



LEGAL UPDATES

Singapore's proposed data protection regime to include DNC registry

Following release of a public consultation paper on 13 September 2011 by the Ministry of Information, Communications and the Arts, a new data protection regime in Singapore is scheduled to be introduced in the third quarter of this year. The new law will address, among other things, the collection, use and disclosure of personal data, the transfer of personal data outside Singapore, the accuracy, protection and retention of personal data, access to and correction of personal data as well as a national Do-Not-Call ("DNC") Registry to be established by the end of next year.

A separate consultation paper has since been issued setting out the framework for the DNC Registry which is intended to give consumers the choice to opt out of intrusive marketing messages. The DNC Registry is proposed to cover residential and business telephone numbers, targeting telemarketing via SMS and MMS and faxes. Email will however be excluded from the DNC Registry on the basis that existing legislation and technological measures already afford adequate protection against spam.

ACRA issues inaugural Financial Reporting Practice Guidance

Recognising that the Eurozone debt crisis and the uncertain economic environment in major world economies pose a financial reporting challenge for companies with respect to reporting on business outlook and fair values of assets, the Accounting and Corporate Regulatory Authority ("ACRA") issued a Financial Reporting Practice Guidance on 3 January 2012. This reminds directors of the risks of negligent misstatements and non-disclosures in financial statements and to ensure that they present financial statements which comply with all Singapore Financial Reporting Standards ("SFRS") issued by the Accounting Standards Council and which reflect a true and fair view of the profit and loss and state of their company.

The Guidance advises directors to focus their attention on SFRS which require significant management judgments and estimations during this period of uncertain economic environment and to engage in early discussions with their company's financial reporting function and external auditors to ensure all SFRS are complied with in preparing the financial statements to be presented to shareholders.

Amendments to the Evidence Act to introduce legal professional privilege for in-house counsel

Amendments to the Evidence Act which were passed in Parliament on 14 February 2012 will allow in-house counsel who are qualified (either in Singapore or another jurisdiction) to have the benefit of legal professional privilege when they act in their capacity as legal advisors and in the context of rendering legal advice, regardless of whether they hold a practicing certificate. This will include persons who are employed to undertake the provision of legal advice or assistance in connection with the application of the law or any form of resolution of legal disputes. It will also include Legal Service Officers posted to a Government ministry or department or a statutory body.

Other changes include those on opinion and expert evidence, hearsay and computer output. As to opinion evidence, the amendments propose to expand current categories to "scientific, technical or other specialized

knowledge" and admit opinion evidence on the principle of assistance, as opposed to necessity. On hearsay evidence, the new amendments widen the scope of existing exceptions as well as allow parties to agree to the admission of hearsay evidence. The Court is however given an overriding discretion to exclude hearsay evidence whose admission would not be in the interests of justice. On computer output, current provisions now align the rules on admission of computer output evidence with other forms of evidence.

Proposed "Lemon Law" set to take effect in September 2012

Proposed amendments to the Consumer Protection (Fair Trading) Act and Hire Purchase Act, introduced in Parliament in February will pave the way for the so-called "lemon law" to be applicable in Singapore.

"Lemon laws" refer to consumer protection laws that provide remedies for consumers against latent defects in goods, which fail to meet standards of quality and performance, especially after repeated repair, colloquially known as "lemons". For example, if a defect is found in a product within six months of delivery, it is assumed the defect existed at the time of delivery and the onus will then fall on the retailer to prove otherwise. In such cases, consumers have the choice of asking the retailer to repair or replace the defective product. If the cost of repair outweighs the replacement, the retailer can choose to replace the product, and vice versa. If the retailer fails to repair or replace the product within a "reasonable time" or "without insignificant inconvenience" to the consumer, the consumer may ask for a reduction in price or return the product for a refund. If the retailer fails to do either, consumers may bring the matter to the Small Claims Tribunal. However, the "lemon laws" generally do not apply to goods with a short life span such as consumables and food. The proposed amendments, targeted to take effect in September this year, are designed to make commercial transactions more transparent.