

Research on the Introduction of Privacy Protection Management Mechanisms and Data Value-Added Services into Communications Enterprises in 2020



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I. Introduction

The global economy is shifting away from traditional economic models towards an emerging digital era as technology advancement and new applications are introduced. The rapidly changing digital age has led to a gradual transformation in the way digital technology is used in the industry, thereby driving the overall growth of the global digital economy. The digital economy is driven by "data," and how data is used, its purpose, risks and regulation are all inextricably intertwined with industrial development and application, as is the case for the communications industry.

As such, while the free circulation of data has become central to international free trade and economic operations, it is not only conducive to the promotion of transnational business and economic and trade interactions, but also fraught with worry and concern over how to ensure the protection and security of personal data and privacy. As a result, the issue of how to adapt the data risk control mechanism and related complementary measures so that they can be applied to the industry and comply with regulatory requirements has become a global reality that must be actively addressed. As far as Taiwan is concerned, when considering how to cope with industry needs, there is a pressing need to strike a balance between personal data and international regulatory requirements, and to expedite the legitimate utilization of personal data protection and data value-added service in the sector in an effort to facilitate the development of the digital economy.

II. Recommendations on Data Governance and Innovative

Application Planning. According to the aforementioned international data strategies and strategies for innovative data applications, the development of the data economy as a whole is driven by the formulation of overall superior policies, with a view to fully utilizing the potential value of data and building a vibrant ecosystem suited for innovative data applications. With the outbreak of COVID-19 this year, the application of data will be crucial in the post-pandemic era. It is also observed that data applications are gradually moving towards cross-boundary sharing and reuse, and empowerment of data subjects, and therefore, in light of the above observations and findings, we offer recommendations on data governance and innovative application planning. First, as for the establishment of a ministry and mechanism for data application and communication, since there is no single dedicated authority in Taiwan, and the formation of a ministry for science and technology development is now under intense discussion, data application may become an important function of the ministry, so we have to consider an authority for data application and communication. Further, there is currently no sandbox mechanism for data application in Taiwan. Reference should be made to the British data communication mechanism for providing legal advice and consultation sought on data application regulation.

Second, with regard to the formulation of regulations and amendments to existing laws relating to data applications, the most noteworthy is the EU Data Governance Act 2021. Taiwan does not have a complete and appropriate legal framework for data application, except for the Freedom of Government Information Law, the Personal Data Protection Act (PDPA) and the relevant laws and regulations distributed in various fields, and the nation is currently seeking an adequacy decision from the EU, and therefore our PDPA needs to be amended accordingly, yet no progress has been made at this stage. Consequently, a comprehensive strategy should be developed by taking into account both the formulation of the basic data application regulations and the amendments to the current PDPA, in order to achieve long-term data governance and application and sharing.

Lastly, in terms of the incorporation of the concept of data empowerment and the design of the mechanism, the international trend moves towards data empowerment to give data subjects more control over their data. The Financial Supervisory Commission (FSC) of Taiwan has also incorporated this idea in its open banking, so has the National Development Council's (NDC) MyData program. As such, it is suggested

that the government should provide guidelines or devise the relevant system, or even make reference to the Japanese data bank mechanism regarding the establishment of intermediaries to assist consumers in managing their data, which could be used as a reference for the design of the mechanism in the future.

III. Accountability for and Management of Data Use in Enterprises

Among the countries studied regulation of Singapore and Taiwan are similar and have adopted the development of digital economy as their main economic strategy, but Singapore has been more proactive than Taiwan in the design of the legal system to facilitate the use of data. Therefore, with regard to the control of data use in businesses by the competent authorities, this Project, by looking at the amendment to the Singaporean PDPA, aims to reinforce the regulation of the accountability system and the operation of the existing series of guidelines. From the changes in Singapore's PDPA, it can be observed that the competent authorities can refer to the practices of enterprises in the use of data.

First of all, the existing regulations in Taiwan tend to have more about compliance than accountability, with emphasis being placed on data security maintenance and compliance with the PDPA. For instance, Taiwan's "Regulations Governing Security Measures of the Personal Information File for Non-government Entities Designated by National Communications Commission" focus on following the law on the use of personal data. Nonetheless, the so-called accountability means that the competent authorities must oversee the implementation of data protection measures and policies of enterprises, not just pro forma compliance with the letter of the law.

The second observation is that Singapore is quite proactive in addressing the need for data use in the development of its digital economy by making an exception to innovative uses regarding informed consent. The inclusion of data portability also represents a heightened control of the data subject. These amendments are all related to Singapore's policy of actively developing its smart nation initiative and signify a more proactive approach by the authorities in monitoring the use of data by businesses. Taiwan needs to be more open and precise in regulating the use of data for the development of its digital economy.

Finally, there is increased flexibility in enforcement, as authorities can resolve disputes between subjects over data use more quickly through the introduction of mediation or other alternative dispute resolution (ADR) mechanisms. Meanwhile, the Personal Data Protection Commission (PDPC) has developed industry-specific consultation guidelines, recognizing that there may be specific issues for different industries. The PDPC noted that these guidelines are based on the partnerships, consultations and feedback associated with the relevant industries, and close collaboration with the industry's authorities of target businesses.

IV. Conclusion

Despite the lack of a dedicated authority for personal data protection, Taiwan can first build a cross-industry coordination and communication platform, and then collaborate across ministries to primary integrate standards in personal data protection to facilitate the needs of industrial innovation in the digital economy.

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