



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2021-008¹

15 March 2021

[REDACTED]

Re: REQUEST FOR OFFICIAL LIST OF LEGITIMATE TAXI OPERATORS

Dear [REDACTED]

We write in response to your letter forwarded by the Civil Service Commission - Cordillera Administrative Region on the request of the Association of Independent Taxi Operations and Drivers in the Cordillera (Association) for legal opinion on matters involving the Data Privacy Act of 2012² (DPA).

We understand that the Association requested from the Land Transportation Franchising and Regulatory Board - Cordillera Administrative Region (LTFRB-CAR) the list of legitimate taxi operators in the CAR in order for the Association to assist concerned government agencies in the anti-colorum drive and traffic decongestion efforts.

Specifically, the request pertains to the list of the legitimate taxi operators together with the Certificate of Public Convenience (CPC) number, number of taxi units, type of taxi units, and their corresponding plate numbers. We understand that such request was denied by LTFRB-CAR citing the provisions of the DPA.

Scope of the Data Privacy Act of 2021; personal information; juridical entity; sole proprietor

We wish to clarify that the DPA only applies to the processing of personal information. Section 3 (g) of the DPA defines personal information as information from which the identity of an individual is apparent or can reasonably and directly be ascertained by the entity holding the

¹ Tags: special cases; discretionary benefit of a financial nature; lawful basis for processing; freedom of information.

² An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this purpose a National Privacy Commission and for other Purposes [Data Privacy Act of 2012], Republic Act No. 10173 (2012).

information, or when put together with other information would directly and certainly identify an individual.

On the other hand, the names of taxi operators, including the CPCs, the number and type of taxi units, may pertain to information of a juridical entity. Hence, such information is not considered personal information as defined under the DPA and do not fall within its scope.

But if the taxi operator is a sole proprietor, personal information may be involved since a sole proprietorship does not possess juridical personality that is separate and distinct from the personality of the individual owner of the business.

Given that the information being requested may contain personal and sensitive personal information (collectively, personal data) in cases where the taxi operator is an individual or a sole proprietor, the disclosure of such list should be in accordance with the DPA, its Implementing Rules and Regulations (IRR), and other issuances of the National Privacy Commission (NPC).

Special cases; DPA Implementing Rules and Regulations

We note that the Association argued that their request is outside of the scope of the DPA, citing as basis Section 4 which provides for specific information which are outside of the scope of the law and which the IRR classifies as special cases, specifically Section 4 (c), to wit:

"Section 4. Scope - This Act applies to the processing of all types of personal information and to any natural and juridical person involved in personal information processing xxx.

This Act does not apply to the following: x x x

(c) Information relating to any discretionary benefit of a financial nature such as the granting of a license or permit given by the government to an individual, including the name of the individual and the exact nature of the benefit; x x x"

However, we wish to clarify that the above provision is further explained in the IRR:

"Section 5. Special Cases. The Act and these Rules shall not apply to the following specified information, only to the minimum extent of collection, access, use, disclosure or other processing necessary to the purpose, function, or activity concerned: x x x

- a. Information processed for purpose of allowing public access to information that fall within matters of public concern, pertaining to: x x x
3. Information relating to a benefit of a financial nature conferred on an individual upon the discretion of the government, such as the granting of a license or permit, including the name of the individual and the exact nature of the benefit: Provided, that they do not include benefits given in the course of an ordinary transaction or as a matter of right; x x x."

From the foregoing, the above special case is not applicable in this scenario involving the list of the legitimate taxi operators and their CPCs, given that the issuance or the grant of a CPC

is not discretionary on the part of the government and the same is given in the course of an ordinary transaction.³

Lawful basis for processing: law; legal claim

Nevertheless, the Association may evaluate whether its request would fall instead under Sections 13 (b) and (f) of the DPA:

"SECTION 13. Sensitive Personal Information and Privileged Information. — The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases: x x x

(b) The processing of the same is provided for by existing laws and regulations: x x x

(f) The processing concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims, or when provided to government or public authority."

For processing based on law, the Association mentioned that pursuant to Administrative Order No. 212, s. 2007,⁴ accredited transport groups have representation in the Presidential Anti-Colorum/Anti-Kotong Task Force (PACKTAF) as volunteer consultants.⁵ We likewise note that the Association also mentioned that the City of Baguio has an existing Anti-Colorum Ordinance⁶ and that anti-colorum operations are not limited to the LTFRB enforcement unit.

We are not privy as to the actual implementation of the anti-colorum operations and other initiatives of the PACKTAF and Baguio City. Nevertheless, the Association may provide substantiation to the LTFRB-CAR that the same is a volunteer consultant under the abovementioned Administrative Order and is carrying out functions as such in relation to the request for information. Similarly, the Association may provide documentation as to its functions with respect to the enforcement of the Baguio City Ordinance.

For processing under paragraph (f) above, the Association should be able to establish that the requested information from the LTFRB-CAR is necessary, material, or indispensable for its purpose for processing, either for the protection of lawful rights and interests of the Association in court proceedings, the establishment, exercise, or defense of legal claims of the Association, or if the Association shall be providing the requested information to a government agency or public authority requiring the same based on its mandate.

Publicly available information; freedom of information

We wish to address the argument that the information sought is publicly available since the information is required to be printed on the sides of the taxi units, and that the list from LTFRB-CAR is just a summary.

³ See: National Privacy Commission, NPC Advisory Opinion No. 2017-20 (July 18, 2017).

⁴ Office of the President, Creating The Presidential Anti-Colorum/Kotong Task Force (PACKTAF) [Administrative Order No. 212] (2007).

⁵ *Id.* § 6.

⁶ See: The City Government of Baguio, Council passes anti-colorum ordinance, available at <https://baguio.gov.ph/content/council-passes-anti-colorum-ordinance> (last accessed: 14 March 2021).

In NPC Advisory Opinion No. 2017-41, we had the occasion to discuss the applicability of the DPA to the processing of publicly available personal data:

"There is no express mention that personal data which is available publicly is outside of its scope. Thus, "it is a misconception that publicly accessible personal data can be further used or disclosed for any purpose whatsoever without regulation."

With this, we believe that the personal information controller (PIC) which collects and processes personal data from the public domain must still observe the requirements under the law, specifically on the criteria for lawful processing of personal, sensitive personal and privileged information found under Sections 12 and 13 thereof.

Thus, even if the data subject has provided his or her personal data in a publicly accessible platform, this does not mean he or she has given blanket consent for the use of his/her personal data for whatever purposes."⁷

We also take this opportunity to emphasize that the freedom of information is not absolute. The same is always harmonized with data privacy rights of individuals. The right to access personal data held by government agencies is regulated by the DPA and other applicable laws on the matter, including Executive Order No. 2, s. 2016 which provides for certain exceptions.⁸

Finally, we recognize the Association's efforts in trying to assist government agencies in the anti-colorum drive and traffic decongestion efforts. With this, the Association may consider other less privacy-intrusive means as well to achieve its objectives.

This opinion is based solely on the limited information you have provided. Additional information may change the context of the inquiry and the appreciation of facts. This opinion does not adjudicate issues between parties nor impose any sanctions or award damages.

For your reference.

Very truly yours,

(Sgd.) IVY GRACE T. VILLASOTO
OIC-Director IV, Privacy Policy Office

Copy furnished:



⁷ See: National Privacy Commission, NPC Advisory Opinion No. 2017-41 citing the Hong Kong Office of the Privacy Commissioner for Personal Data, Guidance Note - Guidance on Use of Personal Data Obtained from the Public Domain (July 18, 2017).

⁸ Office of the President, Operationalizing in the Executive Branch the Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor, Executive Order No. 2 [E.O. No. 2] (July 23, 2016).