



The Asia Cloud Computing Association (ACCA) is the apex industry association for Asia Pacific stakeholders in the cloud computing ecosystem. We represent a vendor-neutral voice of the private sector to government and other stakeholders, with the mission to accelerate the adoption of cloud computing through Asia Pacific by helping to create a trusted and compelling market environment, and a safe and consistent regulatory environment for cloud computing products and services.

ACCA member companies include:



The Bills Committee
 Personal Data (Privacy) (Amendment) Bill 2021
 Legislative Council Secretariat
 Legislative Council Complex, 1 Legislative Council Road
 Central, Hong Kong
bc_110_20@legco.gov.hk

&

Ms Ada Chung
 Privacy Commissioner for Personal Data
 Office of the Privacy Commissioner for Personal Data, Hong Kong
 12 Floor, Dah Sing Financial Centre, 248 Queen's Road East
 Wanchai, Hong Kong
PA_PC@pcpd.org.hk

24 Aug 2021

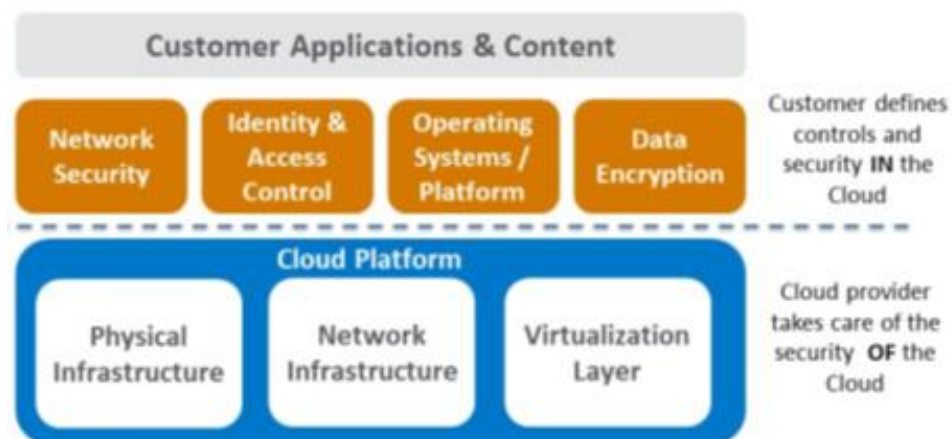
Dear Hong Kong LegCo and Ms. Chung,

Re: ACCA Industry Letter to Office of the Privacy Commissioner for Personal Data, Hong Kong (PCPD) on the Personal Data (Privacy) (Amendment) Bill 2021

The ACCA notes that the PCPD has proposed changes to the Personal Data (Privacy) Amendment Bill 2021 ("PDP Amendment Bill 2021"), which the ACCA is pleased to submit comments to.

As the apex industry association for Asia Pacific stakeholders in the cloud computing ecosystem, the ACCA represents a vendor-neutral voice of the private sector to government and other stakeholders. The ACCA's mission to accelerate the adoption of cloud computing throughout Asia Pacific by helping to create a trusted and compelling market environment, and a safe and consistent regulatory environment for cloud computing products and services. We are committed to strengthening data governance and digital resilience, and to the development of a safe and secure ecosystem where data is protected by the best technology and regulatory frameworks, in support of a better world for all.

On the PDP Amendment Bill 2021, the ACCA notes that the cessation action obligation imposed on service providers may be disproportionate to the anti-doxxing intent of bill. Cloud service providers (CSPs) are data intermediaries where under the Shared Responsibility Model (see figure below), CSPs are responsible for the security of the cloud, while it is our customer who has oversight and control over their customer data (the top layer). In this respect, CSPs are data processors rather than data controllers.



We would propose that **the Bill exclude infrastructure service providers, including CSPs, from the service providers that are required to take cessation action.**

This is for the following reasons:

- Under the Shared Responsibility Model, CSPs may not have the ability to identify the doxxing data to be removed, and we cannot confirm the data to be removed. Hence, it is not technically feasible for CSPs to take down or disable access to specific doxxing content.
- Under the current proposed amendments, in extreme cases, the cessation action obligation imposed on CSPs may result in complete suspension of all service offerings used by the client. This would be a disproportionate response, resulting in the client being unable to continue using the services for its other legally-allowable content.

Further, CSPs may also face the risk of being in breach of the commercial agreement with the client.

Thank you again for the opportunity to raise these issues, and hope that the content of this letter be considered and discussed in the Bills Committee meeting to be held on 25 August 2021.

We would like to propose a closed-door meeting in August or early September at your convenience, for the ACCA members to be giving you more detail on this. We would be pleased to also provide detailed clarifications on this approach we are submitting at the same meeting.

We look forward to your favourable response and look forward to engaging with you.

Best regards,
Lim May-Ann
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Asia Cloud Computing Association
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