

## PERSONAL DATA AND INTERNET OF THINGS (IoT) DEVICES

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### *Introduction*

1. Under the Personal Data Protection Act (“**PDPA**”), organisations are obliged to obtain the consent of an individual before collecting, using or disclosing their personal data (the “**Consent Obligation**”). Recently, a company was fined by the Personal Data Protection Commission (“**PDPC**”) for breaching this obligation in respect of personal data collected through its IoT devices.

### *Facts and Decision*

2. The company (Actxa Pte Ltd) sells healthcare and fitness-related IoT devices such as “smart” weighing machines and wearable fitness trackers. The devices collect users’ personal data via sensors fitted to the devices, such as their weight, height, sleep duration and calories. The users can access the data through an app (the “**Actxa App**”) installed onto their mobile devices and the data are automatically transferred to and stored on the company’s servers.
3. The complainant bought the company’s weighing machine through its website. He also installed the Actxa App. Soon after, he realized that his personal data were being transferred to and stored on the company’s servers without his consent and filed a complaint with the PDPC. He also asked the company for a refund.
4. Upon investigating the complaint, the PDPC found that the company did not obtain consent from users of the Actxa App to collect their personal data and to store the data on its servers. It also did not have separate privacy policies concerning the collection, use and disclosure of personal data collected through the Actxa App, the weighing machine and other IoT devices. Its privacy policy covered only personal data collected through its website.
5. Given that the personal data of about 2,600 Actxa App users were potentially compromised and the data were sensitive and health-related, the PDPC ordered the company to pay a financial penalty of \$6,000. The penalty could have been higher had not the company cooperated with the investigations as well as taken steps to broaden the coverage of its privacy policies and acceded to the complainant’s request for a refund.

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## Take Away

- Organisations that sell IoT devices should therefore be careful to ensure that they have separate privacy policies for the different IoT devices and platforms that they sell to their customers. The policies should relate not only to the Consent Obligation but also to the obligation to notify their users of the purposes for which their personal data are to be collected, used or disclosed. They should, for instance, have just-in-time notifications to obtain consent dynamically and have bite-sized policies as opposed to a lengthy policy.
- Recently, the PDPC has indicated that it may implement an opt-out scheme whereby consent is deemed to be obtained if an individual is notified of the purposes of the collection, use or disclosure of his personal data and he is provided a reasonable time period to opt out (where opt-out is feasible) but does not do so within the time period. If the scheme is implemented, it will reduce the difficulties in obtaining consent of organisations that sell IoT devices.

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