



## **Personal Data Protection Act 2012 (PDPA) – Advisory Guidelines on requiring consent for marketing purposes (8 May 2015)**

### **A. Background**

Coming into force on 2 January 2013, Personal Data Protection Act 2012 (“**PDPA**”) has established a data protection law that comprises various rules governing the collection, disclosure and care of personal data. It recognises both the rights of individuals to protect their personal data, including rights of access and correction, and the needs of organisations to collect, use or disclose personal data for legitimate and reasonable purposes.

Since then, PDPA has been updated regularly where new regulations have come into effect. These regulations covered areas such as Composition of Offences, Do Not Call Registry and Enforcement. This article aims to introduce the most recent advisory guidelines on requiring consent for marketing purposes (“**Guidelines**”).

### **B. Overview**

These guidelines focus on situations where organisations may wish to obtain an individual’s consent for:

- (a) sending marketing materials to the individual (whether by post, text, voice call, e-mail or otherwise); or
- (b) using the individual’s personal data for any other marketing activities by the organisation (e.g. publishing customers’ personal data in publicity materials).

For the ease of reference within this article, the purposes listed in the previous sentence in (a) and (b) above will be referred to as “marketing purposes”.

Further Links and Resources:-

### **C. Requiring consent for marketing purposes**

When organisations wish to obtain consent for marketing purposes, organizations should generally provide the individuals the option whether or not to give consent to the marketing purposes, and should not deny provision of the item to the individuals simply because they do not give consent.

However, the Personal Data Protection Commission can allow certain situations where organisations can require consent for marketing purposes by assessing whether it is reasonable to require consent from the individual for marketing purposes based on the facts of the particular situation. Such factors would include:-

- (a) the amount and type of personal data for which consent is required;
- (b) the purpose of the collection, use or disclosure of the personal data for which consent is required;
- (c) the nature of the item being provided, including whether there is any benefit tied to the item; and
- (d) what a reasonable person would consider appropriate in the circumstances, including the personal data and purpose for which consent may be required in light of the nature of the item being provided.

The general principle seen throughout the common scenarios provided in the advisory guidelines illustrates that an organisation is permitted to require a potential customer to consent to the collection, use and disclosure of his personal data only if it is reasonably required to provide the service.

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1. Personal Data Protection Commission Singapore website < <https://www.pdpc.gov.sg/legislation-and-guidelines/overview>>
2. Personal Data Protection Commission Singapore website main advisory guidelines <<https://www.pdpc.gov.sg/legislation-and-guidelines/advisory-guidelines/main-advisory-guidelines>>

*Should you have any queries as to how this article may affect your organisation or require further information, please do not hesitate to email us.*



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*This article was prepared with the kind assistance of Mr. Wilson Toh, a trainee at Gateway Law Corporation. This article is intended to be a brief summary of the above Advisory Guidelines, and is not intended to be comprehensive nor should it be construed as legal advice.*