



MINISTERIAL STATEMENT

by

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Minister of the Cabinet Office

London Visit for Meetings about Planning for International Adequacy Applications for PIPA and Participation in the International Association of Privacy Professionals Data Protection Intensive UK

11 March 2024

Mr. Speaker,

I rise today to share that between February 26th and 29th I participated in a visit to London to make further preparations related to the implementation of PIPA, otherwise known as the Personal Information Protection Act 2016.

Mr. Speaker,

As you are aware, PIPA will come fully into force on the 1st of January 2025. It is therefore essential that we begin to strategize how PIPA will be recognized in other jurisdictions. Additionally, we must also ensure that we understand and prepare for innovative developments, such as Artificial Intelligence (AI), and the role that PIPA will play in the ethical and responsible deployment of innovative technologies.

Mr. Speaker,

I began the visit by meeting with the Commonwealth Secretariat to discuss policy and enforcement in relation to data protection, and Bermuda's preparedness for PIPA coming into force. Additionally, we discussed digitization of Government services and the blue economy. During this period, I was accompanied by the Permanent Secretary, the Privacy Commissioner, the Deputy Commissioner, and a PATI PIPA Unit team member. Details related to PrivCom's 'Road to PIPA' and the Government of Bermuda's Privacy Program were provided. We also discussed initiatives that the Commonwealth Secretariat is facilitating around the world. Ideas and opportunities that may benefit Bermuda were discussed. The work of the Commonwealth Artificial Intelligence Consortium (CAIC) and their focus on 'AI for Good' may provide useful insights for Bermuda's development in this area. Additionally, the inaugural Commonwealth Ocean Minister's meeting, which will take place in April in Cyprus, is intended to set a shared voice for Commonwealth countries on ocean issues.

Mr. Speaker,

On Tuesday, February 27th, I met with representatives from the UK Government Department for Science, Innovation and Technology (DSIT). The discussion included the process for assessment to gain data

adequacy with the UK, their ‘data bridge’ concept, and its benefits. The UK’s Data Adequacy assessment is an outcomes-based approach that considers the overall effect of a third country’s data protection laws, implementation, enforcement, and supervision. The UK Information Commissioner’s Office has a role in the Assessment process as the independent regulator. The meeting was useful to understand how the UK Data Adequacy process differs from other adequacy processes, such as the EU. This will be beneficial as Bermuda will be required to pursue a UK Adequacy decision once PIPA is in operation.

Mr. Speaker,

Other meetings held on this day focused on the EU adequacy process, as well as on the UK’s and EU’s approach to Artificial Intelligence regulation. The Bermuda team previously mentioned, participated in discussions and planning facilitated by Eduardo Ustaran, Partner of the Privacy and Security Practice of Hogan Lovells.

Further, **Mr. Speaker**, to give a taste of these activities of the day, let me frame the importance of international transfers of personal information. A key feature of any privacy legislation is that transfers of personal information to a third-party jurisdiction must ensure that the third party has similar legislation in place or ensure that contractual relationships between the relevant parties are implemented that ensure similar protections apply. It is simpler for businesses if the jurisdictions

have similar legislation in place and are recognized to have done so. This is called the privacy network of trust. Once you become a member of a network of trust then business is freed from the need for contractual mechanisms and some audit functions. It is an economic driver in the development of the Information Society.

Mr. Speaker,

The process is 2-way as the network of trust must recognize your country's privacy regime and you must recognize the network of trust, or the countries that constitute the network. This process is not one off and must be reviewed and maintained. The EU recognizes this by use of their adequacy process and the UK have developed their own process due to Brexit. An adequacy decision ensures that data transfers can take place without reliance on any further data transfer mechanism. Once PIPA is in force, Bermuda must develop its applications for the EU and the UK and determine how it will deal with other jurisdictions with which it does business regularly. In the meantime, contractual mechanisms will be the predominate method for the international transfer of personal information.

Mr. Speaker,

This may result in Bermuda becoming a part of other initiatives such as the Global Cross-Border Privacy Rules Forum.

The Cross Border Privacy Rules (CBPR) are a comprehensive privacy certification that provides organizations with a mechanism for cross-border data transfers (like Binding Corporate Rules (“BCR”) in the EU, but with a broader scope). CBPR can be used for intra-company transfers, for transfers between unaffiliated companies, as well as for transfers to non CBPR-certified companies anywhere in the world.

The Global Cross-Border Privacy Rules Forum, established in 2022, is an initiative that builds on the Asia-Pacific Economic Cooperation CBPR system as a framework that supports the effective protection and flow of data internationally. At its core, the Global CBPR system and the Global Privacy Recognition for Processors system are voluntary, accountability-based systems that allow participating organizations to demonstrate compliance to internationally-recognized data protection standards. The Global CBPR Forum has gained momentum as a scalable data protection and data flow framework.

The Global CBPR Forum is currently made up of the following Member countries: Australia, Canada, Japan, the Republic of Korea, Mexico, the Philippines, Singapore, Chinese Taipei, and the United States of America. On April 13, 2023, the Global CBPR Forum officially opened its doors to participation by interested jurisdictions by publishing its Global CBPR Framework and Terms of Reference. The UK joined as an “Associate” member in 2023. As an Associate, the UK will be able to participate in the Global CBPR Forum discussions, but

they will not have any voting rights to help shape the CBPR and PRP Systems. I also note that Bermuda has been participating in the discussion meetings since 2021.

Mr. Speaker,

The UK and EU approaches to the regulation of artificial intelligence (AI) were an important part of the day's discussions due to the increased focus on ethical and responsible use of AI technologies. The Bermuda team received an overview on the ways in which AI regulation is being approached. In an area such as AI that uses such a great deal of data, it is important that those that use these tools have trust in both the integrity of the data and that harm cannot come to individuals.

Mr. Speaker,

The EU approach, a comprehensive regulatory framework, is known as the AI Act. Its aim is to regulate the development and use of AI by providing a framework of obligations for parties involved across the entire AI supply chain. As with the General Data Protection Regulation (GDPR), the EU is seeking to set the new global standard for AI regulation. At its heart is a cross-sectoral risk-based classification system with an outright prohibition on certain AI practices, deemed to impose unacceptable risk, and new obligations, largely targeting AI systems deemed high risk. Additionally, there will be obligations on providers of general-purpose AI systems, including generative AI

systems like ChatGPT. Like GDPR it will carry significant fines and have extraterritorial reach.

Mr. Speaker,

The UK approach differs in that currently they do not plan to introduce primary legislation to regulate AI. They have recently released their consultation response to their March 2023 white paper which was titled ‘A Pro Innovation approach to AI Regulation’. The UK Government's approach to AI regulation will be context-based and underpinned by cross-sectoral principles. Their aim is to retain an agile regulatory approach that does not inhibit innovation and can adapt to evolving AI risks. This means that the cross-sectoral principles will be interpreted by existing regulators. The five core principles established are:

- safety security and robustness
- appropriate transparency and explainability
- fairness
- accountability and governance
- contestability and redress

There is the potential for binding requirements, applicable to only the most capable AI systems in the future. With that in mind, the intent

appears to be that any binding requirements would be designed to fill the gap in existing regulation.

Mr. Speaker,

The International Association of Privacy Professionals (IAPP) Data Protection Intensive: UK which followed on February 28th and 29th featured keynote speakers, breakout sessions and workshops diving into data protection laws, regulations, technology, and operational practices. It covered topics including the EU-US Transatlantic Data Privacy Framework, building a safe space for children online, avoiding deceptive design practices, how to navigate privacy and the cloud, AI governance, the safe use of generative AI, the intersections of U.K., EU and global legislative updates, privacy enhancing technologies and a range of operational topics impacting data protection concerns. Governance, Trust, Assurance and Accountability were themes across many topics. It was an event that provided access to topics of critical importance, as well as networking with those who are setting standards and working in these areas daily.

Mr. Speaker,

During the IAPP Data Protection Intensive I was able to meet with the UK Information Commissioner, John Edwards, after he delivered the opening keynote address. We talked about the role of the Information Commissioner's Office (ICO) in regulating both Data Protection and

Freedom of Information, among other regulatory responsibilities held by the office. We also received the Information Commissioner's view of his office's role in the UK's Data Adequacy Assessment process. He shared that there is a memorandum of understanding in place to allow for 'cooperation and consultation', which provides for a 'No surprises' environment relating to future positions and decision-making.

Mr. Speaker,

The UK Information Commissioner also indicated that the UK ICO provides comments and advice during the gatekeeping and assessment phases of the UK's Data Adequacy Assessment. They also provide a response on the draft conclusions of a UK Government DSIT assessment during the recommendation phase, so that the Commissioner's view can be formally included in the recommendation to the Secretary of State and factored into their decision making. Finally, they are asked to give advice and/or an opinion to Parliament during the procedural phase, including on the process followed and the factors taken into consideration by the DSIT Adequacy Assessment team and the Secretary of State. This helped us to understand the process that will be required to pursue a UK Adequacy decision once PIPA is in operation.

Mr. Speaker,

PIPA coming into force on 1 January 2025 is another step in Bermuda's protection of personal information and privacy journey. As of March

2023, approximately 162 countries had enacted privacy laws while a further 20 had privacy Bills in process¹. The international network of trust continues to expand to both support the effective protection and the flow of personal information internationally. We must prepare to become a part of and navigate through this developing privacy journey. I assure you that, even while we are implementing and strengthening our privacy regimes, we are also preparing for this next phase. Thus, we are actively considering PIPA's role in ethical and responsible AI. AI, we know, has the potential to provide many opportunities to improve efficiencies. However, we must ensure that we manage the risks to realize the benefits. We look forward to sharing more on this as we progress.

Thank you, **Mr. Speaker.**

¹ <https://dx.doi.org/10.2139/ssrn.4426146>