue as well.

Governments worldwide have recognised the need to protect consumer data. The OECD grouping of developed economies published privacy guidelines in 1980. In 1995, the European Union promulgated the Data Protection Directive. Apec (a group of Asia-Pacific economies to which Singapore belongs) agreed to its privacy framework in 2005.

The OECD Guidelines and European Directive regulate the transfer of personal information. It is important that Singapore has an acceptable framework for data protection, for Singapore service providers competing to win outsourcing business from European and other countries.

If Singapore does not comply with the OECD Guidelines and European Directive, then it is excluding itself from outsourcing of work involving personal data.

So it is about time that Singapore enacted a law to protect consumer data.

However, Mica proposes to exempt the Government from the new law, on the ground that 'public sector rules accord similar levels of protection for personal data as the proposed DP (data protection) law'.

Given the multiple episodes that have hit the headlines, Mica's blanket assertion does not seem credible. Ask NUS graduate Kate Tan, who was billed for an unsolicited credit card.

Mica cites Canada as excluding the government from the Personal Information Protection and Electronic Documents Act. However, Canada has another law - the Privacy Act - that specifically regulates the government's collection and use of personal information.

So, if the Singapore Government proposes to exempt itself from the data protection law, it should enact a companion law to regulate itself.

Alternatively, Singapore should follow the approach of Australia and Hong Kong. Their privacy and data protection laws bind both the public and private sectors.

The second prong of the new law is to set up a Do-Not-Call Registry. This is an excellent consumer

initiative that won the US government plaudits from all sides of the political spectrum, consumers and businesses.

Focusing on telemarketing, I have estimated that such registries gave each American household a benefit of between US\$3 and US\$8 (S\$4 and S\$10) a year. This estimate was based on the registrations of American households for state-level do-not-call registries and the fees paid.

This sounds like a modest amount. But it struck a chord, with American consumers registering over 10 million telephone numbers in the first two days of the registration.

Almost predictably, Singapore direct marketers are complaining that the Do-Not-Call Registry would raise their costs. But, they should learn from the experience of their American counterparts. The Direct Marketing Association concluded that the consumers who registered with 'do not call' were those who never buy from telemarketers and those who made relatively small purchases.

The registry can thus help direct marketers by screening out consumers who are not interested in their offers.

One big issue with Mica's plan is its exclusion of e-mail from the registry as 'unsolicited e-mail can be mitigated through e-mail filters, and cause less of a nuisance to delete'.

Currently, the Spam Control Act regulates unsolicited e-mail. This Act is notable for non-compliance - as any Singaporean knows. The reason is that the law provides only for civil action and does not require government enforcement against violators.

I once complained to the Infocomm Development Authority (IDA) about a particular spammer. IDA advised me to sue the spammer. Indeed. So, anyone bothered by spam must individually go to court to sue the spammers. How likely is that?

Mica should review its current stance, and include e-mail within the scope of the registry.

Once the law comes into effect, Singaporeans can look forward to being protected from unauthorised use of their personal data and evenings free from telemarketing calls.

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