

66th ABA Section of Antitrust Law Spring Meeting
Wednesday, April 11, 2018

Protecting Consumers and Competition – International Emerging Technologies

Engineering Privacy Through Accountability

保障・尊重個人資料
Protect, Respect Personal Data

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Presentation Outline

1

Privacy Risks and Challenges in the ICT Age

2

Hong Kong Personal Data (Privacy) Ordinance

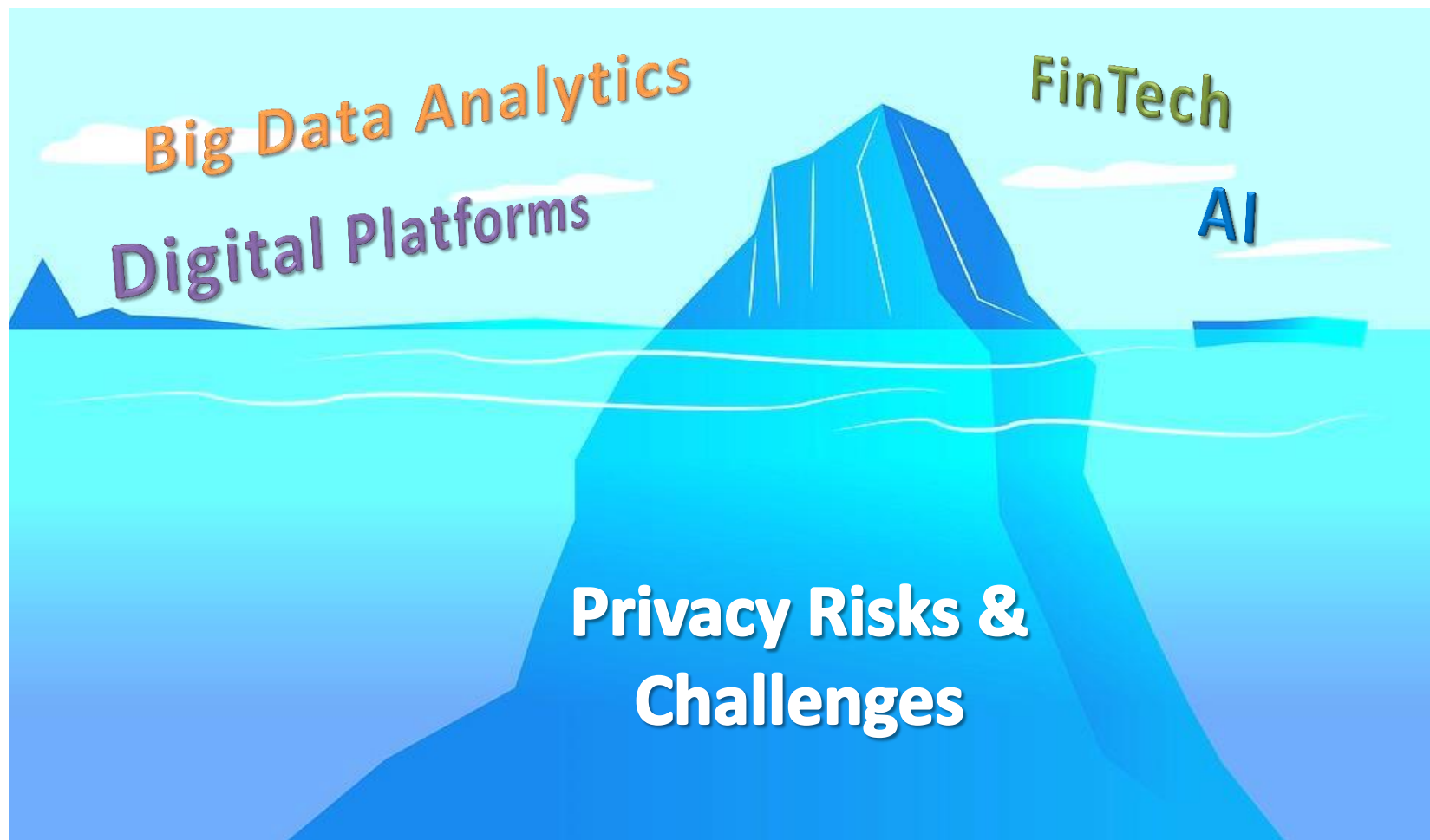
3

Accountability

1

Privacy Risks and Challenges in the ICT Age

Privacy Risks and Challenges



Ubiquitous and Covert Data Collection



✘ Data Minimisation

✘ Data Transparency



✘ Adequate Notification



Erodes Individuals' Control Over Data

Unpredictable Analytics



✘ Notice & Consent



✘ Purpose & Use Limitations

Profiling

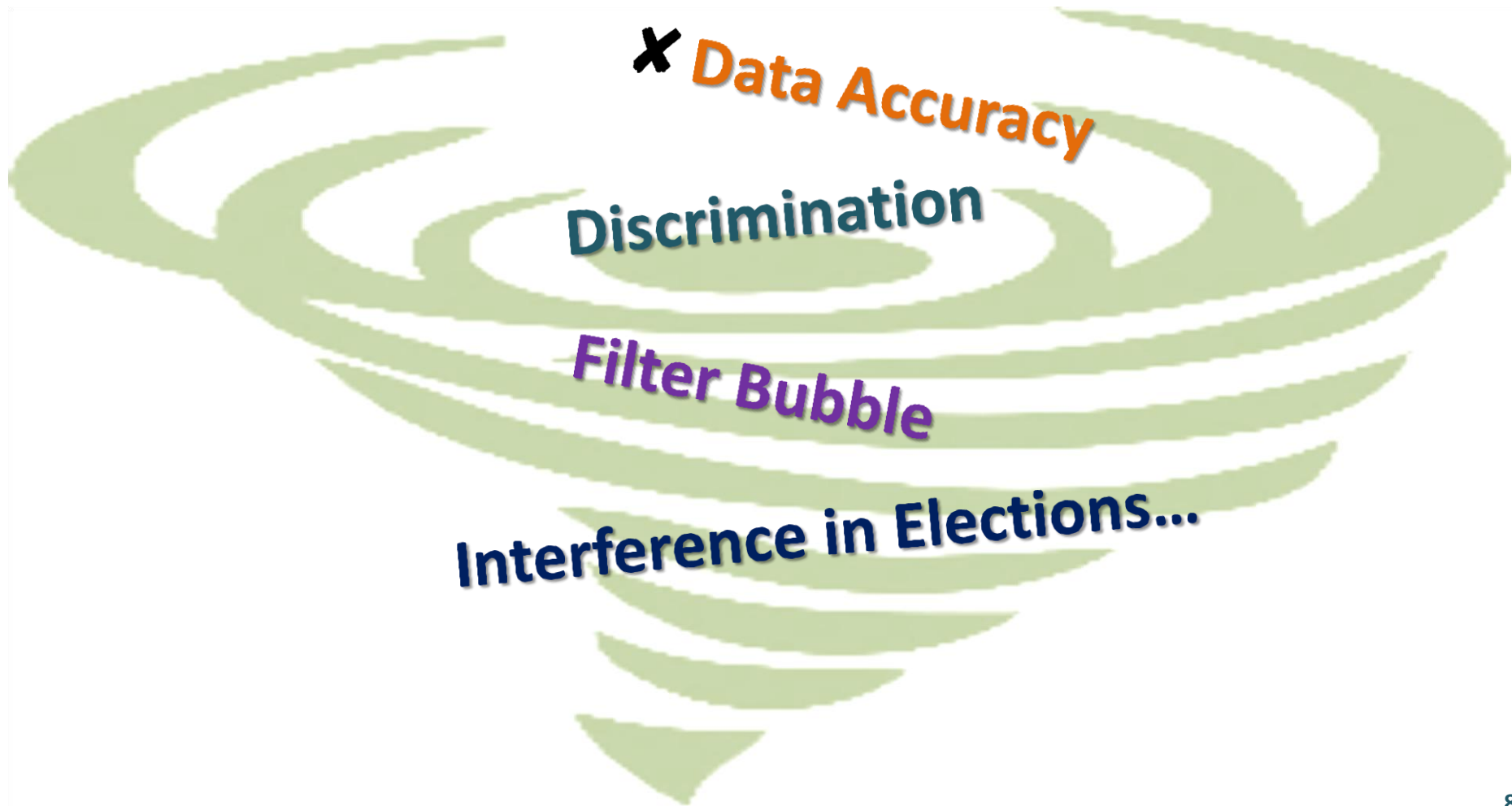


Re-identification



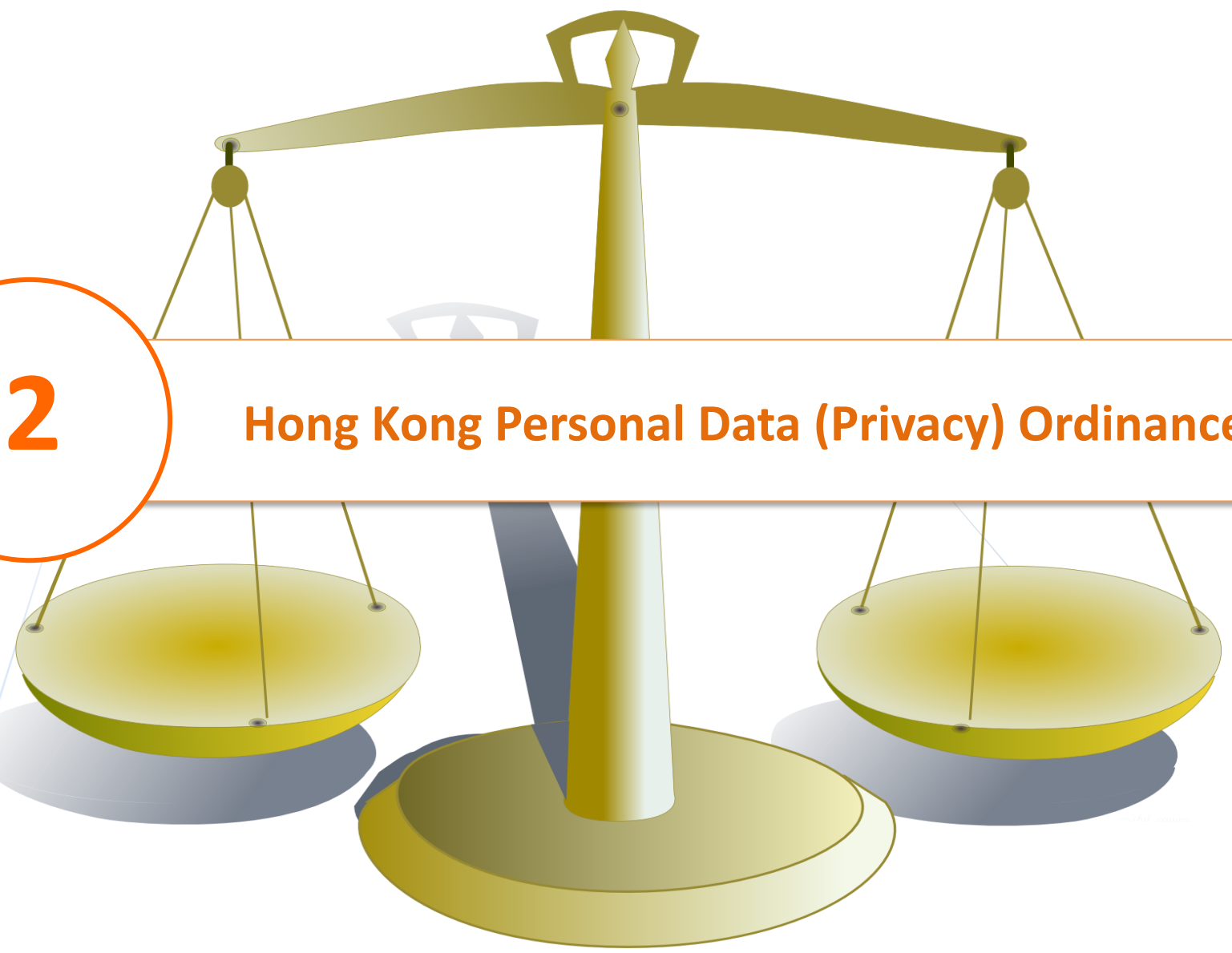
✘ Distinction between Personal Data & Non-Personal Data

Inaccurate Inferences and Predictions



2

Hong Kong Personal Data (Privacy) Ordinance





Definition of "Personal Data"

Phone Number



P2P
Calls



Email
Address



IP Address



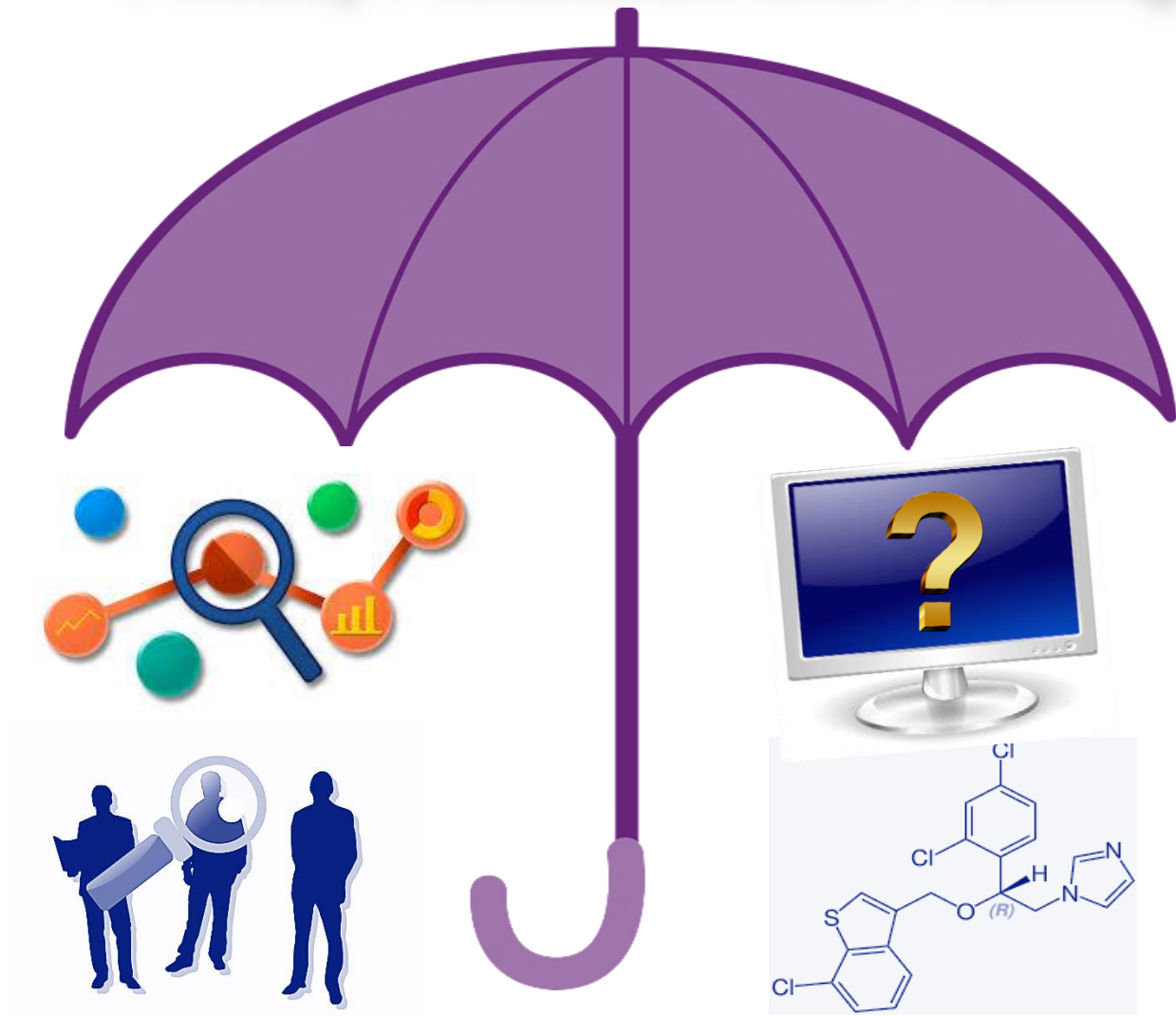
Whether an individual is identified or identifiable should not come into play

Meaning of “Collect”:

Eastweek Publisher Limited & Another v Privacy Commissioner for Personal Data (CACV 331/1999)



Privacy Protection and Profiling





3

Accountability

Accountability

Responsibility-based framework encapsulating principles

Built-in policies, procedures, controls, oversights & review mechanisms

Data controllers/processors to take appropriate steps to safeguard personal data and prevent harm to data subjects

E.g. appoint data protection officers, privacy impact assessment, privacy by design



Why Accountability?

Regulator

Company

Best position to determine appropriate steps

Customer Trust & Businesses

Compliance

Effective Regulation



Mechanics of Accountability

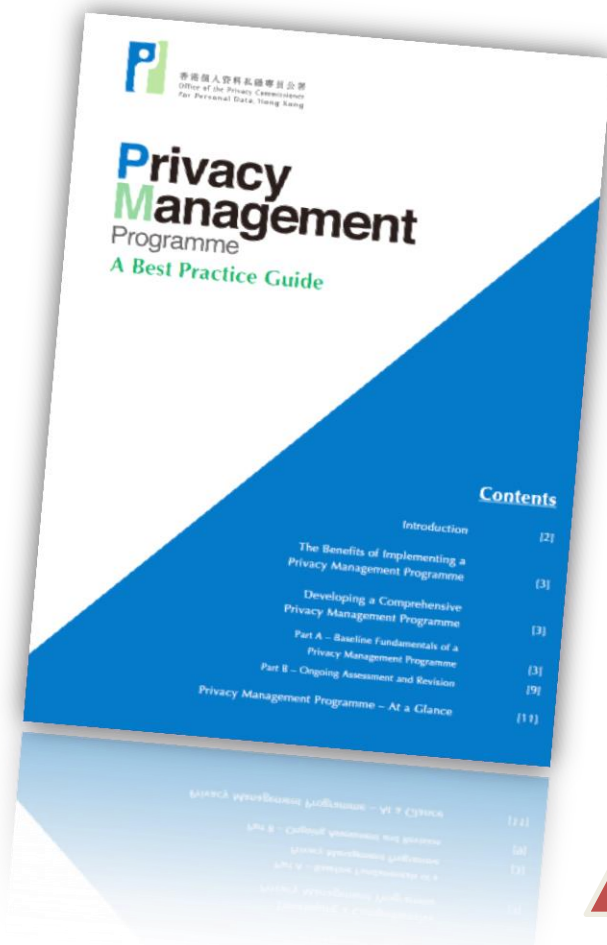
Voluntary/Self-Regulatory
or
Mandatory
Accountability?



Education → Incentivise



Hong Kong – Privacy Management Programme (PMP)



Launched in 2014

Encourages organisations to embrace personal data privacy protection as part of their corporate governance responsibilities

To apply as a top-down business imperative throughout the organisation

To put in place appropriate policies and procedures that enhance data protection

EU General Data Protection Regulation (GDPR)

Risk-based approach to accountability

Data controllers are required to:

demonstrate compliance with principles of processing personal data [Art 5]

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]

(for certain types of organisations) designate Data Protection Officers [Art 37]



Data Ethics and Trust



- No Surprise to Consumers
- No Harm to Consumers

The Way Forward



спасибо
 danke 謝謝
 ngiyabonga
 teşekkür ederim
 tapadh leat
 dank je
 gracias
 mochchakkeram
 bedankt
 hvala
 maururu
 thank you
 go raibh maith agat
 dziekuje
 unjofes
 sukriya
 kop khun krap
 arigato
 takk
 dakujem
 merci
 obrigado
 sagolun
 sukriya
 terima kasih
 감사합니다
 ευχαριστώ
 grazie



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