



# DATA PROTECTION IN MALAYSIA: THE YEAR IN REVIEW



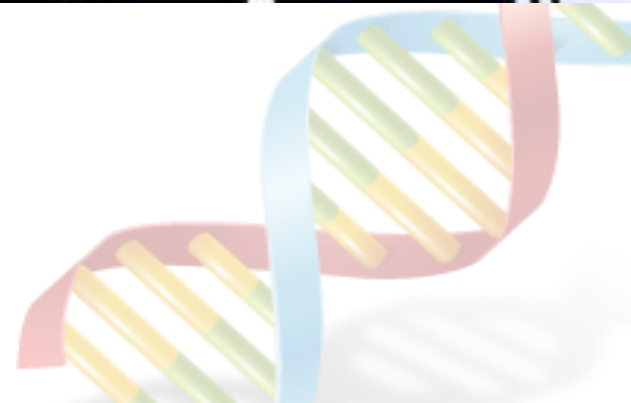
**Webinar on Data Protection Law - 28 November 2019**  
**Held by: Data Protection Excellence Network (DPEX CENTRE)**

**Dr. Sonny Zulhuda**

**Associate Professor at International Islamic University  
Malaysia**



# PRIVACY AND DATA BREACH CASES IN MALAYSIA



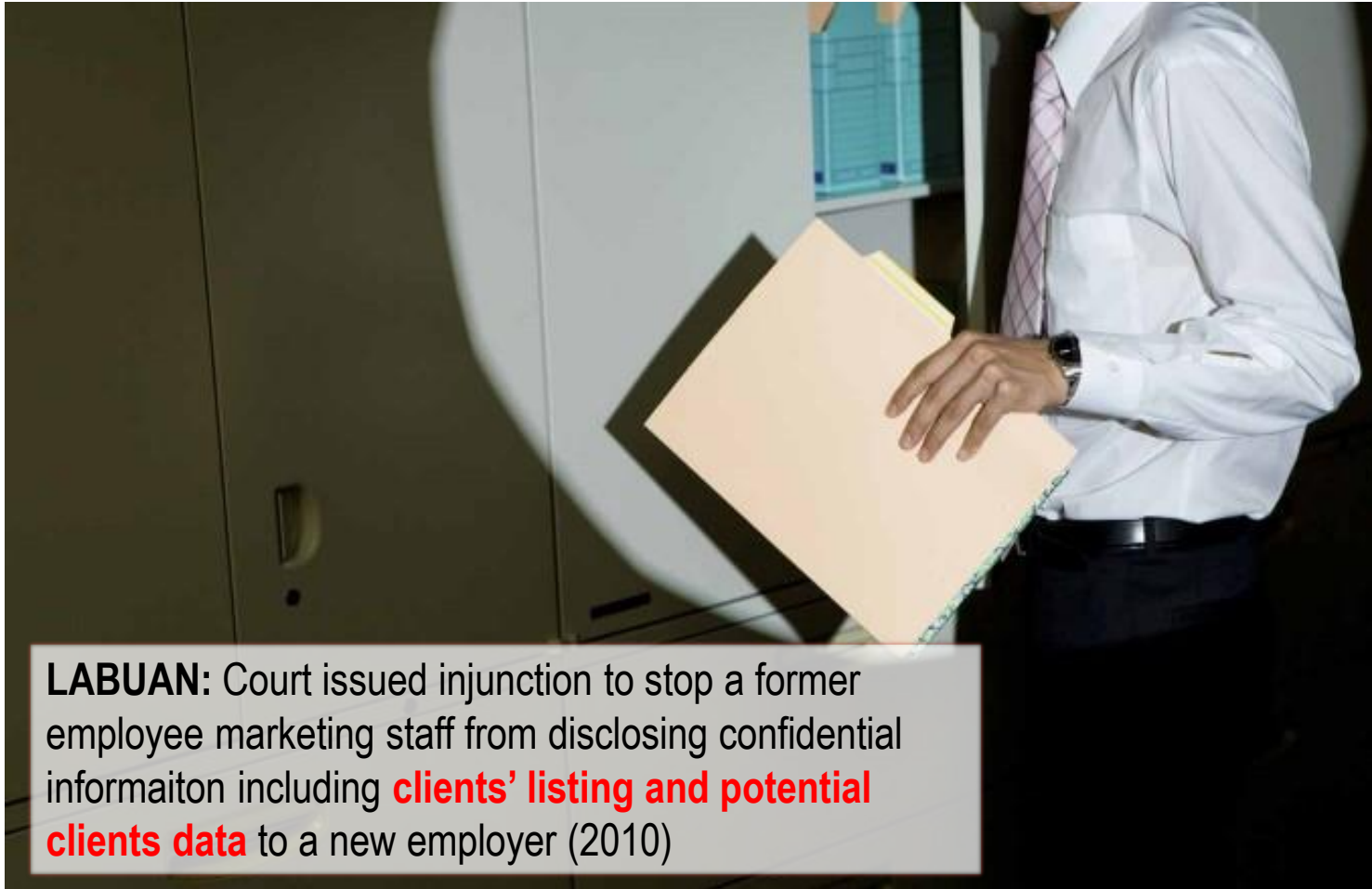
# Mislocated CCTV can be privacy-intrusive!

Lew Cher Phow v Pua Yong Yong [2011] H.C. Johor Bahru



# Data Leakage due to Exiting employees

Equity Trust (Labuan) Ltd v Mohammad Sofian Mohamad [2010] – Labuan

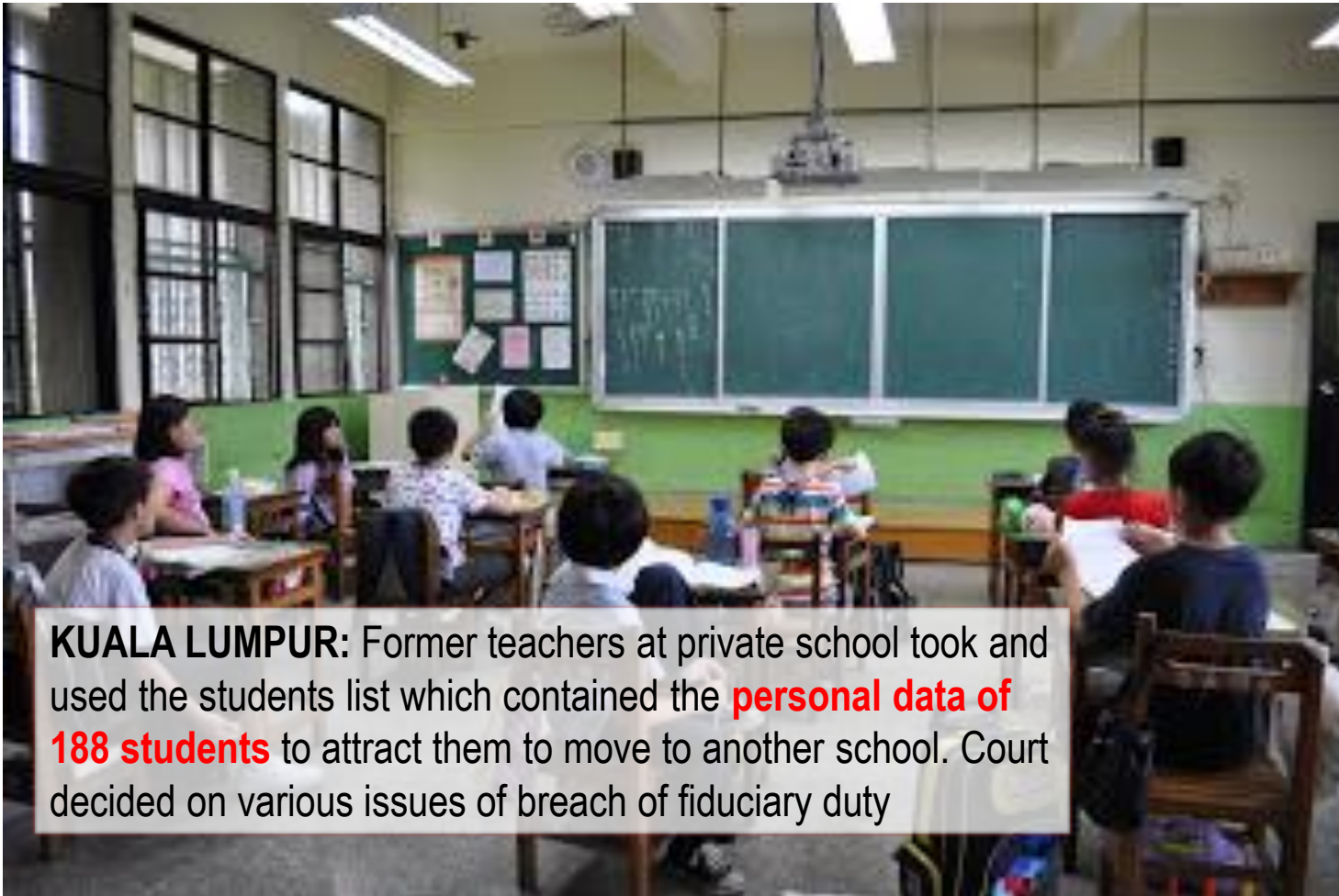


**LABUAN:** Court issued injunction to stop a former employee marketing staff from disclosing confidential information including **clients' listing and potential clients data** to a new employer (2010)



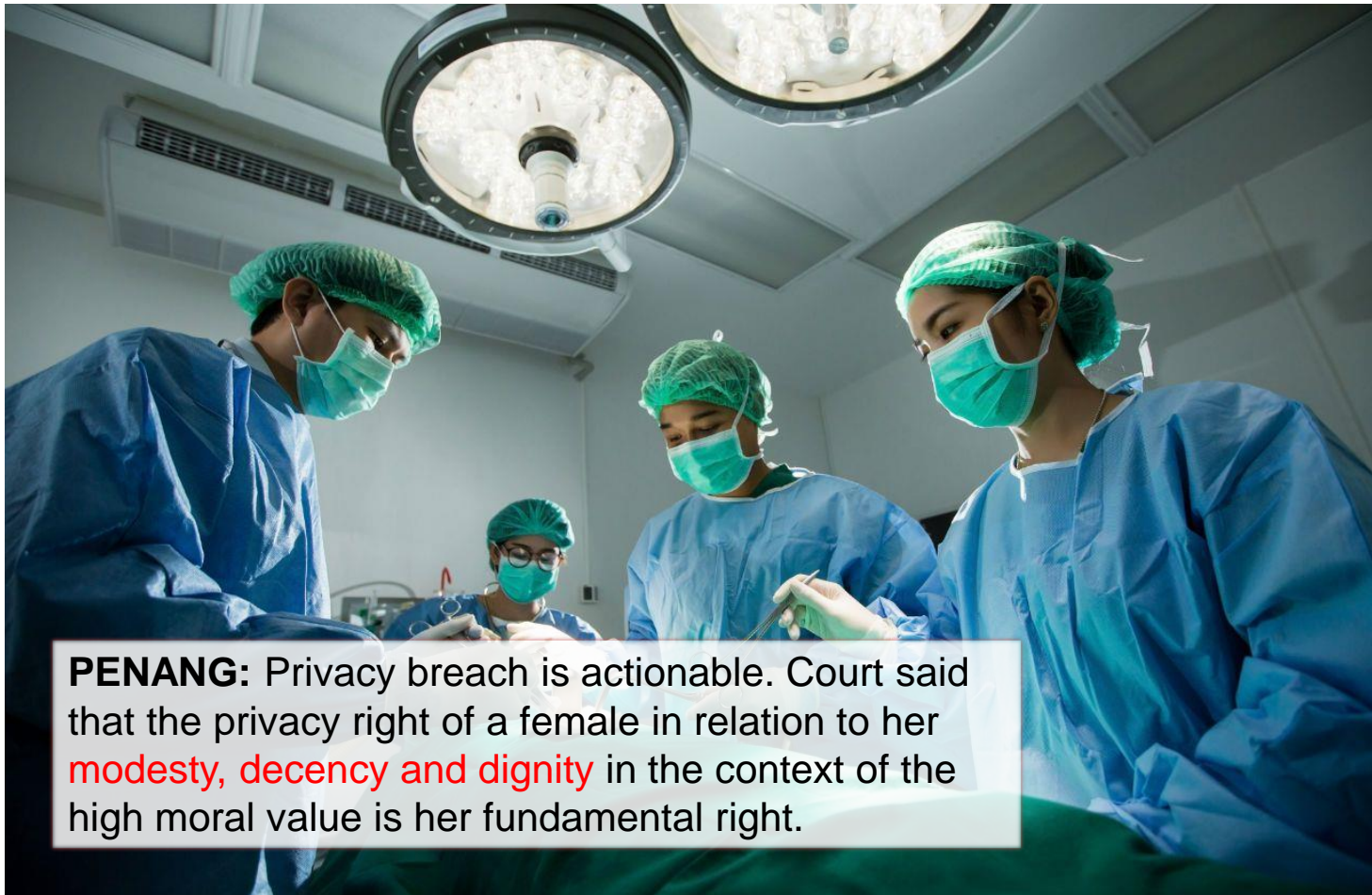
# Students' list misused by former teacher

Sundai (M) Sdn Bhd v Masato Saito [2013] – High Court K.L.



**KUALA LUMPUR:** Former teachers at private school took and used the students list which contained the **personal data of 188 students** to attract them to move to another school. Court decided on various issues of breach of fiduciary duty

# Taking patient's picture without consent breaches privacy - Lee Ewe Poh v Dr Lim Teik Man [2011] – High Court Penang



**PENANG:** Privacy breach is actionable. Court said that the privacy right of a female in relation to her **modesty, decency and dignity** in the context of the high moral value is her fundamental right.



# Deliberate disclosure of passengers' data (2014)



HOME / MALAYSIA

## Deputy minister: Probe to determine if 2018's massive telco data leak due to sabotage or hacking

**malaymail** Since 1986

Tuesday, 26 Nov 2019 11:44 PM MYT

## Malindo Air says data breach caused by ex-employee of e-commerce firm

Justin Lim / [theedgemarkets.com](https://theedgemarkets.com)

September 23, 2019 16:13 pm +08

**THE EDGE**  
MARKETS

## Over 17,000 patients' personal data exposed on national neurology registry website

**NATION**

Wednesday, 23 Oct 2019

12:12 PM MYT

**THE**  
**Star** **ONLINE**

PETALING JAYA: In yet another data breach, more than 17,000 patients' personal data have been exposed on the government-linked National Neurology Registry (NNeuR) website due to a scripting error, news portal Free Malaysia Today (FMT) reported.



# Universiti Malaya, JPDP looking into report of massive data breach affecting the university

TECH

Saturday, 19 Oct 2019

1:34 PM MYT

By Qishin Tariq



## Hacker claims to have stolen personal data of Universiti Malaysia Sabah students

TECH

Tuesday, 05 Nov 2019

4:50 PM MYT

By Angelin Yeoh



# Personal Data Protection Act 2010

Regulates  
**processing of PII** in  
commercial  
transactions

New sets of  
obligations for  
**data users**

New **offences**  
relating to data  
abuses etc.

**Rights for  
individuals**

Information  
governance and  
**Data due diligence**

Promotes self-  
regulatory **Codes  
of Practices**

# PDPA 2010 creates new data offences

Breaching data protection principles

Failure to register as Data User (when applicable)

Unlawful collection of personal data

Unlawful sale of personal data

Breach of data security system



# Updates on Laws and Rules

- **Existing subsidiary rules**

- Personal Data Protection (PDP) (Registration of Data User) Regulations 2013
- PDP (Class of Data Users) Orders 2013 & 2016
- PDP Regulations 2013
- PDP Standards 2015
- PDP (Compounding of Offences) Regulations 2016

- **Draft rules in the pipeline**

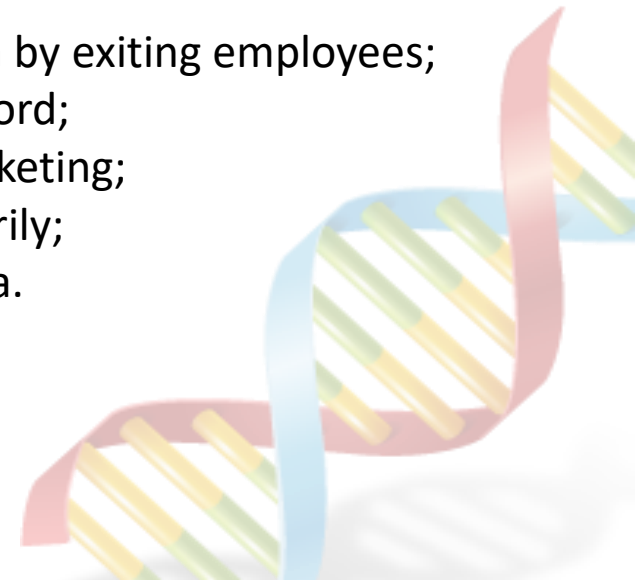
- Proposed Guideline on Trans-border data transfer: List of Countries where transfer is allowed
- Proposed Guideline on Data Breach Notification



# Audit, Enforcement and Prosecution



- More than **18,000** issues referred to since Nov. 2013, including **140** complaints and reports;
- **82** cases followed up by the PDP Commissioner (by end of 2015);
- Banking sector, property and services are the top three sectors with most cases/reports.
- Complaints relate to
  - un-consented processing and disclosure of personal data;
  - unauthorised use of data by exiting employees;
  - poor security of data record;
  - un-consented direct marketing;
  - data retained unnecessarily;
  - unauthorised sale of data.



# Public Education on PDPA 2010

## Public education through

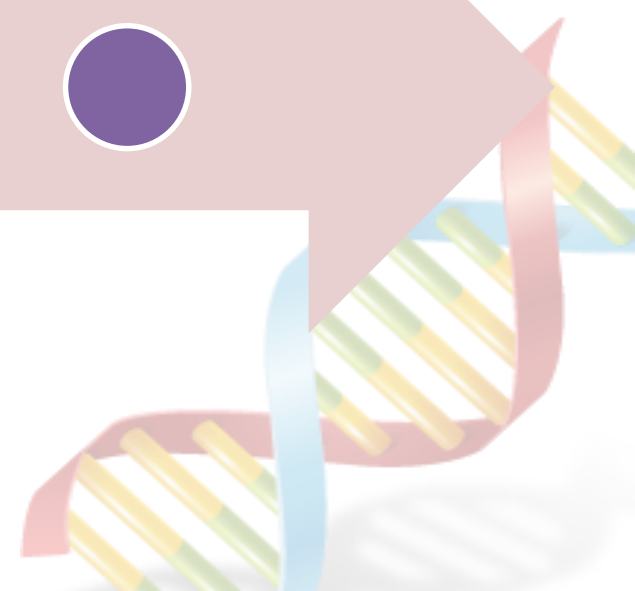
- conferences,
- exhibitions,
- media releases & interviews, etc.

## Among the target groups identified:

- Govt agencies
- Young data subjects
- Institutions of Higher Learnings – both Public and Private
- Municipality residential representation committees
- Students Representative Councils
- Strata Joint Management Boards
- NGOs
- Media

## Data Users & Data Subjects

- Before 2018: Focus on data users
- 2018 & beyond: Focus on data subjects





# Inspection of Personal Data System



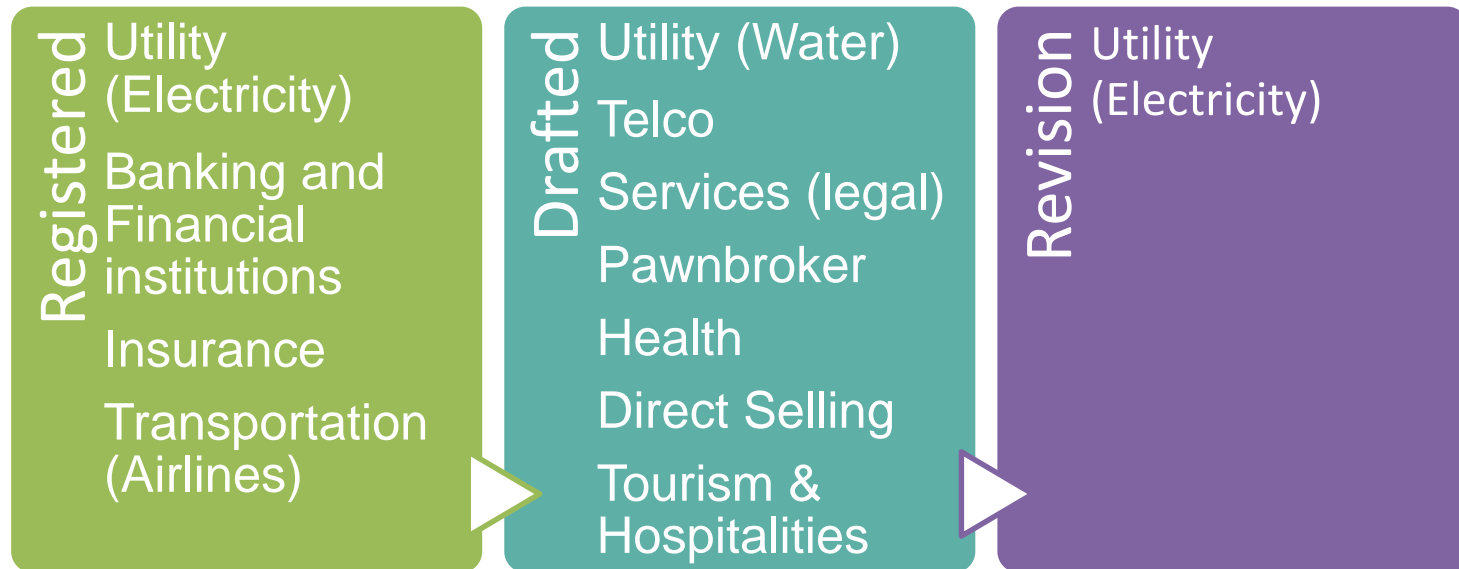
- More than 57 inspections have been done in 2018
- Powered under s 101 to inspect the system used to process personal data, including the record of any application, notice, request or any other information relating to personal data and any document and equipment forming part of the system.
- Purpose:
  - To promote the compliance with law
  - To ascertain the status of compliance
  - To assist the Commissioner in making recommendations to the relevant data user



# Enforcement

No	Sector	Offence(s)	Provision	Sanction
1	Tourism (Hotelier)	Processing personal data without the Commissioner's Certificate Processing without consent	Section 16(4) Section 5(2)	MYR10,000 fine or 8 months imprisonment for each of the offence
2	Education (Private university)	Processing without Certificate	Section 16(4)	MYR10,000 fine or 3 months-imprisonment
3	Service sector (Employment agency)	Processing without Certificate	Section 16(4)	MYR10,000 fine
4	Education (Private University)	Processing without Certificate	Section 16(4)	Compound RM10,000
5	Service (Job agency)	Processing without Certificate	Section 16(4)	MYR10,000 fine

# Code of Practice (COP)





# Emerging Issues involving Data Governance:

Governance	Data Breach Notification	Cross-border Data transfer	New technologies:	Trans-national privacy laws
<ul style="list-style-type: none"><li>• New market skill</li><li>• DPO certification</li><li>• Risk Management</li><li>• Privacy by Design</li></ul>	<ul style="list-style-type: none"><li>• Defining the breach</li><li>• Strict timeline</li></ul>	<ul style="list-style-type: none"><li>• CBPR</li><li>• The White List</li></ul>	<ul style="list-style-type: none"><li>• Artificial Intelligence</li><li>• Cloud Processing</li><li>• Blockchain</li><li>• New security threats</li></ul>	<ul style="list-style-type: none"><li>• GDPR</li><li>• APAC</li><li>• ASEAN Community</li></ul>





1.6k



47



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# Gobind orders action on leak of 36mil phone users' data EARD...

FMT Reporters | May 27, 2018

Communications minister says investigations into bot attacks and blocks on news sites will be carried out, and calls for proposals on amending the communications law.



Communications minister Gobind Singh wants action on a mas...

KUALA LUMPUR: The communications ministry has been order...

22 Nation

THE STAR, FRIDAY 5 OCTOBER 2018

## Gobind: We'll update data protection

Local and foreign threats to user information call for stronger legislation, says minister

By YIMIE YONG  
yimie.yong@thestar.com.my

**PETALING JAYA:** Malaysia is looking to update its data protection laws by the middle of next year to prevent data breaches, says Communications and Multimedia Minister Gobind Singh Deo.

He said the update could be modelled after the European Union's General Data Protection Regulation (GDPR), which took effect in May.

"Malaysia needs to be on par with global legislation on data protection because Malaysians are not exposed to just local retailers but also other parties seeking to use their data for a variety of purposes."

"We should find ways to stop a breach before it gets out of hand."

"The GDPR was brought to my attention and the ministry is looking at it."

"By the middle of next year, hopefully, we will put something to the Parliament," he said.

Speaking at The Future of Digital Advertising In A Privacy-First World forum at Menara Star here yesterday, Gobind noted that organisations that breached the GDPR could be fined up to 4% of their annual global turnover or €20mil (RM95.31mil).

"That is a lot. But that is what you need to do to send clear signals that you are serious about it."

"We have to reinvent departments that work with these (regulations)."

"It is not enough to have a small

team of people to deal with enforcing the Personal Data Protection Act (PDPA) 2010," he said.

The PDPA came into force in November 2013.

Gobind also said Malaysia was looking to work with other Asean countries to develop a framework on data protection as well.

Meanwhile, during the panel discussion, CIMB Group group chief marketing officer Mohamed Adam Wee said companies should not collect data that they do not need.

"In some cases, customers' personal data are not really required."

"These companies will still be able to market their products or services to the targeted audience without having to know their names or contact numbers," he said.

AirAsia Group Bhd Group legal counsel and compliance manager Kelvin Xiawei said more automation was needed in the system to better manage customers' data.

"We collect personal data to better serve our customers."

"Some of the data collected are required for security purposes."

"We do share the data with the subsidiaries of our group but customers can opt out and we also ensure that their data will be safe," he said.

Watch the video  
thestartv.com



**Discussing digital defence:** (Front from left) Star Media Group Bhd group managing director and chief executive officer Datuk Seri Wong Chun Wai, Gobind and Malaysian Advertisers Association (MAA) president Mohamed Kadri Mohamed Taib attending the forum at Menara Star. Behind them are (from left) Malaysian Communications and Multimedia Commission chairman Al-Ishsal Ishak, Communications and Multimedia Consumer Forum of Malaysia chairman Mohamad Yusrizal Yusoff and MAA vice-president Claudian Navin Stanislaus.





MINISTRY OF COMMUNICATIONS  
AND MULTIMEDIA MALAYSIA

***The Personal Data Protection Act (PDPA) review will be premised on the needs for effective and efficient implementation and streamlined with international requirements on personal data protection.***

## **GOBIND SINGH DEO**

*Minister of Communications and Multimedia*

CONFERENCE ON THE EUROPEAN UNION  
GENERAL DATA PROTECTION REGULATIONS  
(EU GDPR) | 18 MARCH 2019



KEMENTERIAN KOMUNIKASI DAN MULTIMEDIA



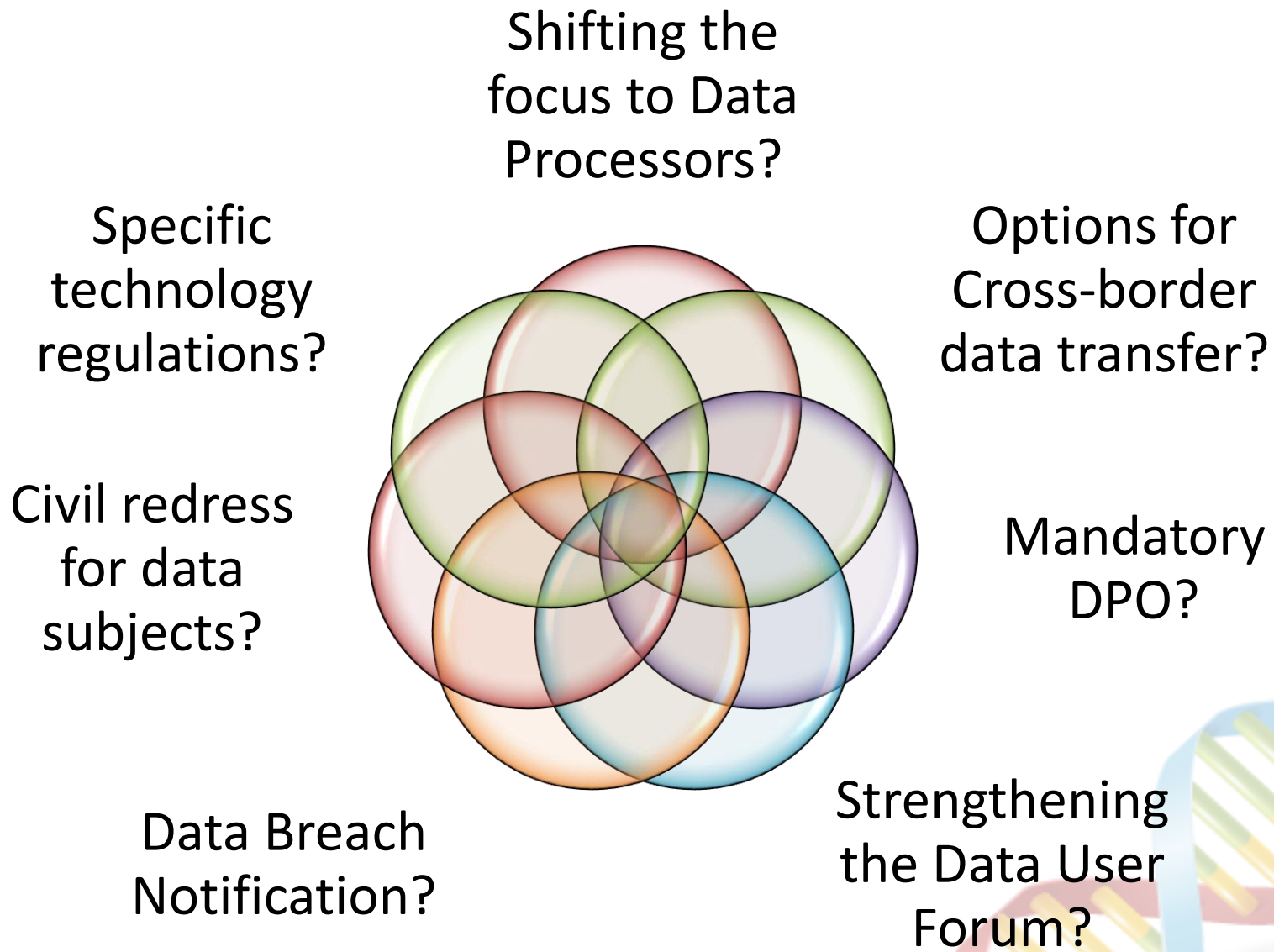
@kkmm\_gov



kkmm\_gov



# What to Watch in the Review?



# Conclusion

- In Malaysia, protection of privacy is underway in parliaments and courts, and through state agency as well as the industry.
- A parallel track of enforcement: One is through promoting the **industrial Code of Practice**, and the other is through **enforcement and prosecution**.
- The Commissioner has been addressing the effects of the European General Data Protection Regulations (GDPR) since 2018 to Malaysian context.
- Regional development sets new benchmark – A law review is necessary



# JAGA DATA ANDA

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📺 Jabatan Perlindungan Data Peribadi

# Thank You.

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