



17 May 2022

ATTY. JOHN HENRY DU NAGA

Commissioner
National Privacy Commission
5th Floor, Delegation Building
PICC Complex, Roxas Boulevard
Manila

ATTENTION: **Atty. Ivin Ronald D.M. Alzona**
OIC-Deputy Privacy Commissioner
Executive Director

Atty. Ivy Grace T. Villasoto
OIC-Director IV, Privacy Policy Office

SUBJECT: Assessment and Comments on the Revised Regulatory Impact Statement (RIS) of the National Privacy Commission (NPC) re: Proposed Regulation “Amending Certain Provisions of NPC Circular 17-01 on Registration of Data Processing Systems and Notifications Regarding Automated Decision-Making”

Dear **Commissioner Du Naga:**

Greetings from the Anti-Red Tape Authority!

This refers to the Revised Regulatory Impact Statement (RIS) submitted by your good agency last 20 March 2022 in view of the Training on Regulatory Impact Assessment Manual currently conducted by the Authority in partnership with the University of the Philippines Public Administration Research and Extension Services Foundation, Inc. for the Regulatory Reform Support Program for National Development (UPPAF-RESPOND).

The Authority is hereby providing the results of the RIS Assessment. In sum, ARTA commends the NPC for submitting a **GOOD PRACTICE RIS**. Although there are some sections that can be improved for the agency’s consideration and to include any additional information necessary for the evaluators to have an in-depth understanding of the process, it contains an overall good quality analysis addressing the eight RIS sections and following an appropriate policy development process commensurate with the significance of the problem and magnitude of the proposed intervention.

ARTA gives due deference to the expertise of NPC in developing policies to improve the welfare of this particular sector of the society. Hence, it is with utmost confidence that your good agency will accept the findings/comments indicated herein with your highest consideration prior to the finalization of the proposed regulation.

Should you have any queries and/or clarifications, please do not hesitate to contact the Better Regulations Office at regulatorymanagement@arta.gov.ph

Respectfully,

USEC. ERNESTO V. PEREZ
Deputy Director General for Operations

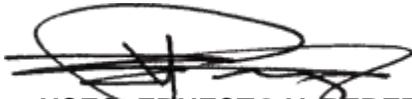
REGULATORY PROPOSAL DETAILS

Agency NATIONAL PRIVACY COMMISSION	<i>Head of Agency</i>	<i>Name and Designation</i>	Atty. John Henry D. Naga
<i>Title of the Proposed Regulation</i> NPC Circular No. 2022 – xxxx “Amending Certain Provisions of NPC Circular 17-01 on Registration of Data Processing Systems and Notifications Regarding Automated Decision-Making”		<i>Date of Approval</i>	-
		<i>Email Address</i>	johnhenry.naga@privacy.gov.ph
<i>Number and date of this RIS</i> 00013.1D	<i>Focal Person</i>	<i>Name and Designation</i>	Atty. Ivin Ronald D.M. Alzona OIC-Deputy Privacy Commissioner Executive Director Atty. Ivy Grace T. Villasoto OIC-Director IV, Privacy Policy Office
		<i>Contact details</i>	8234-2228
		<i>Email Address</i>	ivin.alzona@privacy.gov.ph grace.villasoto@privacy.gov.ph

SUMMARY OF ASSESSMENT

FINAL RATING		ASSESSMENT PER SECTION	
RIS SCORE:	RATING:	RIS SECTION	RATING
36	GOOD PRACTICE RIS	Policy Problem and Need for Government Action	5
OVERALL REMARKS		Policy Objective	3
A Good Practice RIS contains an overall good quality analysis addressing the eight (8) RIS sections and following an appropriate policy development process commensurate with the significance of the problem and magnitude of the proposed intervention. A good practice RIS may contain a small number of elements where the quality of analysis or the process followed was not of exceptional quality and could have been improved.		Identification of Policy Options	5
		Assessment of Impacts of Policy Options	5
		Consultation	5
		Recommended Option	5
		Implementation & Enforcement	3
		Monitoring & Evaluation	5

ASSESSMENT DETAILS

Division	Assessed by:	Reviewed by:
D	Aubrey L. Escultero	Mark DV. De Claro
	Date:	Date:
Approved by:		
 USEC. ERNESTO V. PEREZ Deputy Director General for Operations Date of Approval: 05/17/2022		

Section 1- POLICY PROBLEM AND NEED FOR GOVERNMENT ACTION

AGENCY STATEMENT	
Description of the policy problem	<p>There is difficulty on the part of personal information controllers (PICs) and processors (PIPs) to register with the NPC, resulting to the low number of registrants based on the data of the NPC Compliance and Monitoring Division (CMD). The current regulation fails to address the policy problem as there is a gap in the current provisions of the Circular on Registration vis-à-vis the available registration system and the proposed new system –eRehistro. The registration process stated in the current issuance are no longer in line with the interim processes being used in the registration system (manual) as well as the proposed system which is at present, undergoing development and testing. Registration by PICs and PIPs of their personal data processing systems with the NPC is important for the following reasons: it ensures that PICs and PIPs keep a record of their personal data processing activities; it makes information about personal data processing systems operating in the country accessible to both the NPC, for compliance monitoring, and data subjects, to facilitate the exercise of their rights under the DPA; and it promotes transparency and accountability in the processing of personal data. Having this registration requirement provides the NPC with invaluable information on the nature and extent of personal data processing systems operating in the country. In the absence of such registration by PICs and PIPs, this might correlate to the possible insufficiency of security measures and data privacy-related institutional policies being implemented to protect personal data. In turn, this may lead to higher risks of personal data breaches (availability, integrity, confidentiality) and ultimately, higher cases of violation on the rights of data subjects involving loss of autonomy, identity theft, loss of reputation, discrimination, unfair decision making, etc. filed with the NPC.</p>
Evidence of the problem/s	<p>Various questions and other feedback received by the NPC Public Information and Assistance Division (PIAD) from stakeholders on their challenges and problems regarding the current registration:</p> <ol style="list-style-type: none"> 1. What are the requirements? 2. When will eRehistro be implemented? 3. Do we need to register our data processing system? 4. What are the penalties for not registering? 5. Are individual personal information controllers required to register? <p>We provide herein the responses to the additional inquiries from the ARTA assessment:</p> <ol style="list-style-type: none"> a) Since the implementation of the current regulation, do the “challenges” remain consistent? The challenges were brought about by the complexities of the current regulation and the lack of implementation of an automated data processing system and database to register data processing systems and data protection officers. The NPC Compliance and Monitoring Division (CMD) adopted short term solutions to address these challenges while automation is still under development. The CMD was able to implement a three-step manual registration process from the former seven-step process where PICs and PIPs will no longer separately request for a Certificate of Registration as the same will be automatically issued within seven days from the day all requirements are submitted. b) What is the total number of PICs targeted by the NPC to be registered –for Government/Private Institutions? For Individuals? For 2021, the Commission, through the CMD, targeted around 500 new registrations, and for 2022, the target is 1,000 new registrations. c) Can the proposed intervention correct the identified regulatory failure? The proposed intervention will correct the identified regulatory failure. The new Circular on registration will address the gaps of the current Circular 17-01 vis-à-vis the release of the new automated system.

Existing regulation or other government measures relevant to the problem/s	<p>The following are the existing regulations or other government measures relevant to the problem:</p> <ol style="list-style-type: none"> Data Privacy Act of 2012(DPA) Implementing Rules and Regulations (IRR) of the Data Privacy Act of 2012 NPC Circular 17-01 on Registration of Data Processing Systems and Notifications Regarding Automated Decision-Making NPC Advisory No. 2017-01 –Designation of Data Protection Officers <p>The DPA and its IRR provided general guidance only as to the registration requirement, while Circular 17-01 provided the details. However, the Circular was not future-proof and ultimately failed to adapt to practical and technological changes implemented.</p>
Rationale for government action	<p>The amendment seeks to address the difficulty being experienced by the PICs and PIPs in complying with the registration requirement of the NPC. The amendment shall provide clarity on the rules for registration vis-à-vis the changes in the registration system to be deployed. This will also include the changes/amendments on the list of sectors or industries which shall be covered by the mandatory registration requirement as well as the requisites for the designation of a data protection officer.</p>

ARTA ASSESSMENT

Rubric	Rating	Remarks
Description of the Policy Problem	5	The identified problem is well-presented in the revised RIS as well as the consequences without government intervention. For further improvement, it is suggested to include data statistics such as, but not limited to the number of registered PICs/PIPs vis-à-vis their actual total number. Information like this may help the reader to assess the magnitude of the problem.
Evidence of the problem/s	5	The revised RIS was able to enumerate the evidence with credible source. Its connection to the problem was also established.
Existing Regulation or Other Government Measures relevant to the problem	5	The RIS discussed that the proposed policy (automation) will address the issues in the current policy and interim measures (manual processing). Citing the law itself, Republic Act No. 10173, as reference could also be helpful to the reader.
OVERALL ASSESSMENT	5	The RIS stated basic information relevant to the problem. Several amendments are suggested for better processing of the NPC as well as for in-depth appreciation of the reader.

Section 2 – POLICY OBJECTIVE

AGENCY STATEMENT

Objective of government action	<ul style="list-style-type: none"> NPC Registration Requirements for PICs and PIPs clarified Increase the number of registered PICs and PIPs. In 2021 it was targeted to 500 new registrations and for 2022, it is expected to reach 1,000 new registrations.
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ARTA ASSESSMENT

Rubric	Rating	Remarks
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Objective of Government Action	3	It is suggested to revise the objective statement as it lacks inclusion of a baseline. As an example, the objective can state “to increase the number of registered PICs and PIPs from x to xx by 4 th quarter of 2022”. In this way, the objective is specific, progress can be measured, attainable, relevant, and time-bound. The proponent is reminded to follow the said SMART criteria.
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Section 3 – POLICY OPTIONS

AGENCY STATEMENT

List of different policy options (regulatory and non-regulatory)	<p>The alternative options considered to address the policy problem are as follows:</p> <ol style="list-style-type: none"> 1) Amendment of the registration circular The amendment shall clarify the rules for registration visà-vis the changes in the registration system to be deployed. This will also include changes or amendments on the list of sectors or industries which shall be covered by the mandatory registration requirement as well as the requisites for the designation of a data protection officer. 2) Intensified communications campaign The amendment shall improve information dissemination through various platforms and media which may result in increasing the reach of the NPC with PICs and PIPs who are required to register their personal 3) Maintenance of the status quo This option shall maintain the current issuance on registration and eventually, the same will no longer be consistent with the actual automated system to be deployed.
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ARTA ASSESSMENT

Rubric	Rating	Remarks
List of Policy Options	5	The revised RIS provided alternative options that are regulatory and non-regulatory alternatives and was able to provide a brief discussion respectively.

Section 4 – ASSESSMENT OF IMPACTS OF POLICY OPTION/S

AGENCY STATEMENT

Analysis of expected impacts of policy options	<p>The recommended option is the amendment of NPC Circular 17-01 – Registration of Data Processing Systems and Notifications Regarding Automated Decision Making. It will confer the greatest benefit for all stakeholders.</p> <p>The proposed regulation has no exclusionary effect as the same expected to redound to the benefit of all data subjects, i.e., it will lead to better protection of the personal data being processed in the Philippines.</p> <p>The regulation is applicable to all PICs and PIPs in the government and private sectors</p>
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who will be covered by the scope of the registration requirement, regardless of what type of personal data is being processed, i.e., personal data of men, women, children, marginalized groups, etc.

As previously assessed, the proposed regulation has no significant impact taking into account the economic, social, environmental, disaster risk, and gender and social inclusion lenses.

Relevant marginalized sector(s) such as Women, Minors, Elderly, and Patients are likely to benefit as there will be a more secured processing of personal data.

Costs to be incurred by the NPC/stakeholders to implement the preferred option:

Costs		Metrics	Data Sources
Newspaper Publication	270,000	No. of Quotations Market Study for procurement	Newspaper companies
eRegistro System	5,000,000	No. of Potential Suppliers No. of Qualified Bidders	Qualified Bidders
Hiring of Data Protection Officer (DPO)	TBD	Estimated salary of DPO x No. of PICs/PIPs required to register	CSC, Jobstreet, LinkedIn, Work Abroad, and other job portals
Registration Enforcement	TBD	CMD/EnD personnel x salary for compliance monitoring and enforcement	NPC HRDD

The affected sectors will be all personal information controllers¹ and processors.² For this particular RIA, the following specific stakeholders were initially identified through a Stakeholder Analysis Matrix:

1. National Government Agencies
2. Health Facilities
3. Education

ARTA ASSESSMENT

Rubric	Rating	Remarks
Assessment of Policy Options	5	<p>The RIS was able to comprehensively assess each policy option using multiple lenses of RIA. For improvement, it is suggested to provide a summary of the results of the analysis conducted for EACH policy option. It would also be worthwhile to assess the policy options based on their impacts on the different sectors affected by this proposed regulation.</p> <p>Overall, the analysis covered most of the areas relevant to the fact issue.</p>

Section 5 – CONSULTATION AGENCY STATEMENT

<p>List of stakeholders consulted and their views on the proposed regulation or option</p>	<p>There was previous feedback received from individual physicians and medical associations on some reluctance to register with the NPC, claiming that physicians are usually connected with hospitals or other corporations that have already registered with the NPC, hence, there is no need for individual registration. The NPC thereafter opened discussions with the Data Privacy Council where the Health Sector is ably represented. Further stakeholder consultations will be conducted with the members of the Data Privacy Council (DP Council) composed of representatives from the following sectors:</p> <table border="1" data-bbox="391 380 1479 905"> <tr><td>1. Government</td><td>11. Real Estate</td></tr> <tr><td>2. Banks</td><td>12. Insurance – life and non-life</td></tr> <tr><td>3. Non-Bank Financial Institutions</td><td>13. Security</td></tr> <tr><td>4. Telecommunications/ISPs</td><td>14. Utilities</td></tr> <tr><td>5. Education</td><td>15. Transportation and Logistics</td></tr> <tr><td>6. Business Process Outsourcing</td><td>16. Hotels</td></tr> <tr><td>7. Health Maintenance Organization</td><td>17. Tourism</td></tr> <tr><td>8. Health and Hospitals</td><td>18. Manning – maritime and land-based</td></tr> <tr><td>9. Pharmaceutical</td><td>19. Social Media and Media</td></tr> <tr><td>10. Retail and Manufacturing</td><td>20. Information Society Service Providers</td></tr> </table> <p>Plans for the public stakeholder consultation for the draft Circular are underway. As of February 2022, the following was the proposed timeline (subject to adjustment in the exigency of service):</p> <table border="1" data-bbox="711 1094 1203 1583"> <thead> <tr> <th>Activities</th> <th>Estimated timeline</th> </tr> </thead> <tbody> <tr> <td>Tentative schedule of virtual public consultation (may be scheduled as part of pre-Privacy Awareness Week (PAW) or PAW Celebration)</td> <td>31 March - 13 April</td> </tr> <tr> <td>Deadline of comments from stakeholders</td> <td>29 April</td> </tr> <tr> <td>Revise draft based on stakeholder comments</td> <td>2 May - 17 May</td> </tr> <tr> <td>Send revised draft for review of the Commission, and finalize for approval/signature</td> <td>18 May - 31 May</td> </tr> <tr> <td>Newspaper publication</td> <td>1 June - 3 June</td> </tr> </tbody> </table>	1. Government	11. Real Estate	2. Banks	12. Insurance – life and non-life	3. Non-Bank Financial Institutions	13. Security	4. Telecommunications/ISPs	14. Utilities	5. Education	15. Transportation and Logistics	6. Business Process Outsourcing	16. Hotels	7. Health Maintenance Organization	17. Tourism	8. Health and Hospitals	18. Manning – maritime and land-based	9. Pharmaceutical	19. Social Media and Media	10. Retail and Manufacturing	20. Information Society Service Providers	Activities	Estimated timeline	Tentative schedule of virtual public consultation (may be scheduled as part of pre-Privacy Awareness Week (PAW) or PAW Celebration)	31 March - 13 April	Deadline of comments from stakeholders	29 April	Revise draft based on stakeholder comments	2 May - 17 May	Send revised draft for review of the Commission, and finalize for approval/signature	18 May - 31 May	Newspaper publication	1 June - 3 June
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ARTA ASSESSMENT

Rubric	Rating	Remarks
List of stakeholders consulted and their views on the proposed regulation or option	5	The revised RIS provided comprehensive information on the consultations conducted and their plans moving forward. Documentation was also attached in support of the enumerated meetings.

Section 6- RECOMMENDED OPTION

AGENCY STATEMENT

The option being recommended to the decision maker (department secretary/head of agency)	<p>Amendment of NPC Circular 17-01 on Registration of Data Processing Systems and Notifications Regarding Automated Decision-Making</p> <p>This option is recommended as this is necessary for the Commission to definitively provide the essential guidance and clarification to all PICs and PIPs in both the public and private sectors. This option shall provide a more future-proof issuance in relation to the automated registration system</p>
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ARTA ASSESSMENT

Rubric	Rating	Remarks
The option being recommended to the decision maker	5	The BCA conducted shows that the Alternative Option 1 produced a negative Net Benefit. Nevertheless, NPC recommended this option as this “shall provide a more future-proof issuance in relation to the automated registration.” For purposes of this training, ARTA commends NPC for providing a brief justification for its recommended policy option. However, this warrants an in-depth narrative supported by evidence when the conduct of RIA is fully implemented.

Section 7- IMPLEMENTATION & ENFORCEMENT

AGENCY STATEMENT

Description of implementation and enforcement plan	<p>See Annex F – Privacy Commission Special Order No. 012, s. 2021 – Creation of Task Force on NPC Registration System, Registration Information Campaigns, and Public Assistance for Registration-Related Matters</p> <p>Refer also to Annex E on the Policy Brief which provides for details on the planning for implementation and enforcement</p>
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ARTA ASSESSMENT

Rubric	Rating	Remarks
Description of implementation and enforcement plan	3	The RIS includes an implementation and enforcement plan but does not provide mitigation measures in cases of issues and risks.

Section 8 – MONITORING & EVALUATION

AGENCY STATEMENT

Description of monitoring and evaluation plan	Please refer to Annex G – Monitoring Plan, Evaluation Plan, and M&E System
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ARTA ASSESSMENT

Rubric	Rating	Remarks
Monitoring and Evaluation	5	NPC can provide a brief narrative on how to implement the Monitoring and Evaluation Plan.

Summary ARTA Assessment

SUMMARY ARTA Assessment

RIS SECTION	RATING
<ul style="list-style-type: none"> Policy Problem and Need for Government Action 	5
<ul style="list-style-type: none"> Policy Objective 	3
<ul style="list-style-type: none"> Identification of Policy Options 	5
<ul style="list-style-type: none"> Assessment of Impacts of Policy Options 	5
<ul style="list-style-type: none"> Consultation 	5
<ul style="list-style-type: none"> Recommended Option 	5
<ul style="list-style-type: none"> Implementation & Enforcement 	5
<ul style="list-style-type: none"> Monitoring & Evaluation 	3

Final ARTA Assessment

RATING	SATISFACTORY RIS (Score: 36)
REMARKS	A Good Practice RIS contains an overall good quality analysis addressing the eight (8) RIS sections and following an appropriate policy development process commensurate with the significance of the problem and magnitude of the proposed intervention. A good practice RIS may contain a small number of elements where the quality of analysis or the process followed was not of exceptional quality and could have been improved.