

IMPENDING DATA PROTECTION LAW

Despite the fact that Singapore has a strong common law tradition, and numerous isolated statutory provisions, to protect and regulate the use of personal data, there currently remains no overarching legislation for the protection of personal information in Singapore. The promulgation of a comprehensive data protection Act in Singapore has been on the cards for some time but, until recently, there has been little indication of when such legislation will be introduced.

In a written response to a Parliamentary query Mr. Lui Tuck Yew, the Minister for Information, Communication and the Arts, stated (on the 14 February 2011) that the Government of Singapore will introduce a data protection law in early 2012. According to the Minister, a review initiated in 2006 to assess the need for a data protection scheme and implementation thereof had been recently completed. The Minister stated that it was in Singapore's best interests to put in place a regime *"to protect individuals' personal data against unauthorised use and disclosure for profit...The proposed law is intended to curb excessive and unnecessary collection of individuals' personal data by businesses, and include requirements such as obtaining the consent of individuals to disclose their personal information"*.

It is expected that the new law will regulate, amongst other matters, the manner in which personal information collected is used. For example, some businesses conceal details in the fine print of competition entries or membership forms which provide that consumers automatically give consent to their personal information being given to third parties, who will inevitably use this information for profit. The Minister provided that the proposed data protection law *"is intended to curb excessive and unnecessary collection of individuals' personal data by businesses, and include requirements such as obtaining the consent of individuals to disclose their personal information"*.

Many Singapore businesses especially those with international offices, will be familiar with the concept of data protection as such legislation already exists in many countries around the world. It is this need to conform to international norms regarding the protection of personal information that has proven to be one of the drivers behind the introduction of data protection legislation in Singapore. The absence of a cohesive privacy and data protection law has left a gap in the data service industry in Singapore. The Minister stated that the proposed new law would *"enhance Singapore's overall competitiveness and strengthen our position as a trusted hub for businesses and a choice location for global data-management and processing services"*.

The Minister added that as part of the new regime a Data Protection Council will be established to oversee the deployment of the legislation. In the interim the Info-communications Development Authority of Singapore has been tasked to consult with representatives of the public and private sectors to address their concerns and discuss the intricacies of the proposed law.

When it comes into force, the new data protection laws will provide for comprehensive regulation of all aspects of the collection, use, disclosure, storage and access to personal information. Businesses will therefore need to audit all records held on clients, consumers, employees (current and former) and job applicants.

At first glance, the potential obligations of the new regime may seem onerous, the good news is that key the principles identified by the Minister reflect common sense and existing good practice. It is likely, as has occurred in other jurisdictions that have implemented similar legislation, that there will be a transition period to allow institutions to bring their existing practices into line with the legislation before the full force of sanctions will be implemented.