

Legislative Council Panel on Security Pilot Scheme on Express e-Channel

Purpose

This paper is in response to the invitation to brief Members on the views of the Privacy Commissioner for Personal Data (the “**Commissioner**”) on the Pilot Scheme on Express e-Channel from his perspective as the regulator of the Personal Data (Privacy) Ordinance (the “**Ordinance**”).

Background

2. On 12 September and 25 October 2007, the Immigration Department (“**ImmD**”) wrote to the Commissioner seeking his advice on the implementation of the self-service enrolment for the Express e-Channel.

3. The e-Channel is an automated means of immigration clearance provided at various control points. The Pilot Scheme on Express e-Channel is a voluntary scheme aiming to facilitate travellers who choose to enroll. The clearance time for a traveller using the Express e-Channel will be a few seconds faster than that for the current e-Channel.

4. ImmD will modify some e-Channels at Lo Wu to provide enrolment cum clearance function. Travellers wishing to enroll in the Express e-Channel must be a Smart Identity Card holder at the age of 18 or above. He/She must give consent to provide his/her Smart Identity Card information for setting up a database and have it integrated into ImmD’s back-end system situated at Lo Wu. The enrolment and clearance will be completed in one go.

5. Upon completion of the enrolment process, the following information will be electronically collected by ImmD from an enrollee's Smart Identity Card chip : fingerprint templates, Hong Kong Identity Card number, name, sex, date of birth, date of registration and the right of abode / residential status (hereinafter referred to as the "**Data**").

6. An enrollee may withdraw from participating in the Express e-Channel by giving a written notice to ImmD.

IT Security Audit

7. ImmD has appointed an independent contractor to carry out a security audit on its IT system. Based on the Final IT Security Report issued by the contractor on 15 September 2006, the privacy concerns appear to have been properly addressed in the system design of the automated passenger clearance system.

Commissioner's Comments

8. In response to ImmD's enquiries on the implementation of the Express e-Channel, the Commissioner has expressed the following comments on a general and without prejudice basis from his perspective as the privacy regulator. These comments were first given to ImmD on 27 September 2007 and 8 November 2007.

(a) People wishing to use the Express e-Channel must first consent to the collection of their personal data by ImmD from their Smart Identity Card. Where there is a collection of personal data, ImmD must comply with the notification requirements under the Ordinance. It is a common practice for the notification requirements to be conveniently included in a Personal Information Collection Statement ("**PICS**").

- (b) The principle of transparency has assumed increasing importance in relation to individuals' personal data privacy right. ImmD should devise a Privacy Policy Statement (“PPS”) setting out clearly the rules and practices that are to be followed in collecting, holding, processing and using the Data.
- (c) ImmD may consider displaying the PPS / PICS conspicuously at the checkpoints so that anyone choosing to use the Express e-Channel will be made aware that his/her personal data are properly protected and the main purposes for which his/her personal data are to be used.
- (d) The enrolled records of a Smart Identity Card holder consist of fingerprint information. Fingerprint information is the kind of biometric data that warrant special care and caution before they are to be widely deployed for any purposes or activities. Hence the IT system which is used to store and process the Data should be carefully assessed and regularly reviewed to ensure that sufficient privacy protective measures are in place.
- (e) Effective control should also be established to guard against the Data being excessively retained, improperly used, or accidentally accessed and processed. Proper training, guidance and supervision have to be given to the staff responsible for the collection and management of the Data.

Conclusion

9. ImmD explained that the Express e-Channel is intended for the convenience of travellers who make their own decisions whether to opt-in (i.e. take part) or not in the system. Hence transparency is important if travellers are to exercise informed consent on their own free will.

10. The transparency of actions expressed through a clearly written and effectively communicated PPS / PICS is viewed as conducive to building mutual trust between travellers and ImmD. Travellers comfortable with ImmD's system operations or privacy design may choose to opt-in.

11. That said, the opt-in nature does not eliminate the need for caution in system security and design. ImmD should be aware that as its automated passenger clearance system becomes more complex, new privacy risks may emerge.

12. Any minor change in the system infrastructure for technical enhancements may give rise to unexpected data breach risks. Being the data user in control of the collection, holding, processing or use of the Data, ImmD has the responsibility to take appropriate security and verification measures to ensure full compliance with the requirements of the Ordinance.

Office of the Privacy Commissioner for Personal Data, Hong Kong
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