



1 April 2013

Chairman
Personal Data Protection Commission
Singapore

Dear Sir,

**Symantec Submission to the Proposed Advisory Guidelines on Key Concepts in the
Personal Data Protection Act
By the Personal Data Protection Commission, Singapore**

Symantec is a global leader in providing security, storage and systems management solutions to help our customers – from consumers and small businesses to the largest global organizations – secure and manage their information and identities independent of device. Symantec does this by bringing together leading software and cloud solutions that work seamlessly across multiple platforms, giving customers the freedom to use the devices of their choice and to access, store and transmit information anytime, anywhere.

Globally, Symantec has also actively worked with a number of Governments on data privacy legislations, with the following notable examples:

- The ePrivacy directive in the EU, and
- The ongoing discussion on the review of the General Data Protection Directive

Symantec welcomes the publication of the Proposed Positions for Regulations under the Personal Data Protection Act by the Personal Data Protection Commission of Singapore.

Symantec would like to thank the Commission for the opportunity to provide feedback on the proposed Advisory Guidelines. We would be happy to provide more information or any clarifications needed on any of the points raised in this paper. Please direct these queries to the undersigned.

Best Regards,

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Summary

The recently enacted Personal Data Protection Act (PDPA) has given Singapore a comprehensive data privacy framework which balances the rights of individuals and the needs of businesses to be able to collect and process data. This is timely in light of a rapidly transforming industry that is harnessing data to power a digital economy. However, it is also apparent that there exist some gaps in the legislation. The Proposed Positions for Regulations continue in this vein and brings some clarity to the Act itself. However, it is Symantec's opinion that given the nascent area of Data Protection in Singapore, further guidance in some areas, namely that of Binding Corporate Rules and the responsibility of Data Intermediaries, should be included, to ensure that companies enacting contractual agreements are better advised in terms of legal requirements.

Binding Corporate Rules

In general, Symantec supports the use of Binding Corporate Rules (BCR) in governing the transfer of personal data outside Singapore within an organisation. It is a flexible approach that recognizes that companies operate increasingly on a global level, where it is important for collaboration across borders which sometimes do result in the transfer of personal data out of and into Singapore.

However, in the adoption of BCR, it is also important to note the difference in implementation between what is proposed in Singapore and in other jurisdictions, for example the European Union (EU). With the EU, where BCR are used, the rules itself would need to be approved by an appropriate Data Protection authority. While this creates administrative burdens on the DP authorities, it ensures a minimum level of adequacy in a company's BCR. While Symantec is not advocating for a similar certification exercise in Singapore, and Symantec further recognizes that the Singapore entity is ultimately responsible to the PDPC for any breaches in privacy, Symantec would suggest that PDPC could work with private sector to provide guidance to companies creating BCR.

Symantec recognizes that many of the multinational companies in Singapore, already have robust BCRs that have been judged as adequate in other stricter DP regimes, but it is also important to note that an increasing number of Singapore companies who collect, and process data, have foreign operations where data flow between countries would occur. These companies would benefit from guidance in terms of building a robust BCR. Having this in place and the appropriate processes and systems built around it would be infinitely more helpful than an overhaul of the company's BCR at a later stage.



Data Intermediaries & Data Transfers out of Singapore

With increasing adoption of Cloud Computing by organisations, it is important that the responsibilities of cloud computing service providers (which would largely be classified as data intermediaries) are clarified vis a vis data transfers out of Singapore. It is encouraging to note that the Act does not impose an obligation on data intermediaries in terms of the transfer of data outside of Singapore, a routine matter for most Cloud Computing service providers, but given that the obligation is placed on the organisation, they need to be aware of the key requirements in terms of what needs to be covered in their contractual clauses between the organisation and their cloud computing provider.

It is however important to keep in mind that the cloud computing business model requires the service provider to be able to switch quickly between multiple sites and move data seamlessly between data centres, for backup and recovery purposes. Thus, overly restrictive requirements in contracting terms (especially with regards to data transfer) between the organisation and service providers may inhibit the growth of cloud computing adoption and end up being a detriment to data transfers. With this in mind, it might be useful to propose, in an advisory manner, key points that organisations should look out for in contract with service providers, that would still allow them to meet their obligations under PDPA.

Conclusion

It is encouraging that the proposed Regulations continue in the same vein of the legislation in facilitating the transfer of data across borders. However, it is also important to note that due to the nascent nature of data protection in Singapore, guidance to organisations be made available in an advisory manner, without being prescriptive, as that may unnecessarily inhibit the original intentions of the PDPA.