THE PHILIPPINES
AND THE
CROSS-BORDER PRIVACY RULES SYSTEM

By Atty. Gelle D. Baligod
APEC
CROSS-BORDER PRIVACY RULES SYSTEM (CBPRS)
CBPRS

It is a voluntary, accountability-based system that facilitates privacy-respecting data flows among APEC economies.
CBPRS

Structure of the APEC Cross Border Privacy Rules (CBPR) system
The Joint Oversight Panel (JOP) administers the APEC CBPR system. Decisions about an organization’s eligibility to be an Accountability Agent are made by APEC economies.
How can the APEC CBPR System help your business?

- bridges differing national privacy laws within the APEC region, reducing barriers to the flow of information for global trade

- by promoting your business’ adherence to an enforceable standard of best practices, you can demonstrate your commitment to consumer privacy
In February 2016, Information Integrity Solutions (IIS) released an APEC commissioned report on the potential benefits for APEC economies and businesses joining the CBPR System.

The report constituted a preliminary assessment of possible benefits to economies and businesses joining the CBPR system from business, government and regulator perspectives.
General awareness and understanding of the CBPR system is low. Barrier.

Leaders called for member economies to consider participation in the CBPR system.

The Data Privacy Sub-Group work-plan includes encouraging greater participation by APEC member economies in the CBPR system.
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<tr>
<th>group</th>
<th>benefits communicated by advocates</th>
<th>benefits as provided in the CBPRS website</th>
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<tr>
<td><strong>Businesses</strong></td>
<td>Demonstrates organisational accountability and creates consumer trust. Makes organisation-wide privacy protections more uniform (of particular benefit to multilateral businesses). Self or co-regulation can be effective, as it's flexible - companies can update privacy policies when it suits them. As more economies join, compliance costs for businesses across borders will be reduced.</td>
<td>Reduces barriers to flow of information across borders: the need to comply with different legislative requirements is reduced. This enhances trade and efficiency. Demonstrates commitment to consumer privacy.</td>
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<td><strong>Consumers</strong></td>
<td>Enhanced privacy protections Streamlined complaint handling Improves consumer trust</td>
<td>Protection of personal data when it moves across borders.</td>
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<tr>
<td><strong>Government</strong></td>
<td>Facilitates trade and privacy (both important political objectives). Facilitates cross-border privacy enforcement cooperation: cooperation can generally only occur when standards are agreed upon. Efficiency gains for governments from outsourcing frontline enforcement to accountability agents - means government can focus on more high-impact, high level privacy issues. Aids in investigations and enforcement of privacy breaches.</td>
<td>Provides &quot;unique opportunity&quot; to facilitate cross border trade standards Provides for voluntary participation that will raise the standard of privacy across the region.</td>
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BENEFITS

BENEFITS


- Flexibility as to data sets
- High level of assurance to stakeholders
- Value to consumers (data steward)
- Consumer would be able to make their complaint to the local regulator which can facilitate the transfer to the relevant jurisdiction who is a member of CPEA
- Availability of an AA to assist in dispute resolution provides additional support to consumer protection

PROPERTY OF THE NATIONAL PRIVACY COMMISSION
CRITICISMS


- Economies may rely on domestic protection laws
- APEC Framework has lowest standards for protection
WE NEED TO HAVE A CRITICAL MASS FOR THIS TO WORK
Singapore took **four months** from the submission of the documents before JOP issued the report on their application.

Such report, if the findings are favorable to the applicant, includes an invitation to the ECSG Chair to notify the applicant that the conditions set out in Paragraph 2.2 of the Charter have been met, and to advise the applicant that they are hereby considered a Participant in the CBPR System.

The **notification given by the Chair of the ECSG operates as a confirmation of membership in the system**. Thereafter, the economy may then nominate one or more Accountability Agents for APEC recognition or notify the JOP of a request by the Accountability Agent(s), for recognition under the CBPR System.
DOCUMENTS REQUIRED

Republic of the Philippines
NATIONAL PRIVACY COMMISSION

Manda, April 10, 2018

MS. SHANNON COE
Chair
Electronic Commerce Steering Group
Asia-Pacific Economic Cooperation

Dear Madam Chair:

On behalf of the Republic of the Philippines, I am expressing our interest to participate in the Asia-Pacific Economic Cooperation Cross-Border Privacy Rules System (CBPR) System Joint Oversight Panel (JOP). The Philippines is considered a Participant in the CBPR System upon the Charter of the Electronic Commerce Steering Group (ECSG) Chair, has notified the Economy that the following conditions have been met:

(i) The Economy’s ECSG delegation, or appropriate governmental representative, submits to the ECSG Chair a letter indicating its intention to participate in the CBPR System and expressing its understanding that at least one Privacy Enforcement Authority in that Economy is a participant in the APEC Cross-Border Privacy Enforcement Arrangement (CBREA).

(ii) The Economy indicates its intention to make use of at least one APEC-recognized Accountability Agent subject to the procedures outlined in paragraph 6.2 of the Charter of the JOP.

(iii) The Economy’s ECSG delegation, or appropriate governmental representative, after consulting with the JOP, submits to the Chair of the ECSG an explanation of how the CBPR system program requirements may be enforced in that Economy.

(iv) The JOP submits to the Chair of the ECSG a report as to how the conditions in (i)- (iii) above have been satisfied.

The purpose of Annex B is to assist Economies and the JOP in fulfilling the requirements of Annex A and C.

Column 1 lists the questions in the initial questionnaire to be answered by an applicant organization when seeking CBPR certification. Column 2 lists the assessment criteria to be used by an APEC-recognized Accountability Agent when verifying the answers provided in Column 1. Column 3 is for use by the Economy’s ECSG delegation or appropriate governmental representative when explaining the enforceability of an applicant organization’s answers in Column 1. An economy’s relevant privacy enforcement authorities should have the ability to take enforcement actions under applicable domestic laws and regulations that have the effect of protecting personal information consistent with the CBPR program requirements. Additional documentation to assist in these explanations may be submitted as necessary. This document is to be read consistently with the qualifications to the provision of notice, the provision of choice mechanisms, and the provision of access and correction mechanisms found in the CBPR Initial Questionnaire.

1. A narrative description of the relevant domestic laws and regulations which may apply to any CBPR certification-related activities of an Accountability Agent operating within the Philippines’ jurisdiction and the enforcement authority associated with these laws and regulations (Annex A);

2. The completed APEC Cross-Border Privacy Rules System Program Requirements Enforcement Map (Annex B).
EXISTING AAs

[Logos of existing AAs]
ACCREDITED COMPANIES

- Adaptive Insights
- Apple
- Mashable
- MERCK
- SABA
- CISCO
- HP

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### OVERVIEW

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<th>STEP</th>
<th>BODIES INVOLVED</th>
<th>PROCESS</th>
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<tr>
<td>Approval of new APEC member economy into CBPR</td>
<td>Applicant member economy</td>
<td>Cross-Border Joint Oversight Panel</td>
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<tr>
<td>Recognition of Accountability Agent/s in that member economy</td>
<td>Applicant Accountability Agent/s Cross Border Joint Oversight Panel</td>
<td>Applicant Accountability Agent completes APEC Recognition Application32 Panel decides whether or not to recognise applicant Accountability Agent/s</td>
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<tr>
<td>Assessment of businesses against that economy’s CBPR</td>
<td>Applicant business Accountability Agent in that member economy</td>
<td>Business completes a self-assessment questionnaire34 Accountability Agent assesses business’ completed questionnaire against CBPR set criteria (baseline program requirements)35 Accountability Agent provides privacy ‘trustmark’ that certify the business is compliant with that economy’s CBPR program36</td>
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<tr>
<td>Enforcement of CBPR in that economy</td>
<td>Accountability Agent in that member economy Business</td>
<td>Enforce that member economy’s CBPR program requirements through law or contract</td>
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<td>Oversight</td>
<td>Privacy Enforcement Authority in that member economy</td>
<td>Provides oversight for that member economy’s CBPR program Has the power to take enforcement actions under applicable domestic laws and regulations Can investigate compliance of Accountability Agent/s</td>
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<td>Complaints handling and investigating</td>
<td>Cross-border Privacy Enforcement Arrangement (CPEA)</td>
<td>Receives complaints regarding the conduct of Accountability Agent/s and can request the Privacy Enforcement Authority in the relevant economy to investigate compliance of Accountability Agent/s3</td>
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INTER-AGENCY EFFORT
PRIVATE SECTOR PARTICIPATION
MARAMING SALAMAT PO!