

# PRIVACY FRAMEWORK IN THE PHILIPPINES

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# OUTLINE

- INTRODUCTION OF CICT
- LAWS RELEVANT TO PRIVACY
- PHILIPPINES IMPLEMENTATION OF APEC PRIVACY PRINCIPLES
- MECHANISM FOR REPORTING ON DOMESTIC IMPLEMENTATION OF APEC PRIVACY FRAMEWORK
- CONCLUSION: DEVELOPING A FRAMEWORK

# INTRODUCTION

- CICT is the primary agency in Executive Branch of Government for ICT policy, planning, coordinating, implementing, regulating and administrative functions.
- CICT was created under EO 269 dated Jan. 12, 2004 as a transitory agency to DICT
- CICT is headed by a Chairman with a Cabinet Rank and assisted by the DG of the National Computer Center (NCC), and the Chief of the Telecommunications Office (TELOF) and two other Commissioners for Human Capital Development and Strategic Business Development

# PRIVACY IS A RIGHT

- Right to privacy is a Basic Right given to any Filipino
- It is bestowed by virtue of the Constitution's Bill of Rights
  - Section 2 states "The right of the people to be secure in their persons, houses, papers..."
  - Section 3 states: "(1)The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law

# SPECIFIC LAW ON PRIVACY

**THERE IS NO SPECIFIC LAW ON  
PRIVACY**



# RIGHT TO PRIVACY PROVISION

- **REPUBLIC ACT NO. 8505 (AN ACT PROVIDING ASSISTANCE AND PROTECTION FOR RAPE VICTIMS...)**
  - **SECTION 5. *Protective measures.* — At any stage of the investigation, prosecution and trial of a complaint for rape, the police officer, the prosecutor, the court and its officers, as well as the parties to the complaint shall recognize the right to privacy of the offended party and the accused. Towards this end, ...the name and personal circumstances of the offended party and/or the accused, or any other information tending to establish their identities, and such circumstances or information on the complaint shall not be disclosed to the public.**

# PROVISION ON PRIVACY

- **REPUBLIC ACT NO. 8369 (AN ACT ESTABLISHING FAMILY COURTS, GRANTING THEM EXCLUSIVE ORIGINAL JURISDICTION OVER CHILD AND FAMILY CASES...)**
- **SECTION 12. *Privacy and Confidentiality of Proceedings.* - All hearings and conciliation of the child and family cases shall be treated in a manner consistent with the promotion of the child's and the family's dignity and worth, and shall **respect their privacy at all stages of the proceedings. Records of the cases shall be dealt with utmost confidentiality and the identity of parties shall not be divulged unless necessary and with authority of the judge****

# BANK SECRECY LAW

## LAW ON SECRECY OF BANK DEPOSITS

Republic Act No.1405, as amended

An act prohibiting disclosure of or inquiry into, deposits with any banking institution and providing penalty



# E-COMMERCE ACT

- E-COMMERCE ACT  
Republic Act No. 8792

Includes provisions on privacy security among others and provides for penalties on computer hacking, introduction of viruses and piracy of copyright works

# E-COMMERCE ACT OBLIGATION OF CONFIDENTIALITY

## ***Obligation of Confidentiality. –***

***any person who obtained access to any ..., electronic data message, or electronic document,.. information, or other material pursuant to any powers conferred under this Act, shall not convey to or share the same with any other person.***

# PROTECTION OF USERS – A PRINCIPLE UNDER IRR OF ECA

- **The protection of users, in particular with regard to privacy, confidentiality, anonymity and content control shall be pursued through policies driven by choice, individual empowerment, and industry-led solutions.**
- **It shall be in accordance with applicable laws. Subject to such laws, business should make available to consumers and, where appropriate, business users the means to exercise choice with respect to privacy, confidentiality, content control and, under appropriate circumstances, anonymity.**

# LAWFUL ACCESS

**Access to an electronic file, or an electronic signature of an electronic data message or electronic document shall only be authorized and enforced in favor of the individual or entity having a legal right to the possession or the use of the plaintext, electronic signature or file and solely for the authorized purposes.**

# RETENTION OF E-DATA AND E-DOCUMENT

- **Remains accessible so as to be usable for subsequent reference**
- **Is retained in the format in which it was generated, sent or received, or in a format which can be demonstrated to accurately represent the electronic data message or electronic document generated, sent or received;**
- **Enables the identification of its originator and addressee, as well as the determination of the date and the time it was sent or received.**

# GOVERNMENT USE OF E-DOC - ECA

- **XXX, all departments, bureaus, offices and agencies of the government, XXX require that documents be created, or retained and/or submitted, XXX to the government, shall:**
- **D) transact the government business and/or perform governmental functions using electronic data messages or electronic documents, and for the purpose, are authorized to adopt and promulgate,XXX the appropriate rules, regulations, or guidelines, to, among others, specify:**
- **4) the control processes and procedures as appropriate to ensure adequate integrity, security and confidentiality of electronic data messages or electronic documents or records or payments;**

# GOVERNMENT SECURING E-DATA

- ***Principles Governing Government Use of Electronic Data Messages, Electronic Documents and Electronic Signatures.***
- ***Security Measures.*** - Government shall implement appropriate security measures to guard against unauthorized access, unlawful disclosure of information, and to ensure the integrity of stored information.

# RESPONSIBILITY OF SERVICE PROVIDERS - ECA

**“... service providers shall have no authority to modify or alter the content of the electronic data message or electronic document received or to make any entry therein on behalf of the originator, addressee or any third party unless specifically authorized to do so, and who shall retain the electronic document in accordance with the specific request or as necessary for the purpose of performing the services it was engaged to perform.”**



# DISCLOSING INFO -SERVICE PROVIDER IS NOT LIABLE IF:

- **IT does not have actual knowledge, or**
- **IT is not aware of the facts or circumstances from which it is apparent, that the making, publication, dissemination or distribution of such material is unlawful or infringes any rights subsisting in or in relation to such material, or**
- **Having become aware, advises the affected parties within a reasonable time, to refer the matter to the appropriate authority or, at the option of the parties, to avail of alternative modes of dispute resolution;**
- **The service provider does not knowingly receive a financial benefit directly attributable to the unlawful or infringing activity; and**
- **The service provider does not directly commit any infringement or other unlawful act and does not induce or cause another person or party to commit any infringement or other unlawful act and/or does not benefit financially from the infringing activity or unlawful act of another person or party;**

# OTHER THAN LAWS: PRIVACY IMPLEMENTATION

- Executive Issuances
- Rules and Regulations
- Jurisprudence
- Corporate Business Practice
- Individual Initiatives



# WEBSITE PRIVACY POLICY

- SOME WEBSITES CONTAIN PRIVACY STATEMENT
- PERSONAL INFORMATION WILL BE TREATED IN ACCORDANCE WITH THE PRIVACY STATEMENT
  - Entry of name in contest promotions,
  - Subscription to newsletter, or
  - Disclosed personally identifiable information on bulletin boards or in the chat areas

# CHOICE

- **Consent that personal and non-personal information may be used to generate aggregate reports**
- **Agree that voluntarily disclosing personal and other information on the bulletin boards or chat areas of web sites shall become public information**
- **Agree that organizations should ask for Consent to "opt-in" to sell, rent, share or otherwise make available personal information to any outside parties,**

# TEXT SPAM

## NTC Memorandum Circular on Rules and Regulations on Broadcast Messaging Services.

- adopts the **OPT-IN REGIME** where it is prohibited to send unsolicited commercial messages or spam by SMS or MMS unless the subscriber has given permission or consent.
- NTC also requires broadcast messages to display the names of the senders as well as valid addresses or numbers to which subscribers can send their requests to cease broadcast messages.
- Violators of the circular shall subject to the imposition of appropriate administrative and penal sanctions in accordance with law.

# MECHANISMS FOR DOMESTIC IMPLEMENTATION REPORTING

- CONTINUE WITH TECHNICAL SEMINARS REQUESTING PARTICIPANTS TO PROVIDE UPDATED INFO ON THEIR IMPLEMENTATION OF PRIVACY PRINCIPLES
- SURVEY BASED ON A QUESTIONNAIRE TO BE DEVELOPED BY THE PRIVACY SUB-GROUP OF ECSG
- ACCOMPLISHMENT OF SAMPLE IAP MATRIX TO BE DEVELOPED BY ECSG

# CONCLUSION:DEVELOPING A FRAMEWORK

- RECOGNITION OF EXISTING REGIME
- APPROACH TO IMPLEMENTATION MAY VARY AND HAVE TO BE REVIEWED
- MULTI-STAKEHOLDER CONSULTATION IS VERY IMPORTANT
- BUILD ON EXISTING MODELS AND CONTINUE DISCUSSING HOW WE CAN ASSIST ECONOMIES
- NOTE THAT CROSS-BORDER PRIVACY MAY HAVE TO BE DEVELOPED
  - VOLUNTARY AND CONSENSUS-BASED ENVIRONMENT
  - CONFIDENCE BUILDING IS NECESSARY
  - ADHERENCE TO RECIPROCITY PRINCIPLE

# END OF PRESENTATION

## THANK YOU



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