

WFA submission

MCI and PDPC: Personal Data Protection (Amendment) Bill 2020

About WFA

1. **The World Federation of Advertisers (WFA)** is the voice of marketers worldwide, representing 90% of global marketing communications spend – over €1200 billion per year – through a unique, global network of the [world's biggest markets](#) and [biggest marketers](#). WFA champions responsible and effective marketing communications worldwide.
2. We represent over 100 global brands and 60 national advertiser associations worldwide. This includes national advertiser associations in Singapore, Malaysia, Japan and China.
3. Our work with brands focuses on creating better interaction between brands and consumers in a digital world. This includes looking at ways to go beyond compliance to give consumers transparency, choice and control about how their data is used by brands in a marketing context. This is both a societal and economic issue for brands: consumers will only trust brands which use their data in a responsible way.
4. We would welcome the opportunity to discuss any of the issues raised in this submission. Please contact our APAC Director, Ranji David (r.david@wfanet.org), 5 Shenton Way, #10-01, Singapore (068808).

Introduction

5. WFA welcomes this opportunity to contribute to the Ministry of Communications and Information (MCI) and the Personal Data Protection Commission (PDPC) consultation on the proposed amendments to the Personal Data Protection Act (PDPA) and related amendments to the Spam Control Act (SCA). This consultation offers an opportunity to ensure that the MCI/PDPC are aware of issues that are relevant to global advertisers, particularly when it comes to the proposals for an enhanced framework for the collection, use and disclosure of personal data.
6. WFA supports the PDPA's approach of upholding principles designed to give consumers transparency, control and meaningful choice over how and when their data is shared. In particular, we support maintaining the PDPA's risk- and accountability-based approach which provides companies with sufficient flexibility to process data based on the likely impact on individuals' interests.

Enhanced framework for collection, use and disclosure of personal data

7. WFA welcomes the MCI/PDPC's efforts to enhance the framework for the collection, use and disclosure of personal data under the PDPA to ensure meaningful consent. In particular, we welcome the introduction of the 'legitimate interests' and 'business improvement' exceptions, as these are consistent with a risk-based approach to privacy regulation.
8. We believe that, if there is sufficient clarity in the final PDPA text, these exceptions can contribute to enabling advertisers to use data in a positive way to create a better, more sustainable online advertising market.
9. First, the PDPA should ensure flexibility to enable the collection of technical data to detect ad fraud and the presence of harmful content. WFA is committed to prevent criminals and actors



intent on harming society from profiting from digital advertising. Full transparency throughout the digital supply chain is crucial in order to do this. However, restrictions on data collection could have an unintended negative impact on some of these efforts. We believe that preventing bad actors from profiting from digital advertising is beneficial to the public and therefore compatible with the 'legitimate interests' exception.

10. Second, the PDPA should help maintain and encourage diversity and competition in the digital advertising ecosystem. This includes ensuring that advertisers are able to measure and independently verify the effectiveness and performance of their ads across different digital media platforms in a privacy friendly way. We believe that measuring the efficiency of advertising is compatible with the 'business improvement' exception, in particular with regards to developing or enhancing products/services, as well as operational efficiency and service improvement.
11. Third, the PDPA should ensure flexibility to enable the proportionate collection of data which is necessary to improve the online consumer experience of advertising. Advertising bombardment is one of the biggest reasons why consumers criticise online advertising. Common issues include repetition (seeing the same ad too many times), obtrusiveness (getting in the way of their online experience), volume (seeing too many ads) and irrelevance (seeing too many ads that are not relevant). Access to data is needed to successfully reduce annoyance for consumers: if the ecosystem cannot track how ads are being delivered and displayed, attempts to restrict frequency and volume, and improve relevance, will be futile. We believe that improving consumers' experience of digital advertising is compatible with the 'business improvement' exception, in particular with regards to operational efficiency and service improvement.
12. Furthermore, as well as fitting with the aforementioned exceptions, we believe that the data collection necessary for the activities listed above would not go beyond that which a reasonable person would consider appropriate in the circumstances (in line with PDPA 18(a)) and would not result in decisions likely to have adverse effects on individuals.

Increased financial penalty cap

13. WFA would also welcome further clarity in the amendment to section 29 of the PDPA that the maximum financial penalty of 10% of the annual turnover applies to an organisation's annual gross turnover in Singapore, not worldwide – as specified in paragraph 58 of the public consultation paper issued by the Ministry of Communications and Information and the Personal Data Protection Commission.

Conclusion

14. We therefore call for the PDPA and its enforcement to ensure sufficient flexibility to enable the collection of independently audited measurement data necessary to:
 - Prevent criminals and other bad actors from profiting from digital advertising. This includes identifying suspicious activity which could signal ad fraud and preventing ads from appearing next to harmful content.
 - Measure the effectiveness of advertising. This includes aggregated data used to enable advertisers to know how their ads are performing across different platforms (e.g. how many times it was viewed, for how long etc.) and web analytics.
 - Improve the online consumer experience of advertising. This includes data used to limit frequency, volume, annoyance and improve relevance.



15. Although we believe that these activities are consistent with the ‘legitimate interests’ and ‘business improvement’ exceptions, we would welcome additional clarity in this regard, in the interest of legal certainty.
16. We would welcome the opportunity to discuss any of the issues raised in this submission. Please contact our APAC Director, Ranji David (r.david@wfanet.org).

World Federation of Advertisers
Singapore
28 May 2020