

PI
2002/12/27 09:11 AM

To: Joey WC LO/LEGCO@LEGCO
cc:
Subject: Objection to Sharing of Positive Credit Data

----- Forwarded by PI/LEGCO on 2002/12/27 09:11 AM -----



To: pi@legco.gov.hk
cc:
Subject: Objection to Sharing of Positive Credit Data

All Members

LegCo Panel on Financial Affairs
Legislative Council
HONG KONG

Dear Sir & Madam

Objection to the Sharing of Positive Credit Data

We have separately written to the Privacy Commissioner Office (PCO) with reference to the consultation on the captioned, We would like to express herewith our disagreement on the proposed sharing of positive credit data for the information of the Panel Members. The major reason is that the justifications of the banking industry and HKMA are conceptually wrong. Kindly refer to the following arguments, using the same paragraph numbers in the Consultation Paper :-

Para 4.3 - The banking industry mentioned that greater sharing of consumer credit data can relieve consumer debt and bankruptcy problems in Hong Kong. It is not true.

It is just a misleading notion for the banking industry and HKMA to confuse the general public about the real cause of the bankruptcy problem in Hong Kong. Greater sharing of positive credit data can never relieve the problem. The bankruptcy problem is caused by the economic condition. People declare bankrupt no matter he or she was indebted with banks. The PCO has also concurred that the greater sharing of positive credit data is not a remedy to bankruptcy problem (Para 6.11). It is obvious that the banking industry is making use of the surges in bankruptcy merely to bargain for more benefit.

Para 4.4 to 4.7 (Inadequate Data Sharing under Existing Arrangements) - The banking industry mentioned that the extent of sharing of credit data under the Consumer Credit Data Code is inadequate comparing with other jurisdictions e.g. banks are not able to know precisely how many credit cards a customer possessed for credit assessment. The industry also alleged that customer may abuse the current arrangement by drawing one line of credit to cover another line of credit.

It is again an unsubstantiated ground used by the banking industry to dress up their proposal. "Adequacy" of information for credit assessment is a

question of extent. There is no absolute "adequate" or unlimited information for credit assessment. It needs compromises between the data user and owner. Also, the existing sharing of credit information through the Credit Information Service has already been excessive e.g. currently, sharing of loan application date and amount are allowed, it is not appropriate to further loosen the situation. It is also not a responsible move to merely compare the magnitude of credit data shared by financial institutions in other jurisdictions with Hong Kong SAR without seeing their corresponding protection to customers. Both USA and UK have sound legislation to safeguard credit data reporting from being misused whilst Hong Kong SAR only got a non-enforceable Consumer Credit Data Code which can simply be amended and relaxed by the PCO himself without going through the normal legislative process. Also, the current contractual rights given to the banks in their standard credit facility contract have been disproportionately high comparing with other jurisdictions e.g. free to raise interest rate anytime, demand full repayment without reason, etc. Permitting the sharing of positive credit data in the industry may further worsen the customer bargaining power.

Furthermore, the effectiveness of credit data sharing in USA and UK have never been proved successfully in tackling bankruptcy and delinquency problems with a convincing manner. USA has the positive credit database (similar to the one proposed by the banking industry) in operation. Due to world-wide depression, they have also suffered biggest hit from credit card delinquency (Please refer to Exhibit 1). It has indicated that greater sharing of credit data cannot really improve the situation. Also, the proposal only compares USA & UK, there are other jurisdictions do not share positive credit data.

Para 4.8 to 4.12 (Benefit to Consumers) - The banking industry and HKMA mentioned that sharing of more positive credit data can enable the banking industry to drive the product cost down and will ultimately benefit the borrowers. They are purely making use such "advantage" to solicit support from the general public.

We have great reservation on this point. Hong Kong banking industry is in fact operating in a "cartel" environment. It casts great doubt of whether they will actually reduce the product price e.g. lower the interest rate after getting hold of all the Hong Kong people credit profile. In the contrary, if greater sharing of data is permitted, the perceived poorer customers must suffer higher interest rate or be forced to bankrupt due to sudden demand for repayment in full by lenders all together. You may recall when the interest rate rule for savings accounts was scrapped last year, the general public anticipated that there would be a bidding war in the banking industry and will create some very competitive interest rates for depositors due to keen competition. It has never been materialized in such manner. In the contrary, banks created a new set of fees and charges simultaneously at the expenses of all Hong Kong people. There is no real benefit to the consumers

from the proposal.

The banking industry also argues that the sharing of positive credit data can prevent them from lending to over indebted customers. They mentioned that some people have held multiple debts and gone bankrupt. Using this ground to demand the greater sharing of positive credit data is not justifiable. From Figure 1 (Para 2.2) of the Consultation Paper, it had shown that among the 95,882 consumers being reported delinquent (First Quarter of 2002), the consumers holding multiple loans of 6 or above accounted for 13,222 (13.7% of total). The majority delinquent consumers hold only 1 to 2 loans (69,477 numbers representing 72%, sharp growing trend). The figure thus explained the real cause of delinquency was not from multiple indebtedness. Hence, with or without the further sharing of credit data, the real problem cannot be solved.

Instead of the rosy grounds for greater sharing of positive credit data submitted by the banking industry, it cannot be denied that the proposal can in fact benefit the banking industry themselves in direct marketing e.g. If the positive credit database are adopted, the bankers may then unveil the credit profile of all their customers through the centralized database maintained by the CIS by using the reason of "review of credit" as permissible under the legitimate reason granted by the PCO. The poorer customers can then be axed. The perceived "good" customers will then be bombarded by thousands of pamphlets of pre-approved credit cards, loan, etc. Although it is not an evil thing to promote loan products, our question is that is it ethical to use the positive data under this scenario? Since more people free from debts will be attracted to borrow, will that cause another group of people to be indebted? There is no such urgency in fundamentally changing the data sharing mechanism purely for the benefit of the banking industry.

Hence, the proposal can neither curb the existing bankruptcy and delinquency problems in Hong Kong nor providing any benefit to the consumers (as mentioned above, it will even worsen the situation of the existing indebted consumers). It is therefore not a right move to relax the Consumer Credit Data Code for allowing greater sharing of positive credit data at this moment taking into account of the economic situation. Also, the negative impact on the existing indebted consumers cannot be overlooked as well. It will cause social distress and further damage the reputation of the Government of the HKSAR if these people are forced to bankrupt.

We sincerely wish that the Panel Members can voice out the view of the general public.

Yours truly

Kenneth Wong

Consultation Paper by the Office of the Privacy
Commissioner for Personal Data
The Sharing of Positive Credit Data

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It is again an unsubstantiated ground used by the banking industry to dress up their proposal. "Adequacy" of information for credit assessment is a question of extent. There is no absolute "adequate" or unlimited information for credit assessment. It needs compromises between the data user and owner. Also, the existing sharing of credit information through the Credit Information Service has already been excessive e.g. currently, sharing of loan application date and amount are allowed, it is not appropriate to further loosen the situation. It is also not a responsible move to merely compare the magnitude of credit data shared by financial institutions in other jurisdictions with Hong Kong SAR without seeing their corresponding protection to customers. Both USA and UK have sound legislation to safeguard credit data reporting from being misused whilst Hong Kong SAR only got a non-enforceable Consumer Credit Data Code which can simply be amended and relaxed by the PCO himself without going through the normal legislative process. Also, the current contractual rights given to the banks in their standard credit facility contract have been disproportionately high comparing with other jurisdictions e.g. free to raise interest rate anytime, demand full repayment without reason, etc. Permitting the sharing of positive credit data in the industry may further worsen the customer bargaining

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Furthermore, the effectiveness of credit data sharing in USA and UK have never been proved successfully in tackling bankruptcy and delinquency problems with a convincing manner. USA has the positive credit database (similar to the one proposed by the banking industry) in operation. Due to world-wide depression, they have also suffered biggest hit from credit card delinquency. It has indicated that greater sharing of credit data cannot really improve the situation. Also, the proposal only compares USA & UK, there are other jurisdictions do not share positive credit data.

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We have great reservation on this point. Hong Kong banking industry is in fact operating in a "cartel" environment. It casts great doubt of whether they will actually reduce the product price e.g. lower the interest rate after getting hold of all the Hong Kong people credit profile. In the contrary, if greater sharing of data is permitted, the perceived poorer customers must suffer higher interest rate or be forced to bankrupt due to sudden demand for repayment in full by lenders all together. You may recall when the interest rate rule for savings accounts was scrapped last year, the general public anticipated that there would be a bidding war in the banking industry and will create some very competitive interest rates for depositors due to keen competition. It has never been materialized in such manner. In the contrary, banks created a new set of fees and charges simultaneously at the expenses of all Hong Kong people. There is no real benefit to the consumers from the proposal.

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9 October 2002

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Unit 2001, 20/F, Office Tower
Convention Plaza
1 Harbour Road
Wan Chai
HONG KONG

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indebted consumers cannot be overlooked as well. It will cause social distress and further damage the reputation of the Government of the HKSAR if these people are forced to bankrupt.

We sincerely wish that your Office can balance the interest between lenders and borrowers independently.

Yours truly

Kenneth Wong

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Yahoo! Mail Plus - Powerful. Affordable. Sign up now.
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