

News Release

7 February 2018

Experts from Asia affirm need to push towards convergence of legal frameworks to facilitate cross-border data flows

Singapore, 7 February 2018 – For the first time in Asia, representatives from government, data protection regulators, industry and the legal community across 19 countries met to discuss how to achieve a common Asian framework to share and transfer information across international borders.

“A shared legal ecosystem for international data flows in Asia”, a Forum held on 7 February 2018 at the Singapore Supreme Court, is part of a two-year project by the Asian Business Law Institute (ABLI) to help bridge the gaps between the different rules and standards enforced by Asian countries on cross-border transfers of personal information.

In his opening remarks at the Forum, Chief Justice Sundaresh Menon reaffirmed the urgency for actions of convergence in this area of law in Asia. Data localisation requirements and the fragmented environment in data privacy laws in Asia are seen as some of the biggest stumbling blocks to the development of the digital economy and e-commerce, and for pushing up the costs of doing business in the region. Information sharing and international data transfers are essential to innovation, cross-border trade and commerce, and data-driven projects such as smart nation.

“Data privacy has for the first time, come to the forefront of public consciousness and has even ascended to the top of the political agenda,” said CJ Menon. “2017 has the dubious distinction of being the year with the greatest number of incidents involving unauthorised or illegal access of confidential or protected data.” Data breaches at Uber, Deloitte, Equifax and Verizon were some of the highly publicised cases. Many countries in Asia, including China, India and Singapore have announced intentions to adopt new data protection measures, more stringent cybersecurity laws and to introduce data breach notification requirements in their laws.

In Europe, the General Data Protection Regulation (GDPR) which kicks in from May 2018 will have far-reaching territorial impact as companies who do not comply with the GDPR standards can be fined up to 20 million euros (S\$32.5 million) or four percent of its annual turnover. Tech giants Facebook, Amazon and Google are already gearing up their operations to ensure compliance with this strict EU law.

APEC ministers have called for the development of appropriate consumer protection and privacy rules and enhanced co-operation in this area, and data privacy is a prominent issue under discussion in the Trans-Pacific Partnership (TPP) and Regional Comprehensive Economic Partnership (RCEP).

However, “while common privacy principles have been developed at the global and regional levels, Asia is still handicapped by extremely varied data protection laws and the absence of structured regulatory co-operation to ensure consistent implementation. This comes as a heavy cost for companies based in Asia,” said Dr Clarisse Girot, Senior Research Fellow at ABLI. “This is where ABLI comes in, with a unique opportunity to influence the shape of future developments,” said CJ Menon. ABLI is a neutral, pan-Asian body that was set up in 2016 in

recognition that differences in the legal regimes in Asia can be a serious roadblock to businesses. ABLI's Board of Governors, chaired by CJ Menon, comprises 13 influential members drawn from the judiciary, academia and practitioners from different jurisdictions including Singapore, China, India and Australia.

ABLI has adopted a two-pronged approach to these issues. Over the last eight months, Dr Girot has first led a project team comprising legal academics and practitioners from 14 countries who surveyed all data transfer rules currently in force in Singapore, China, India, Australia, New Zealand, Korea, Japan, Vietnam, Philippines, Thailand, Hong Kong, Macau, Malaysia and Indonesia. The reports will be published in a compendium* which will be available to the public for free on the ABLI website within the first quarter of 2018. Several public and private organisations have already expressed their intention to use the compendium as a resource for their respective data privacy projects.

The ABLI Forum, a gathering of 90 of the best experts and high-level government officials in the region, sets the stage for the second phase of the work. Five key issues were selected for open discussions at the Forum. Over the next 12 months, ABLI will do a comparative analysis between the existing laws, highlighting their commonalities and differences. Following this, ABLI will propose policy options to governments and policy-makers and make suitable recommendations for the convergence of rules and standards on cross-border data transfers. This work will be carried out with an Experts Committee and the public authorities will be invited to contribute.

"I firmly believe that this work will lay the foundation for the development of a more coherent data protection framework in Asia and beyond," said CJ Menon. "As I said at its launch two years ago, ABLI exists to put forward practical solutions that will appeal to policymakers and legal practitioners."

-End-

* A list of the legal academics and practitioners who contributed towards the country reports in the compendium may be found at Annex A.

About the Asian Business Law Institute

ABLI was launched in January 2016.

It is a permanent institute based in Singapore that initiates, conducts and facilitates research with a view to providing practical guidance in the field of Asian legal development and promoting the convergence of Asian business laws.

Its mission is to remove unnecessary or undesirable differences between Asian legal systems that pose obstacles to free and seamless trade.

ABLI's long-term strategic direction in accordance with its aims is set by its Board of Governors chaired by The Honourable the Chief Justice Sundaresh Menon of the Supreme Court of Singapore. The Board comprises representatives from Australia, China, India and Singapore and other internationally renowned legal experts.

About the Singapore Academy of Law

ABLI is a subsidiary of the Singapore Academy of Law (SAL). SAL is a promotion and development agency for Singapore's legal industry. Our vision is to make Singapore the legal hub of Asia.

Asian Business Law Institute
1 Supreme Court Lane
Level 6, Singapore 178879

Tel: (65) 6332 4388
Email: info@abli.asia
Web: www.abli.asia

SAL works with our stakeholders to set new precedents of excellence in Singapore law through developing thought leadership, world class infrastructure and legal solutions. Our mandates are to build up the intellectual capital of the legal profession by enhancing legal knowledge, raise the international profile of Singapore law, promote Singapore as a centre for dispute resolution, and improve the standards and efficiency of legal practice through continuing professional development and the use of technology.

As a body established by statute, SAL also undertakes statutory functions such as stakeholding services and appointment of Senior Counsel, Commissioners for Oaths and Notaries Public.

SAL is led by a Senate headed by Chief Justice Sundaresh Menon, and comprising the Attorney-General, the Supreme Court Bench and key leaders of the various branches of the legal profession. It has more than 12,000 members, including the Bench, all persons who are called as advocates and solicitors of the Supreme Court (i.e. the Bar) or appointed as Legal Service Officers, corporate counsel, faculty members of the three local law schools (i.e. National University of Singapore, Singapore Management University and Singapore University of Social Sciences) and foreign lawyers in Singapore.

More information can be found at www.sal.org.sg.

Media Contact

Foo Kim Leng (Ms)
Deputy Director
Corporate Communications
Tel: 6332 5365 / 9635 8850
Email: foo_kim_leng@sal.org.sg

Alyssa Nyam (Ms)
Assistant Manager
Corporate Communications
Tel: 6332 5371 / 9773 2333
Email: alyssa_nyam@sal.org.sg

Annex A: Compendium List of Contributors

	Name	Designation	Organisation	Country
1.	Peter Leonard	Consultant	Gilbert + Tobin	Australia
2.	Fan Wei (Susie)	Founder & CEO	Centre for Data Trust and Transparency	China
3.	Mark Parsons	Partner	Hogan Lovells	Hong Kong
4.	Elonnai Hickok	Director	Centre for Internet and Society	India
5.	Amber Sinha	Researcher		
6.	Justi Kusumah	Managing Partner	K&K Advocates	Indonesia
7.	Danny Kobrata	Senior Associate		
8.	Kaori Ishii	Professor	University of Tsukuba	Japan
9.	Fumio Shimpo	Professor	University of Keoi	
10.	Kwang Bae Park	Partner	Lee & Ko	Korea
11.	Graça Saraiva	Associate General Counsel	Venetian Macau Limited	Macau
12.	Abu Bakar Munir	Professor of Law	University of Malaya	Malaysia
13.	Katrine Evans	Senior Associate	Hayman Lawyers	New Zealand
14.	JJ Disini	Managing Partner	Disini & Disini Law Office	Philippines
15.	Ken Chia	Principal	Baker & McKenzie.Wong & Leow	Singapore
16.	David Duncan	Consultant	Tilleke & Gibbins	Thailand
17.	Waewpen Piemwichai	Registered Foreign Attorney	Tilleke & Gibbins	Vietnam