



**Amendment to General Rules Edition of Guidelines  
Concerning the Act on the Protection of Personal Information (Draft)**

**Comments of BSA | The Software Alliance  
November 1, 2018**

BSA | The Software Alliance (BSA)<sup>1</sup> welcomes this opportunity to provide our comments with respect to the draft amendment to General Rules Edition of Guidelines (the “Guidelines”) Concerning the Act on the Protection of Personal Information (the “Draft Amendment”), published by the Personal Information Protection Commission (PPC).

BSA appreciates that PPC continues efforts to engage in meaningful dialogue with the private sector even after the amended Act on the Protection of Personal Information (the “Act”) came into force, and to implement a balanced system that enables the proper utilization and adequate protection of personal information. BSA also appreciates the PPC's updating the Guidelines in a timely manner.

In the interest of ensuring that the Guidelines are clear and easy to understand for both providers of various innovative services, including BSA members, and users of such services, BSA provides the following specific comments and recommendations.

**3-5-2 Disclosure (Article 28 of the Act)**

The Draft Amendment attempts to clarify under which circumstances the business operations of a personal information handling business operator are likely to be interfered seriously by disclosing retained personal data to the principal.

We recommend elaborating that the concept of “*mere interference*” means specifically “*temporary or limited interference*.” In addition, while clarifying that the mere volume of disclosed personal information should not be considered serious interference, it is important to note that efforts to disclose personal information should be “commercially reasonable” in order

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<sup>1</sup> BSA | The Software Alliance ([www.bsa.org](http://www.bsa.org)) is the leading advocate for the global software industry before governments and in the international marketplace. Its members are among the world's most innovative companies, creating software solutions that spark the economy and improve modern life. With headquarters in Washington, DC, and operations in more than 60 countries, BSA pioneers compliance programs that promote legal software use and advocates for public policies that foster technology innovation and drive growth in the digital economy.

BSA's members include: Adobe, Akamai, Amazon Web Services, ANSYS, Apple, Autodesk, AVEVA, Bentley Systems, Box, CA Technologies, Cadence, Cisco, CNC/Mastercam, DataStax, DocuSign, IBM, Informatca, Intel, MathWorks, Microsoft, Okta, Oracle, PTC, Salesforce, SAS Institute, Siemens PLM Software, Slack, Splunk, Symantec, Synopsys, Trend Micro, Trimble Solutions Corporation, and Workday.

to avoid being considered serious interference in business operations. Therefore, the criteria should consider whether or not the business operator is able to disclose personal information within "commercially reasonable efforts", which is a concept commonly used in contractual arrangements. Thus, we request the following revision:

Draft Amendment: Cases falling under "is likely to cause serious interference" shall be limited to an exceptional case in which the business operations of a personal information handling business operator are not merely interfered, but are likely to be interfered more seriously. The volume of personal data to be disclosed being large by itself shall not generally be applicable.

Our Suggestion for Revision: Cases falling under "is likely to cause serious interference" shall be limited to an exceptional case in which the business operations of a personal information handling business operator are not **merely temporarily or limitedly interfered**, but are likely to be interfered more seriously. **To the extent that the personal information handling business operator is able to disclose at its commercially reasonable efforts**, the volume of personal data to be disclosed being large by itself shall not generally be applicable.

**Conclusion:**

BSA would like once again to thank the PPC for their efforts and for granting us the opportunity to provide these comments on the Guidelines. We hope our comments will be useful as you finalize the Guidelines, but also more generally, we will be happy to continue to collaborate with the PPC and related agencies regarding the Act and relevant regulations and guidelines. Please let us know if you have any questions or would like to discuss these comments in more detail.

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