

Personal Data (Privacy) (Amendment) Bill 2021

The Government will arrange gazettal of the Personal Data (Privacy) (Amendment) Bill 2021 (the Bill) on July 16, and has submitted the Legislative Council (LegCo) Brief on the Bill to the LegCo today (July 14).

The Bill aims to combat doxxing acts that are intrusive to personal data privacy, through the criminalisation of doxxing acts, and conferring on the Privacy Commissioner for Personal Data (the Commissioner) statutory powers to issue cessation notices demanding the cessation or restriction of disclosure of doxxing content. The Bill also confers on the Commissioner power to conduct criminal investigation and institute prosecution for doxxing cases, so as to strengthen enforcement against doxxing cases.

A Government spokesman said, "Between June 2019 and June 2021, the Office of the Privacy Commissioner for Personal Data (PCPD) has handled over 5 800 doxxing complaint cases that are intrusive to personal data privacy, and the situation is rampant and despicable. The public has strongly asked the Government to criminalise doxxing acts and step up enforcement with a view to eradicating doxxing. In its judgements on doxxing, the Court also pointed out that the distant use of the Internet to perform doxxing acts has far-reaching consequences, causing real nuisance, real harassment, and real anxiety to the society, the victims and their family members and that doxxing acts would also create a chilling effect in the society and discourage open expression of views for fear of falling victim to doxxing. There is an imminent need for the Government to specifically legislate against doxxing acts so as to protect the personal data privacy of the general public."

At present, other jurisdictions have also established offences against unlawful publishing of identity information of relevant persons with intent to cause harassment to the target person. In the process of drafting the Bill, the Government has made reference to the relevant laws of Singapore, New Zealand, Australia, etc., and considered Hong Kong's actual circumstances when drafting practicable the amendment provisions.

The Government spokesman reiterated that the legislative amendments this time round only concern vicious doxxing acts and provide the Commissioner with appropriate enforcement powers, and the scope of the offence is clear, focused and target-specific. The Bill aims to tackle doxxers who publish doxxing messages with an intent to cause harm or are being reckless as to whether harm is caused to the data subject.

The Government spokesman also emphasised that the Bill has already achieved a reasonable balance between protection of privacy and freedom of speech, and that the general public's basic rights and freedom as enshrined under the Basic Law and the Hong Kong Bill of Rights Ordinance, including freedom of speech, flow of information, lawful news activities, etc., will not be affected.

As for electronic platforms, the Bill requests them to comply with the cessation notices in order that doxxing contents that intrude into personal data privacy are removed early, the purpose of which is to prevent further dissemination of personal data and minimising the harm caused to the victims, and the Bill does not target service providers. As regards the Asia Internet Coalition (AIC)'s letter to the PCPD expressing concerns on the Bill earlier, we note that the AIC has already clarified that none of its members currently has plan to retreat from Hong Kong. The Commissioner has explained to the AIC the purpose and scope of the Bill. The AIC also shared the view that doxxing is a serious matter, and that doxxing acts have to be curbed to protect personal data privacy. Both parties agreed to continue to strengthen communication in the future, so as to enable the industry to better understand the purpose and content of the Bill with a view to allaying any concern.

The Government spokesman added that the Bill would be introduced into the LegCo for first and second reading next Wednesday (July 21). The Government will fully support the work of the LegCo in scrutinising the Bill to strive for its early passage.