

IAPP Hong Kong KnowledgeNet Meeting

23 May 2019

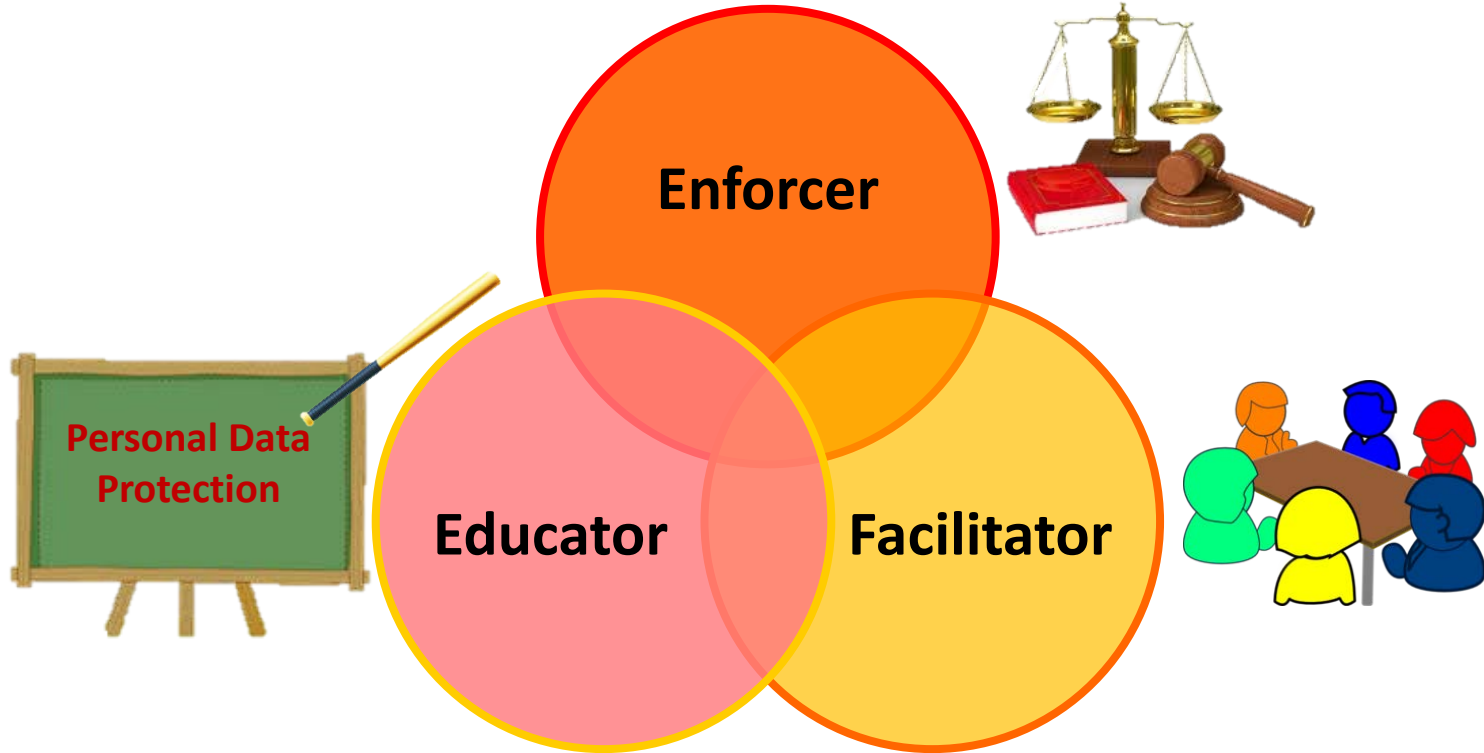
Ethical Accountability Framework in Hong Kong

Stephen Kai-yi Wong, Barrister

Privacy Commissioner for Personal Data, Hong Kong, China

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Role of PCPD





Data is the lifeblood of digital economy



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Collection of big data

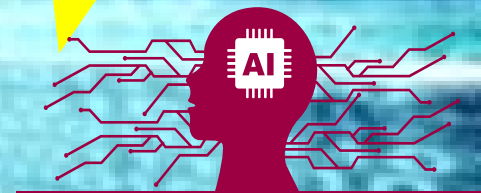
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Data analytics



3

Automated decision making



The Digital Revolution

**Ubiquitous collection
of data**

**Unpredictability in
use and transfer**

**Personal data belongs
to the individuals**

**Challenges global
data privacy
frameworks based on
'notice' and 'consent'**

The Digital Revolution

Challenges for regulator:

- To help facilitate the innovative use of data within the legal and ethical frameworks
- To help maximise the benefits of data in a sustainable way
- To minimise the risks of harm, creating healthy synergy with economic growth

Reality (and danger) of the digital economy**:

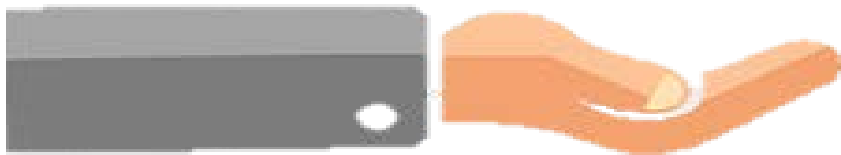
- Enterprises collect *enormous amount of data* from individuals
- Majority of the data is *controlled by a small group* of enterprises
- *Ownership* of data is not clear in laws



**Chen Zhimin, former Vice-Minister, Ministry of Public Security

No matter...

Who should own your personal data?



... trust is indispensable.

**Our customers' trust
means everything to us.
We spent decades
working to earn that
TRUST.**

Tim Cook, 2015



***Our data is being
weaponised against us.***

Tim Cook, 2018



Trust is the new gold.

Andrea Jelinek
Chair of European Data Protection Board



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Least Common Multiple (LCM) approach: Accountability & Ethics



*“Arguably the biggest change [brought by the GDPR] is around **accountability.**”*

Elizabeth Denham, Information Commissioner of the UK

*“[The GDPR] aims to **restore a sense of trust and control** over what happens to our online lives.”*

Giovanni Buttarelli, European Data Protection Supervisor

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Accountability

Guidelines on the Protection of Privacy and Transborder Flows of Personal Data



APEC Privacy Framework - Principle 9: Accountability



OECD Revised Guidelines



Australia: Privacy Management Framework



1980

2000

2005

2010

2013

2014

2015

2016



PIPEDA
Principle 1:
Accountability



Article 29 Data Protection Working Party
Opinion 3/2010 on the Principle of Accountability



HK: Privacy Management Programme Best Practice Guide



EU: General Data Protection Regulation

Source: adopted from https://www.pcpd.org.hk/pmp/files/getting_to_accountability_01092015.pdf

Accountability and Governance

EU GDPR

Risk-based approach to accountability. Data controllers are required to:

- implement **technical and organisational measures** to ensure compliance [Art 24];
- adopt **data protection by design and by default** [Art 25];
- conduct **data protection impact assessment** for high-risk processing [Art 35]; and
- (for certain types of organisations) **designate Data Protection Officers** [Art 37].

HK PDPO

The accountability principle and the related privacy management tools are not explicitly stated.

The Privacy Commissioner advocates the **Privacy Management Programme** which manifests the accountability principle. The appointment of data protection officers and the conduct of privacy impact assessment are recommended good practices for achieving accountability.

Data Governance & Accountability: Privacy Management Programme (PMP)



Effective management of personal data



Minimisation of privacy risks



Effective handling of data breach incidents



Demonstrate compliance and accountability

Data Ethics & Trust



Ethics as a Bridge between Law and Expectation

- Business model and technological development vis-a-vis legislation and regulatory reform
- Public expectation forever increasing
- How to bridge the gap?
- Data Ethics

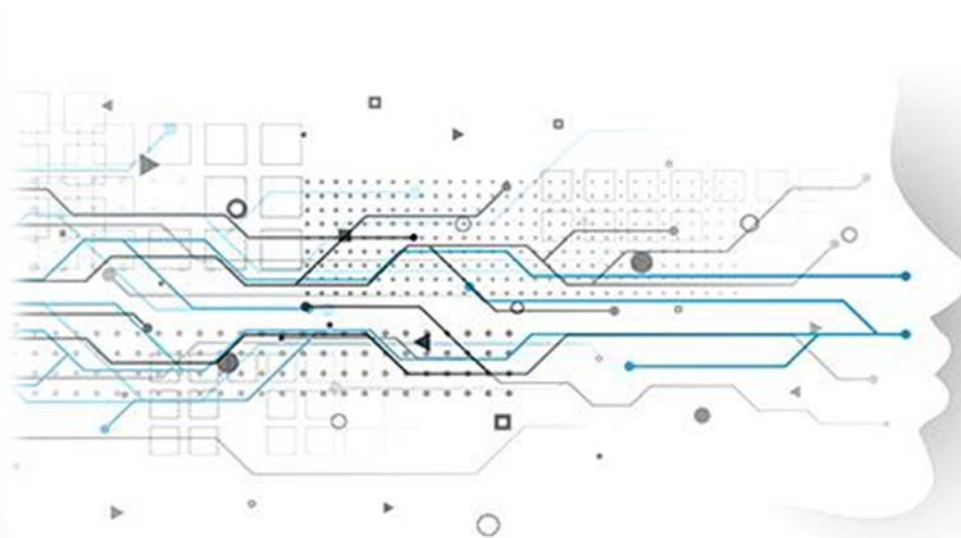
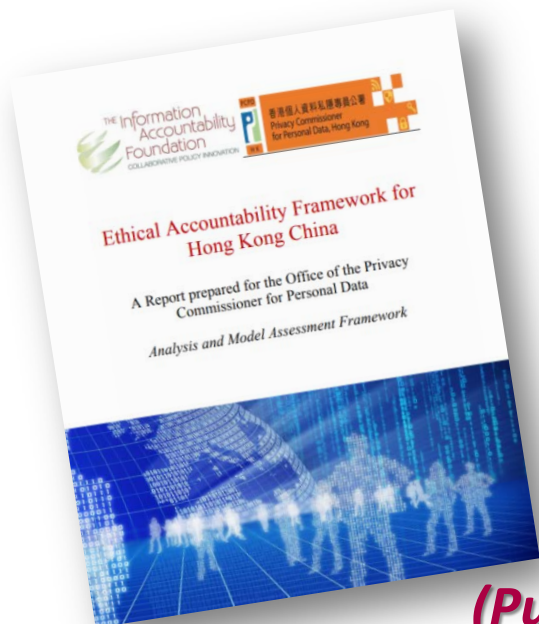


Fair Enforcement

Ethics

“Ethical Accountability Framework for Hong Kong China”

REPORT OF LEGITIMACY OF DATA PROCESSING PROJECT



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(Published on 24 October 2018)

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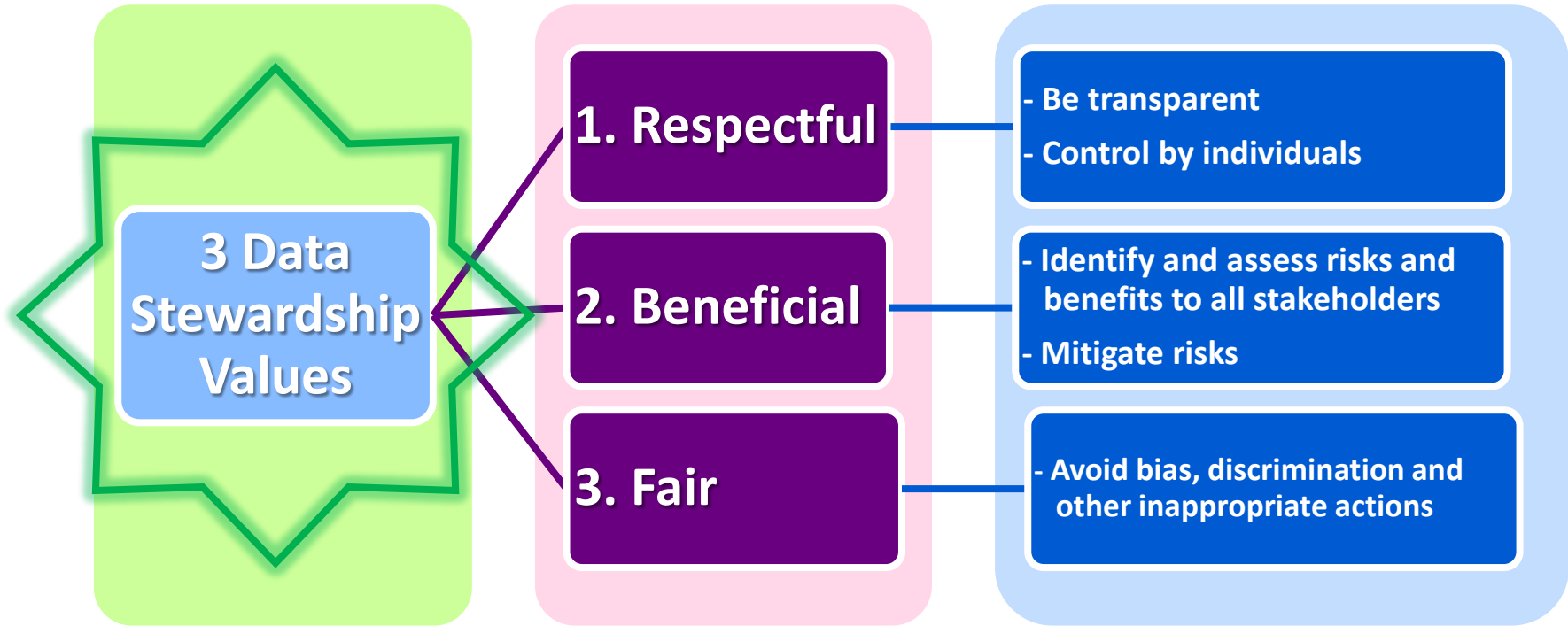


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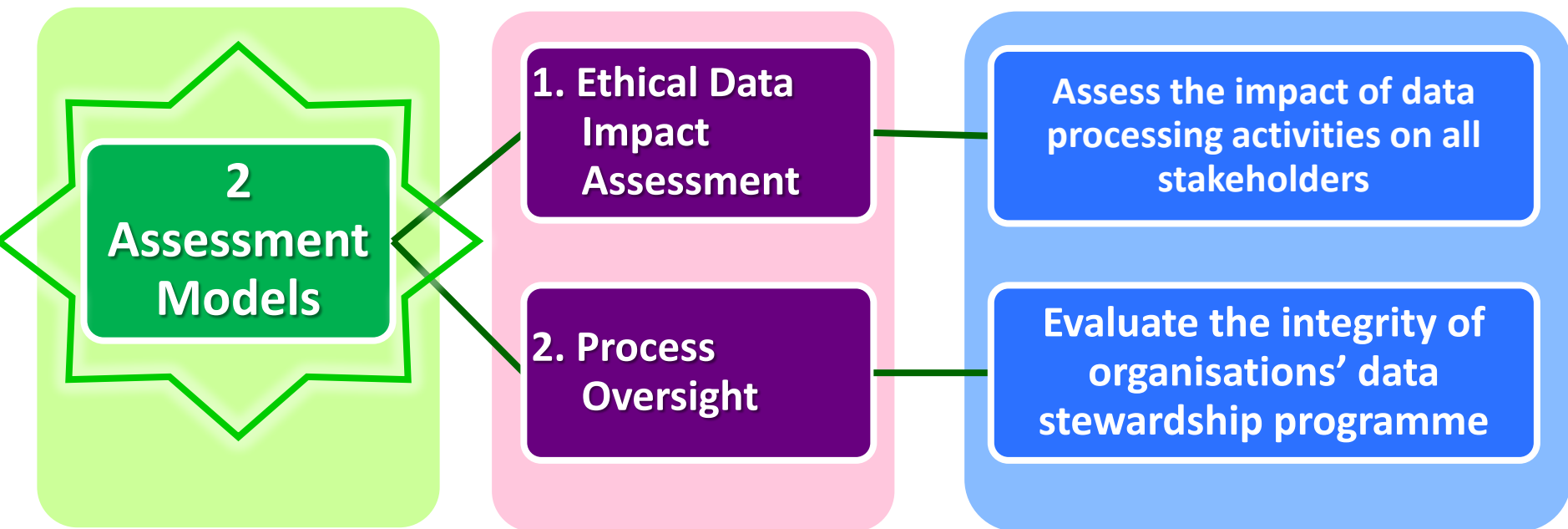
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Multi-stakeholders' Approach – Three Core Values



Multi-stakeholders' Approach – Two Assessment Models



Data Ethics



Think, plan and execute with multi-stakeholders' interests

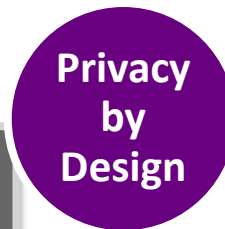
Get data management on a cradle-to-grave basis in an institutional system and process

Review the system and process regularly

Data Ethics

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Data Ethics - Implementation



Step 1: Analyse the business objective and purpose of the data processing activity

Step 2: Assess the nature, source, accuracy and governance of the data

Step 3: Conduct impact assessment, i.e. risks and benefits to the individuals, the society and the organisation itself

Step 4: Balance between expected benefits and the mitigated risks to all stakeholders

Examples of Privacy by Design and by Default



Under iOS 12.2, access to location data of iPhone or iPad by website operators is disabled by default

- To allow websites to their access location data, users have to switch on the function themselves, providing users with stronger control

Source: Ars Technica; Feb 2019

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Examples of Privacy by Design and by Default



About the ICO / News and events / News and blogs /

ICO fines Uber £385,000 over data protection failings

Date 27 November 2018
Type News

The Information Commissioner's Office (ICO) has [fined ride sharing company Uber £385,000](#) for failing to protect customers' personal information during a cyber attack.

A series of avoidable data security flaws allowed the personal details of around 2.7million UK customers to be accessed and downloaded by attackers from a cloud-based storage system operated by Uber's US parent company. This included full names, email addresses and phone numbers.

The records of almost 82,000 drivers based in the UK – which included details of journeys made and how much they were paid – were also taken during the incident in October and November 2016.

The ICO investigation found 'credential stuffing', a process by which compromised username and password pairs are injected into websites until they are matched to an existing account, was used to gain access to Uber's data storage.

Also paid \$148 million
in U.S.

- Uber changes its privacy settings after having been fined
 - ❖ 'hiding precise pickup and dropoff locations' in the driver app after a trip ends to help protect information about rider locations
 - ❖ riders and drivers can call or chat with each other directly in the Uber app, so rider no need to share their phone number

Source: ICO; Nov 2018

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Examples of Ethics by Design

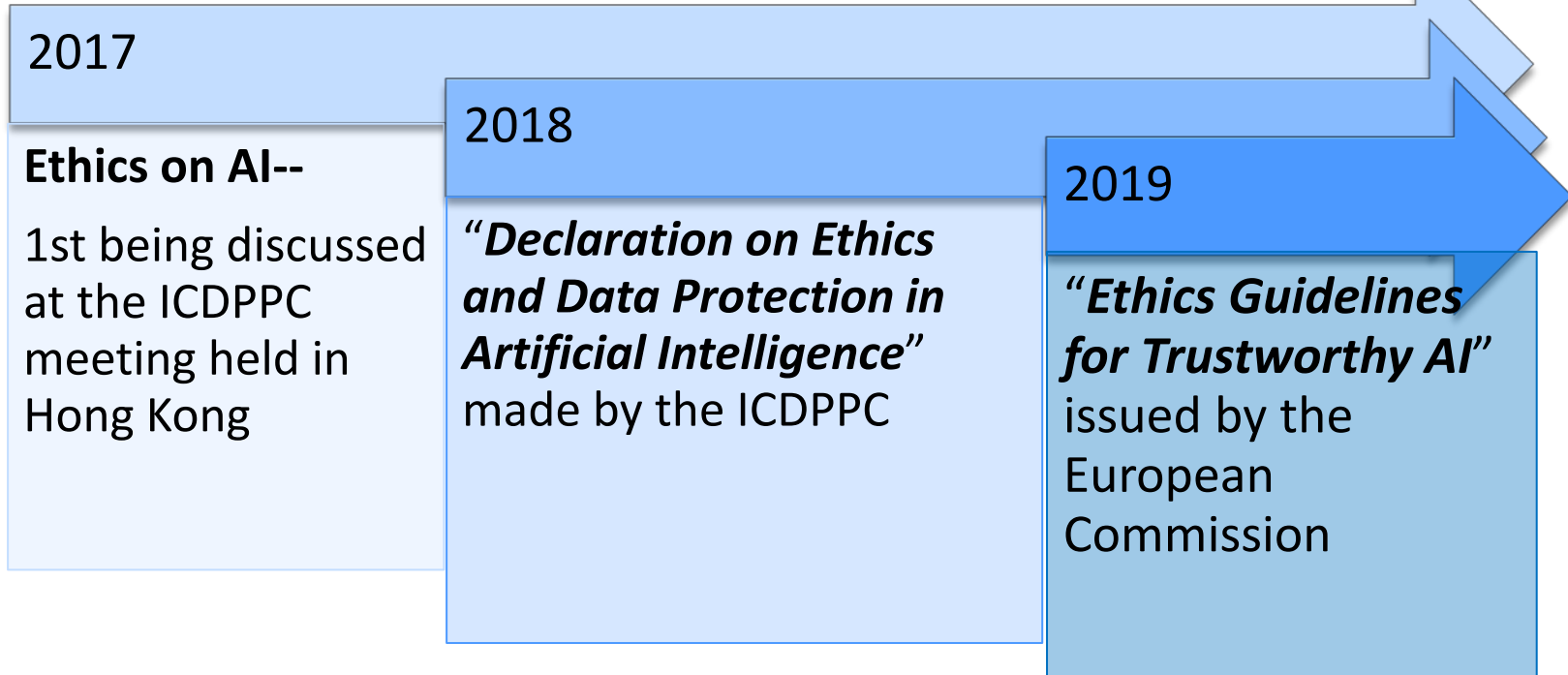
For personalised online advertising and marketing**:

- make it clear to the consumers if a recommendation of goods/services is a personalised advertisement; and
- provide consumers with information about other similar but non-personalised goods/services.

** Reference: draft revision to the Personal Information Security Specification of China (Jan-2019)



Data Ethics-Global Landscape



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“Declaration on Ethics and Data Protection in Artificial Intelligence” made by the 40th ICDPPC



Respect of the rights to privacy and data protection are increasingly challenged by the development of AI

Risks of malicious use of AI, and potential risks related to privacy, data protection and human dignity induced by AI

Inherent bias contained in data sets used to train AI systems

Strong data protection and privacy safeguards help to build individuals' trust in how their data is processed, which encourages data sharing and thereby promotes innovation

Treat Data as Money



Money

- (1) Accountant
- (2) Accounting rules
- (3) Money ledger
- (4) Reporting
- (5) Board meetings

Data

- (1) Data Protection Officer
- (2) Data protection policy and guidelines
- (3) Personal Data Inventory
- (4) Compliance reporting and monitoring
- (5) Board commitment

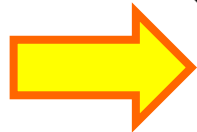
PCPD's Roles – Enforcer + Educator + Facilitator

PCPD's Strategic Focus

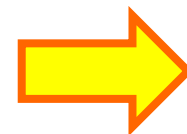
Fair Enforcement



Engaging

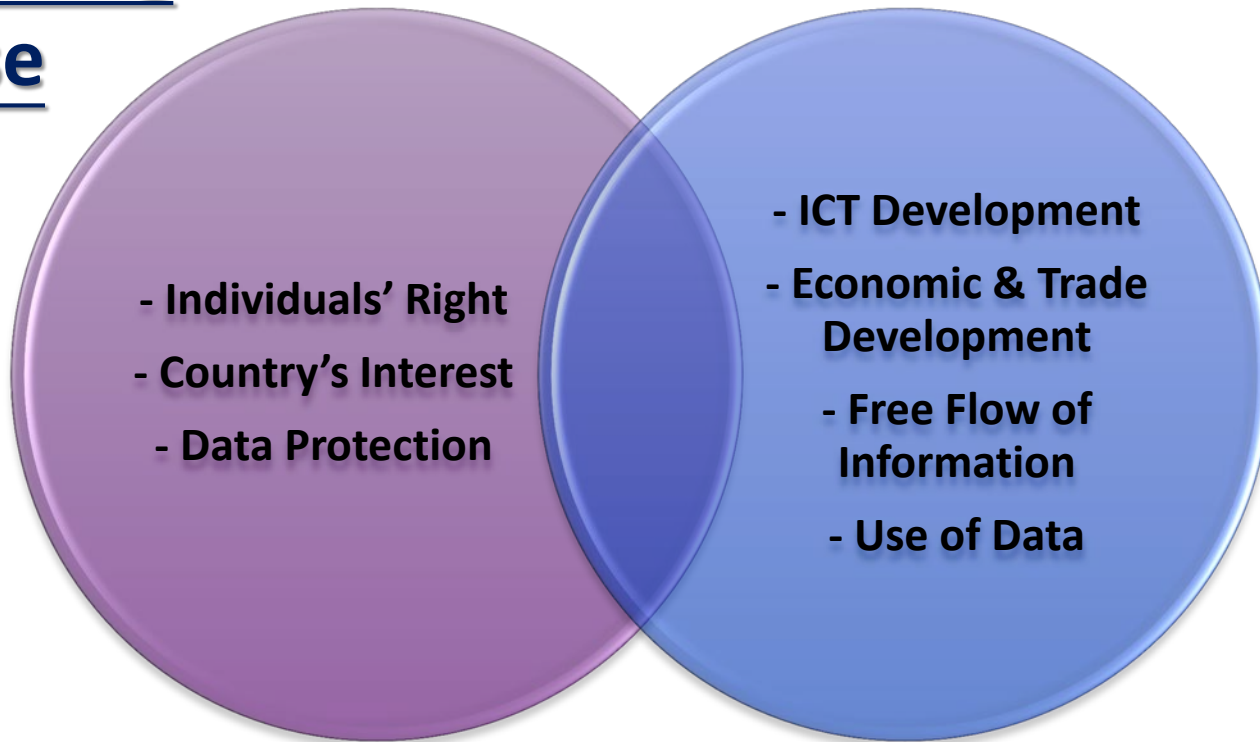


Incentivising



Privacy-friendly Culture

A Balancing Exercise





HKMA's circular on 3 May 2019

- To all authorized institutions
- Encourages them to adopt and implement the Ethical Accountability Framework in the development of fintech products and services

<https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2019/20190503e1.pdf>

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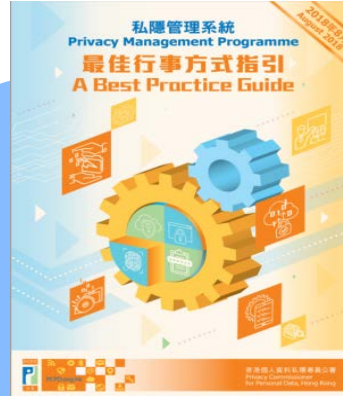
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Q&A

Thank you

"Ethical Accountability Framework for Hong Kong, China"

REPORT OF LEGITIMACY OF DATA PROCESSING PROJECT



Legitimacy of Data Processing Project
Media Statement



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