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Impact of GDPR on Businesses in Hong Kong

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International Impact

- **GDPR is not one size fits all**
- **But has been a catalyst for privacy law reform worldwide**
 - Thailand - Personal Data Protection Act 2019
 - India - Personal Data Protection Bill 2018
 - Hong Kong - Review of the Personal Data (Privacy) Ordinance (**PDPO**) in progress



5 communications by EU nationals against HK entities, received by the PCPD

Nature of the cases

- Excessive collection of personal data
- Non-compliance with data access request
- Disclosure of personal data to 3rd party without consent
- Data breach (failure to maintain data security)

Results of the 4 complaint cases:

- The complaints were closed because:
 - they were **unsubstantiated** or
 - **no response** from complainants to PCPD's follow-up
- GDPR was unlikely to apply in those complaints
 - because the conducts in issue took place in HK;
and/or
 - no targeting or monitoring individuals in the EU

Concerns about GDPR

Key issues raised by EU data protection authorities:

- fragmentation affecting implementation in the protection of children's data (not a uniform age of consent, ranging from 13-16)
- businesses would like faster and more concrete assistance from DPAs
- Germany asked for transparent criteria for the setting of fines
- DPOs need more clarity and guidance
- Professional qualifications of DPOs need more clarity

267 GDPR-related enquiries received by PCPD since 1 May 2018

Major concerns:

- What are the requirements and impacts of GDPR?
- Whether SME is required to comply with GDPR?
- Whether PCPD would enforce compliance with GDPR?
- Would PCPD refer cases of suspected breach of GDPR to relevant enforcement agencies?
- What are the differences between GDPR and PD(P)O?
- Would PCPD amend the PD(P)O in accordance with the requirements under GDPR?

Education & Outreach by PCPD for GDPR Awareness

- **Seminars**

e.g. *“The Implication of GDPR for Employers”*

“EU GDPR – How Hong Kong Should Get Prepared”

- **Journal articles in ‘HK Lawyer’**

e.g. *“GDPR & PDPO: What’s the Difference?”*

- **Talks for chambers of commerce and trade associations**

e.g. *“GDPR & data protection for HK entities with business presence in the EU”*

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“European Union General Data Protection Regulation 2016” Booklet



www.pcpd.org.hk/tc_chi/resources_centre/publications/files/eugdpr_c.pdf



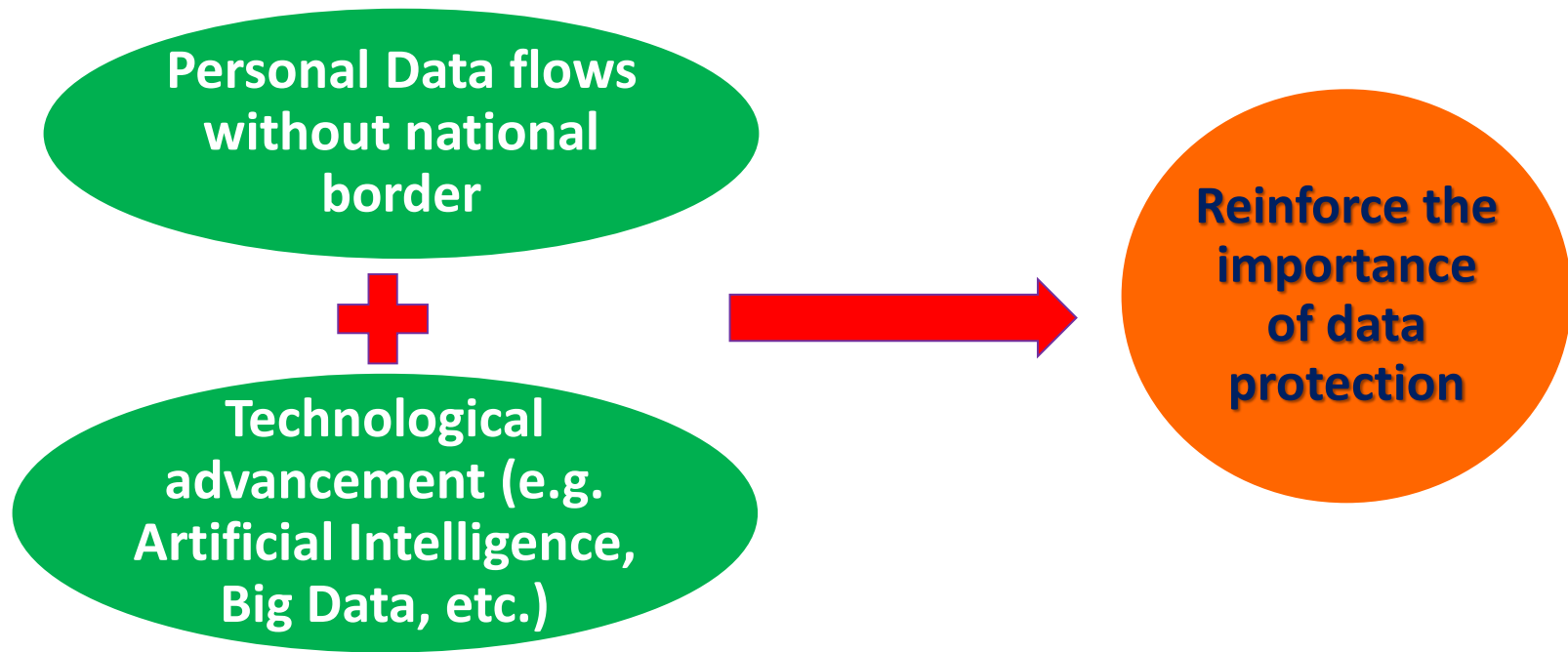
www.pcpd.org.hk/english/resources_centre/publications/files/eugdpr_e.pdf



| Hong Kong's **Unique and Irreplaceable Attributes**

- Free flow of information
- Protection of Privacy as a fundamental human right
- Comprehensive legal regime for personal data privacy
- English as an official language

Role of Hong Kong as Data and Innovation Hubs



Proposed reforms for the PDPO



- Expand the definition of “personal data”
- Introduce mandatory breach notification
- Strengthen powers of the Privacy Commissioner
- Regulate data retention
- Regulate data processors directly
- Expressly recognise accountability in the PDPO

International Conference of Data Protection and Privacy Commissioners (ICDPPC)

The 41st ICDPPC 2019 identified 3 pillars:

1. Evolution towards global policy, standards and models for data protection and privacy
2. Encompassing international regulatory co-operation and sharing of good practices
3. Developing unified policy positions on shared societal risks

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