26 December 2013

Factsheet

ADVISORY GUIDELINES ON SELECTED ISSUES RELATING TO THE DO NOT CALL PROVISIONS

The Personal Data Protection Act 2012 (the "PDPA") establishes a general data protection law in Singapore which governs the collection, use and disclosure of individuals' personal data by organisations. The Do Not Call ("DNC") Provisions under the PDPA, which are discussed in these newly issued Advisory Guidelines, will come fully into effect on 2nd January 2014.

The Advisory Guidelines provide a detailed explanation of the DNC Provisions, with illustrations on how they may apply in different scenarios. For organisations, the Advisory Guidelines aim to provide useful reference points for the review and implementation of data protection processes to comply with the PDPA.

Key issues covered in the guidelines include:

(1) Definition of a **"specified message" and the scope of exclusions** for messages relating to surveys, customer service, employment opportunities, or charitable causes

(2) **Exemption from the requirement to check the DNC Registry for organisations** sending text or fax messages to a Singapore telephone number when the messages are related to an ongoing relationship between the organisations and the user or subscriber (e.g. an on-going membership or subscription relationship) of the Singapore telephone number, provided that the messages contain an opt-out facility

(3) Requirements for obtaining **clear and unambiguous consent** (e.g. the Personal Data Protection Commission's position in relation to situations of recycled and wrong telephone numbers and the methods for obtaining consent)

(4) Requirements for telemarketing messages to contain **identification and contact information** so that the recipient can readily contact the sender

These guidelines should be read in conjunction with the Advisory Guidelines on Key Concepts ("Key Concepts Guidelines") and other relevant guidelines issued by the Commission[1] which were issued in September 2013.

Factsheet

PERSONAL DATA PROTECTION (EXEMPTION) ORDER 2013

The Personal Data Protection Commission ("PDPC"), with the approval of the Minister of Communications and Information, will be issuing an Exemption Order[2] for certain specified messages under the Personal Data Protection Act 2012 (the "PDPA").

Summary of the Exemption Order

This Exemption Order will allow organisations which have an ongoing relationship with a subscriber or user of a Singapore telephone number to send certain specified messages (known as "exempt messages") to that Singapore telephone number without checking against the DNC Registry. Exempt messages can only be sent by text or fax. Voice calls will not be considered as exempt messages.

An exempt message is one that is related to the subject of the ongoing relationship between the organisation and the user or subscriber of the Singapore telephone number. Examples of such messages include:

	Ongoing relationship	Exempt messages
1.	Recipient is an existing holder of ABC credit card	"Sign up for a new credit card XYZ and receive an introductory gift." "Sign up for ABC cardholder's rewards programme and receive information about rewards redemption offers!"
2.	Recipient holds a life insurance policy	"Sign up for an investment-linked life insurance plan."

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[1] Guidelines issued by the Commission are available at http://www.pdpc.gov.sg/resources/advisory-guidelines.

[2] Section 62 provides that the Commission may, with the approval of the Minister, by order published in the Gazette, exempt any person or organisation or any class of persons or organisations from all or any of the provisions of the PDPA, subject to such terms or conditions as may be specified in the order.

		"Sign up for critical illness coverage on your existing policy."
3.	Recipient is an existing subscriber to ABC Magazine	(XYZ Magazine and ABC Magazine are fashion magazines.) "Enjoy 20% off subscription rates to XYZ Magazine." "Get the ABC 2015 calendar, featuring the most popular cover pages of ABC Magazine."
4.	Recipient has an existing home loan	"Re-finance your home loan now and receive free fire insurance for one year." "Attractive interest rates for home renovation loans!"
5.	Recipient is an existing home fixed-line broadband service subscriber	"Enjoy faster speeds with fibre broadband at only $X a month"
6.	Recipient is an existing member of a rewards programme	"All rewards programme members get 10% off Service ABC." "Use your membership rewards points to redeem vouchers at organisation ABC."
7.	Recipient is an existing member of a club or society	"Course for all society members on improving interview and communication skills. Sign up now." "Members enjoy 10% discount at all F&B outlets in the club. Sign up now."
8.	Recipient has an existing arrangement to regularly donate to a charity	"Buy tickets to our charity's fund raising event."

Opt-out Facility

Each exempt message must contain an opt-out facility that the recipient may use to opt out from the sending of exempt messages by the organisation to that Singapore telephone number. The opt-out facility may be provided via a Singapore telephone number or short code (in the case of a specified text message), or a facsimile number (in the case of a specified fax message).

In addition, the exempt message has to contain a statement to the effect that the recipient may use the telephone number/short code/facsimile number provided in the exempt message to opt out, or a statement to similar effect. When an individual opts out, that organisation can no longer rely on the exemption and must stop sending such exempt messages to that Singapore telephone number 30 days after the day the individual opts out.