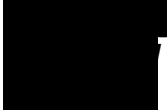


10 May 2021

Advisory Opinion

Reference No. DPO 21-03

FOR : 
University of the Philippines Diliman

RE: : Disclosure of webinar participants' contact information to partner organization

Dear :

We write in relation to your inquiry on the propriety of disclosing the contact information of your webinar's attendees to your partner organization for promotional purposes.

We understand that you intend to include a consent form as part of the registration form wherein the attendee will agree to such disclosure and receipt of promotional information.

Section 11 of R.A. No. 10173 or the Data Privacy Act of 2012 dictates that:

*"The processing of personal information shall be allowed, **subject to compliance with the requirements of this Act** and adherence to the principles of **transparency, legitimate purpose and proportionality.**"*

Kindly note that the disclosure of personal information, particularly their contact information, for promotional purposes amounts to processing for commercial purposes. The term "commercial purposes" has been construed by the National Privacy Commission in its ordinary meaning and refers to any activity with the ultimate purpose of gain or profit.¹

In relation thereto, Section 12 of the same law states that personal information may be processed provided any of the following instances are present:

¹ National Privacy Commission Advisory Opinion No. 2017-013

*“SEC. 12. Criteria for Lawful Processing of Personal Information. – The processing of personal information shall be permitted only if not otherwise prohibited by law, and **when at least one of the following conditions exists:***

- (a) **The data subject has given his or her consent;***
- (b) The processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;*
- (c) The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;*
- (d) The processing is necessary to protect vitally important interests of the data subject, including life and health;*
- (e) The processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate; or*
- (f) The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.” (emphasis supplied)*

In order to ensure adherence to the Data Privacy Act, we strongly suggest the following:

- a. Inclusion of a *privacy notice* at the beginning of your registration form.

The main function of a privacy notice is summed up in the 27 May 2020 UP Diliman Data Protection Office Advisory²:

*“A **privacy notice** is an **announcement** directed to the public for a **specific** endeavor, project, document, **activity or event**. For example, a privacy notice at the footer of an email is a specific notice for that email notifying the reader that such particular email is private. A general privacy notice may also be released to inform the public of an overview of how an organization processes data.” (emphasis supplied)*

- b. Inclusion of a *separate and distinct consent portion* for particular purposes;

The seminar participants must be properly apprised of the *nature, extent, and purpose* of the collection of their personal information. They must be informed as to what type of contact information will be collected from them (will it be limited to their names and email addresses? Will their cellphone numbers be disclosed as well?); how will [REDACTED] and its corporate partner use the information; and how will their personal information be kept safe by both parties.

² DPO Advisory Reference No. EBM 20-03

Explaining these to the participants will allow them to be properly informed and come up with an intelligent decision on whether they will allow to such disclosure.

Thus, *two* consent statements must be present in the registration form: One that is informing them that their personal information will be obtained by ██████████ for the purpose of conducting the webinar (i.e., sending of the Zoom link, attendance, etc); and another regarding the disclosure of their contact information to the partner organization for promotional purposes.

The use of granular consent statements with corresponding tick boxes are encouraged to indicate their consent to each particular purpose.³ Granularity of consent requires that in the event of multiple purposes of processing, such as in the case at hand, *different purposes must be unbundled, and separate consent must be obtained for each purpose.*⁴

Please be reminded that *participants should have the option not to disclose their contact information to the partner organizer.* They must also be properly notified that *their refusal to the disclosure does not disqualify them from taking part in the webinar,*

- c. The privacy notice and consent statements be placed at the beginning of the consent form before the collection of any personal information.

Kindly ensure that consent of the registrant has first been obtained before he/she proceeds with filling up the form;

- d. We strongly enjoin that the contact information of the participants be the subject of a *Data Sharing Agreement* between the University, though ██████████, and your Partner Organization.

This is to ensure that the disclosed information will be used solely for the purposes set therein. Corollary thereto, the participants must also be informed that their contact information will be subject to a Data Sharing Agreement; and

- e. Collect only what is *absolutely* necessary.

The data privacy principle of proportionality requires that the processing of personal information shall *be adequate, relevant, suitable, necessary, and not excessive in relation to a declared and specified purpose.* Moreover, it should be processed only if the purpose of the processing could not be reasonably fulfilled by other means.⁵

³ NPC Advisory Opinion No. 2019-034 states that, “There is a requirement of granularity of the consent with regard to the different elements that constitute the data processing x x x Consent should refer to the processing that is reasonable and necessary in relation to the purpose”

⁴ Ibid.

⁵ Section 18 (c), Rule IV, Republic Act No. 10173 Implementing Rules and Regulations

This means that should [REDACTED] disclose the contact information of the participants to the partner organization, the former should disclose only what is absolutely necessary to achieve the declared purpose, which is to promote the activities of the latter.

Also, if there are less intrusive means of to achieve the purpose, then such must be employed instead. Thus, if the goal is to promote the partner organization's activities, then disclosing a single contact information such as one's email address would suffice, instead of disclosing the participants email address and contact number.

We hope to have guided you on the matter. Should you have additional concerns, please feel free to reach out to our office.

Sincerely,

(Sgd.) Atty. Regine Estillo
Legal Officer/Data Protection Officer
University of the Philippines Diliman