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Personal Data (Privacy) Ordinance (Cap. 486)**

**Investigation Report:
Excessive Collection of
Personal Data through the Mobile App
「縱橫遊」 and the Membership Programme
「Worldwide Touring 翱翔天地」 by
Package Tours (Hong Kong) Limited and
Worldwide Package Travel Service Limited**

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**香港個人資料私隱專員公署
Office of the Privacy Commissioner
for Personal Data, Hong Kong**

**Excessive Collection of Personal Data through the Mobile App「縱橫遊」 and
the Membership Programme「Worldwide Touring 翱翔天地」 by Package
Tours (Hong Kong) Limited and
Worldwide Package Travel Service Limited**

This report in respect of the investigation carried out by the Privacy Commissioner for Personal Data (the “**Commissioner**”) pursuant to section 38(b) of the Personal Data (Privacy) Ordinance, Cap. 486 (the “**Ordinance**”) against Package Tours (Hong Kong) Limited and Worldwide Package Travel Service Limited is published in the exercise of the power conferred on the Commissioner by Part VII of the Ordinance. Section 48(2) of the Ordinance provides that “*the Commissioner may, after completing an investigation and if he is of the opinion that it is in the public interest to do so, publish a report –*

(a) *setting out -*

- (i) *the result of the investigation;*
- (ii) *any recommendations arising from the investigation that the Commissioner thinks fit to make relating to the promotion of compliance with the provisions of this Ordinance, in particular the data protection principles, by the class of data users to which the relevant data user belongs; and*
- (iii) *such other comments arising from the investigation as he thinks fit to make; and*

(b) *in such manner as he thinks fit.”*

ALLAN CHIANG
Privacy Commissioner for Personal Data

Investigation Report: Excessive Collection of Personal Data through the Mobile App「縱橫遊」and the Membership Programme「Worldwide Touring 翱翔天地」 by Package Tours (Hong Kong) Limited and Worldwide Package Travel Service Limited

This self-initiated investigation revealed that Package Tours (Hong Kong) Limited and its designated sales agent, Worldwide Package Travel Service Limited, had contravened the Data Protection Principle 1 under the Ordinance by collecting excessively the full date of birth and the identity card number of members through the mobile application「縱橫遊」 and also during the application process for joining the customer loyalty programme 「Worldwide Touring 翱翔天地」. Also, customers were not notified of the purpose of collection of the personal data. Package Tours and Worldwide Package were directed to remedy the contravention and to prevent its recurrence.

Background

In view of the rapid growth in the mobile applications industry, the Commissioner carried out an exercise to examine the personal data collection practices of some mobile applications¹ (“app”) developed by Hong Kong developers for the purpose of monitoring and supervising compliance with the provisions of the Ordinance. The app 「縱橫遊」 (the “App”) developed by Package Tours (Hong Kong) Limited (operating under the business name 「縱橫遊」) (“Package Tours”) was amongst the targets of investigation in the exercise. Package Tours is a local travel agent providing wholesale travel products.

2. The App promotes the travel products of Package Tours and provides online services to mobile device users including (i) search for information on its travel products, (ii) online purchase of its travel products, and (iii) enquiry for the reward point balance and transaction history for members under a customer loyalty programme called the “Worldwide Touring” membership programme 「翱翔天地」 (“Programme”)² operated by Worldwide Package Travel Service Limited (operating under the business name 「翱翔遊」) (“Worldwide Package”). The key functions and features of the App are briefly shown in a diagram found in Annex 1.

¹ A total of 14 mobile apps were included in the exercise.

² The title of the Programme subsequently changed to “WWPKG FANS” / 「縱橫遊會員」 on 11 July 2014.

3. Worldwide Package represents itself as the designated sales agent of Package Tours (i.e. 「縱橫遊指定代理」 in Chinese). Under the Programme, members could earn reward points every time they purchased travel products through Worldwide Package. In order to be registered as members, applicants of the Programme were required to provide in a paper application form (the “**Form**”) their name, gender, full date of birth (“**DOB**”), full identity card number (“**ID number**”)³, home address, email address, mobile phone number, home phone number and signature. Amongst its other functions, the App allows members to check their reward points balance by providing their English name, DOB and ID number.

4. Having gathered some preliminary information, the Commissioner suspected there was contravention of the requirements of the Ordinance and hence initiated investigations against Package Tours and Worldwide Package on the collection of personal data through the App and under the Programme pursuant to section 38(b) of the Ordinance in July and November 2014 respectively.

Relevant Provisions of the Ordinance

5. Of relevance to this investigation is Data Protection Principle (“**DPP**”) 1 in Schedule 1 to the Ordinance. DPP1 provides:-

- “ (1) *Personal data shall not be collected unless—*
- (a) *the data is collected for a lawful purpose directly related to a function or activity of the data user who is to use the data;*
 - (b) *subject to paragraph (c), the collection of the data is necessary for or directly related to that purpose; and*
 - (c) *the data is adequate but not excessive in relation to that purpose.*

... ..

- (3) *Where the person from whom personal data is or is to be collected is the data subject, all practicable steps shall be taken to ensure that —*
- (a) *he is explicitly or implicitly informed, on or before collecting*

³ Worldwide Package accepted identity cards including Hong Kong Identity Card, identity cards from the Mainland China and Macau, etc. Such requirement was abolished in May 2013 by revision of the Programme application form.

- the data, of—*
- (i) whether it is obligatory or voluntary for him to supply the data; and*
 - (ii) where it is obligatory for him to supply the data, the consequences for him if he fails to supply the data; and*
- (b) he is explicitly informed—*
- (i) on or before collecting the data, of—*
 - (A) the purpose (in general or specific terms) for which the data is to be used; and*
 - (B) the classes of persons to whom the data may be transferred; and*
 - (ii) on or before first use of the data for the purpose for which it was collected, of—*
 - (A) his rights to request access to and to request the correction of the data; and*
 - (B) the name or job title, and address, of the individual who is to handle any such request made to the data user;*

unless to comply with the provisions of this subsection would be likely to prejudice the purpose for which the data was collected and that purpose is specified in Part VIII of this Ordinance as a purpose in relation to which personal data is exempt from the provisions of data protection principle 6.”

6. According to section 2 of the Ordinance:-

“data user”, in relation to personal data, means a person who, either alone or jointly or in common with other persons, controls the collection, holding, processing or use of the data.

“practicable” means reasonably practicable.

Information collected during the Investigation

7. In the course of investigation, this Office made enquiries with Package Tours and Worldwide Package and examined the documentary evidence provided by them. A director of Package Tours was also summoned to give evidence. Below is the relevant information obtained by this Office.

A. Relationship between Package Tours and Worldwide Package

8. Package Tours is a wholesale travel agent established in 1979 providing wholesale travel products, while Worldwide Package was established in 1985 and has acted as the designated sales agent of Package Tours in relation to the latter’s outbound package tours since 1997. The companies are two separate legal entities which are controlled by three individuals belonging to the same family.

B. Types of personal data collected from customers who join the Programme

9. In January 2010, Worldwide Package developed and launched the Programme to promote customer loyalty and repeat purchases. At present, about 30,000 members are registered under the Programme.

10. Customers who purchase travel products (including group tours, travel package, flight tickets and hotel vouchers, etc.) from Worldwide Package may join the Programme by completing and signing the Form (which is provided to customer in person immediately after purchase).

11. For easy reference, the purposes of collecting each item of personal data requested under the Form are shown below:-

Table 1- Purposes of collection of personal data through the Programme application

	Types of personal data	Purposes of collection claimed by Worldwide Package
(i)	Family name and first name in English* (as it appears on the passport or identity card)	To identify and communicate with the member
(ii)	Gender*	
(iii)	Name in Chinese* (as it appears on the passport or identity card)	
(iv)	DOB* (applicants must be at least two years of age)	For verification of members’ identity when members make enquiry about their membership account details and check/redeem reward points

(v)	ID number* ⁴	
(vi)	Home address* ⁵	For communication with members and delivery of the Programme membership card
(vii)	Email address*	For verification of members' identity when members make enquiry about their membership account details and check/redeem reward points, as well as for communication with members
(viii)	Mobile phone number*	
(ix)	Home phone number ⁶	For communication with members
(x)	Signature*	For confirmation that the applicant has read and agreed to the terms & conditions of the Programme

* Required field

12. Applicants were asked to provide all the items marked with an asterisk above in the Form. Upon enrolment, a membership number will be assigned and a Programme membership card will be issued to the member. Members could earn reward points for purchases made on Worldwide Package on a scale of 1 reward point to HK\$1 purchase value, and every 100 reward points earned under the Programme account are entitled to HK\$1 redemption in future purchases.

13. In May 2013, Worldwide Package revised the Form by abolishing the collection of applicants' ID number, home address and home phone number. The minimum age requirement for member enrolment had also been changed from 2 to 18 years old. However, Worldwide Package did not specify the effective date for implementing the changes and its retail branches continued to use the old Forms until the stock was depleted.

14. In processing Programme applications, Worldwide Package collected and retained approximately 28,000 and 27,000 DOB and ID numbers of members respectively. Out of 30,000 registered members, around 2,000 and 3,000 did not provide their DOB and ID number respectively but the staff still accepted the application.

⁴ This item was removed from the 2013 version of the Form

⁵ supra

⁶ supra

15. The personal data so collected using the Form will be inputted and stored in a designated database under a computer system developed for the Programme solely operated by Worldwide Package.

C. Enquiry of membership reward points balance

16. Registered members could enquire about their membership account details and reward points balance by visiting Worldwide Package's branches in person, through its customer services hotline or using the App on a mobile device.

C1. In person or through hotline

17. For in-person and hotline enquiry, Worldwide Package's staff would first require the member making enquiry to provide his membership number under the Programme. If he is unable to provide this information, he could provide his name, mobile phone number and/or email address for verification of identity.

C2. Through the App

18. The App was first launched on Apple Inc.'s iOS platform on 2 October 2010. The App offers members a quick enquiry alternative. A member can check his accumulated reward points, past earning and redemption history under the Programme by inputting his English name, DOB and ID number (collectively the "**Data**") under the Reward Points Enquiry function of the App (「積分查詢」) (the "**Reward Points Enquiry**") (see figure 1 below). All items of the Data are mandatory and the enquiry could not proceed if any item of the Data is missing or inaccurate. (see also the diagram in Annex 1)

19. Upon pressing the 「查詢」 (Enquiry) button, the system will transmit the Data to the web server of Worldwide Package to check against its Programme database. If the Data finds a match in the database, the system will transmit the corresponding reward point records and transaction history of the member to the mobile device for display. Otherwise, the enquiry would fail to proceed and the App will generate an error message (see figure 2 below). (see also the diagram in Annex 1)



Figure 1: Interface of Reward Points Enquiry



Figure 2: Interface of failure to provide all or accurate Data

D. **Online purchase of travel products through the App (“Online Purchase”)**

20. To purchase a travel product through Online Purchase, the App user is required to input his English name, contact telephone number, email address, membership number (if any), and credit card information⁷. The staff of Worldwide Package will contact the customer for order confirmation by telephone within 24 hours. Package Tours would use the personal data collected for issuance of flight ticket and purchase of group travel insurance etc. (see also the diagram in Annex 1)

The Findings of the Commissioner

21. This case concerns the collection of personal data by two closely related companies Package Tours and Worldwide Package during the Programme application process and the operation of the App. Although both companies claimed that they are independent and that Worldwide Package is merely the designated sales agent appointed by Package Tours, the two companies share the same office address and computer network. To decide whether the two companies have complied with the requirements under the Ordinance, it is

⁷ Including cardholder’s name, the type of credit card, credit card number, card verification value (CVV), and card expiry date.

necessary to examine their respective roles in collecting the relevant personal data during various operational processes.

Collection of Personal Data under the Programme

Who is the Data User?

22. According to the terms and conditions on the Form and representations by Package Tours and Worldwide Package, the Programme is solely managed and operated by Worldwide Package. Also, Worldwide Package solely operates the designated database containing the personal data collected under the Programme. Package Tours has no access rights to such database and computer system even though it shares the same computer network with Worldwide Package. As such, the Commissioner is of the view that Worldwide Package is the only data user which controls the collection, holding, processing and use of members' personal data under the Programme.

Unnecessary and Excessive collection of customers' DOB and ID number for joining the Programme

23. According to DPP1(1), Worldwide Package shall not collect personal data unless the data is collected for a lawful purpose directly related to a function or activity of Worldwide Package. Moreover, the collection of the data must be necessary for or directly related to that purpose, and the data is adequate but not excessive in relation to that purpose.

24. In this regard, Worldwide Package is in the business of sale of package tours and the Programme is run to promote customer loyalty and repeat purchases. The Commissioner considers that collection of the personal data by Worldwide Package is for a lawful purpose directly related to its function or activity in compliance with the requirements under DPP1(1)(a).

25. However, having considered the available evidence, the Commissioner does not consider that the collection of all the items of the personal data are necessary, adequate but not excessive for running the Programme as required under DPP1(1)(b) and (c). Below is the analysis of the Commissioner.

26. The Commissioner accepts that for the respective purposes as specified in Table 1 above, it is necessary, adequate but not excessive for collection of the

following items of personal data:-

- (a) English and Chinese name as well as gender (items (i) to (iii) of Table 1 above);
- (b) Email address and mobile phone number (items (vii) and (viii) of Table 1 above); and
- (c) Signature (item (x) of Table 1 above)

27. With personal data under (a) and (b) of paragraph 26 above, Worldwide Package can identify the applicants/members and/or verify their identities for the purpose of providing services under the Programme (including answering enquiry about membership account details and check/redeem reward points) as well as to communicate with them. For item (c) above, the Commissioner is satisfied that it serves the legitimate purpose of proving that a membership agreement between individual applicant and Worldwide Package has been reached and the applicant has read the terms and conditions.

28. Given home address and home phone number are no longer required from applicants⁸, the Commissioner finds it unnecessary to deal with the same in this report. Suffice it to say that the collection of home address and home phone number serves a similar communication purpose as email address and mobile phone number (item (b) above).

29. In relation to the collection of DOB and ID number (items (iv) and (v) of Table 1 above), the Commissioner rejects Worldwide Package's explanation that they were necessary for verification of members' identity for providing services under the Programme (including members' enquiry about membership account details and checking/redemption of reward points). As noted in paragraph 14 above, even the branch staff accepted the application when the applicants refused or did not provide their DOB or ID number on the Forms.

30. Furthermore, for in-person and hotline enquiry, DOB and ID number are not required for identifying the member and retrieving his membership information. Besides, Worldwide Package confirmed that if a member fails to provide his membership number in the enquiry process, provision of his name, email address and/or mobile phone number would suffice. In fact, DOB and ID number are not made search criteria in the computer system for the Programme to search the membership account details.

⁸ As a result of the revision of the Form in May 2013.

31. On the basis of the above, the Commissioner is of the view that Worldwide Package's collection of DOB and ID number in the circumstances is unnecessary and excessive for the stated purposes.

32. Although Worldwide Package revised the Form and abolished the requirement for provision of ID number from applicants in May 2013, it did not specify a clear and definite effective date for introducing the new Form but allowed its branches to continue to use the old Forms until stock depletion. In the absence of clear instruction to its staff, this delay in implementation may lead to prolonged excessive collection of ID number.

Collection of Personal Data through the App - Reward Points Enquiry function

Who is the data user?

33. Both Package Tours and Worldwide Package claimed that the App was developed by Package Tours while Worldwide Package is responsible for the daily operation of the App. Worldwide Package, not Package Tours, is responsible for the collection and processing of personal data through the App and the App operates on the computer system and servers of the Programme run by Worldwide Package. Hence, Worldwide Package is undoubtedly the data user even though Package Tours' brand logo also appears in the App.

Excessive collection of members' personal data

34. In order to proceed with the enquiry under the App, the data fields in the interface of Reward Points Enquiry explicitly solicit the Data (English name, DOB and ID number) from members for matching the data with the database of the Programme. This procedure serves to identify a particular member so that his membership account details can be retrieved. It also constitutes collection of members' personal data.

35. Similar to in-person and hotline enquiries, Worldwide Package should be able to authenticate reliably the identity of a member by merely using less sensitive personal data, such as his name and contact information. It is odd that membership number (which is provided to member after registration under the Programme) is not made a data field in the customer interface under the App

notwithstanding a member is always able to check his account through in-person or hotline enquiries by just quoting his membership number.

36. Compared to [name, contact data and membership number]; DOB and ID number are potentially more sensitive data. Taking into account that enquiry about reward points balance is a relatively inconsequential matter, the Commissioner considers that the collection of DOB and ID number through the App for online verification of members' identity under the Member Rewards Enquiry function is unnecessary and excessive, contrary to the requirements under DPP1(1).

Collection of Personal Data through the App - Online Purchase function

Who is the data user?

37. The personal data (as mentioned in paragraph 20 above) collected through Online Purchase function under the App is processed by a separate database and computer system specially developed for managing the sale of the travel products (as distinct from the database and computer system for the Programme). Both Worldwide Package and Package Tours can access this database and computer system. Worldwide Package as the designated sales agent of Package Tours is responsible for receiving and acknowledging Online Purchase orders. Package Tours as the products provider would subsequently use the personal data collected by Worldwide Package for flight tickets issuance with airlines and purchase of the group travel insurance etc. Therefore, both Package Tours and Worldwide Package control the collection, holding, processing and use of members' personal data through the Online Purchase under the App and are regarded as the joint data users in the circumstances.

Failure to Provide Notification to App users

38. Pursuant to DPP1(3)(b), if personal data is collected directly from the individual, a data user is obliged to take all practicable steps to ensure that, on or before collection of the data, the data subject is explicitly informed of the purpose for which the data is to be collected and the classes of persons to whom the data may be transferred. In addition, before the first use of the data, the data subject should be informed of his right to request access to and correction of the data and the name or job title, and address, of the individual who is to handle any such request.

39. We noted that no such information or a hyperlink to such information was provided in the App for Online Purchase. Therefore, the Commissioner finds Package Tours and Worldwide Package, being the joint data users of Online Purchase of the App, have contravened DPP1(3)(b).

40. Similarly, the Commissioner finds that no such information or a hyperlink to such information was provided in the App for Reward Points Enquiry. Accordingly, Worldwide Package, being the sole data user, has contravened DPP1(3)(b).

Conclusion

41. Upon completion of the investigation, the Commissioner concludes that Package Tours and Worldwide Package have contravened the requirements under the Ordinance as summarised in Table 2 below:-

Table 2- Contraventions by Package Tours and Worldwide Package

Contravention of the relevant DPPs and description		Package Tours	Worldwide Package
DPP1(1)	Excessive collection of DOB and ID number for the purposes of verification of members' identity during Programme application process and through Reward Points Enquiry under the App	N/A	✓
DPP1(3)(b)	Failed to inform the users of the App (i) the purposes of use of personal data; (ii) the classes of transferees of the data; (iii) the user's right to request access to and correction of the data; and (iv) the name or job title, and address, of the individual who is to handle any such request	✓	✓

Enforcement Notice

42. Pursuant to section 50(1) of the Ordinance and in consequence of an investigation, if the Commissioner is of the opinion that the relevant data user is

contravening or has contravened a requirement under the Ordinance, he may serve on the data user a notice in writing, directing the data user to remedy and, if appropriate, prevent any recurrence of the contravention.

43. In consequence of this investigation, the Commissioner has served on Package Tours and Worldwide Package Enforcement Notices (“ENs”) respectively directing:-

- (i) Worldwide Package to cease collection of DOB and ID number from applicants for joining the Programme;
- (ii) Worldwide Package to cease to use the Form adopted prior to May 2013 and to further revise the new Form for immediate implementation by deleting the requirement of provision of DOB;
- (iii) Worldwide Package to cease the collection of DOB and ID number through the Reward Points Enquiry function under the App (in order to continue the operation of the Reward Points Enquiry, Worldwide Package may only collect personal data [other than name, mobile phone number and/or email address] for identity verification with the approval of the Commissioner);
- (iv) Worldwide Package to completely delete from the Programme (including the Programme database) the DOB and ID number collected; and
- (v) Package Tours and Worldwide Package to provide a “Personal Information Collection Statement” in the App in the manner prescribed under DPP1(3)(b).

44. Package Tours and Worldwide Package are required to comply with the above directions within 21 days from the service of the ENs. Contravention of an EN is an offence under section 50A of the Ordinance and an offender is liable on conviction to a fine of \$50,000 and to imprisonment for 2 years and, in the case of a continuing offence, to a daily penalty of \$1,000. In the event a data user repeats the DPP contravention intentionally, it commits an offence that attracts the same penalty, without being served an enforcement notice.

Other Comments

45. By using the internet, social media and mobile, organisations can enhance customer relationships, increase profit, streamline operations and use innovation to reinvent competitive solutions and business models.

46. The app revolution is a prime example. Almost every organisation wants an app to drive more consumer traffic. Even organisations that are relatively green in technological maturity understand the value an app can provide, from enhancing their appeal in the market to collecting enormous amounts of personal data. In a rush to adopt apps, they may not know enough about privacy risks or management and devote adequate resources to either identify or address them. As a result, we are seeing an increasing number of rookie mistakes made by organisations as they step into the digital world.

47. The malpractices adopted by Package Tours and Worldwide Package revealed in this report could well represent the tip of an iceberg. They are consistent with the findings of a survey conducted by the Commissioner in 2013 and repeated in 2014 which highlighted the following inadequacies in the transparency of privacy policies of local apps:-

- (a) A high proportion of the apps did not provide any form of privacy policy before download to explain clearly how the app would collect, use and disclose personal data. Where such information is provided, the information is inadequate in terms of relevance, readability and accessibility. Without being meaningfully informed, users are hampered in deciding whether to download the app.
- (b) Most of the apps seemed to have sought permissions for data access beyond what one would expect based on the app's functionality. The tendency is for them to collect data excessively, without evaluating the actual need for each item of the data collected.

48. Admittedly, conveying privacy information to consumers effectively can present unique challenges in the app world, where screens are small and users' attention can be intermittent. That said, compliance with the legal obligations under the Ordinance is a must. In any event, a customer-focused organisation will appreciate that an app provides an interface between the

organisation and potentially millions of customers, clients and users. Effective privacy communications can be rewarded with customer trust and loyalty: the cornerstone of business success.

49. Organisations responsible for developing apps and those who commission such work to contractors are strongly advised to keep abreast of the legal requirements in protecting privacy by taking advantage of the professional seminars conducted by the Commissioner's Office and checking the "Best Practice Guide for Mobile App Development" issued by the Commissioner.