

# PERSONAL DATA PROTECTION IN MALAYSIA : AN INTRODUCTION



## BACKGROUND OF PDP ACT

- The **Personal Data Protection Act** was passed by Parliament in June 2010;
- The main objective of the legislation is to **regulate the processing of personal data** in the context of commercial transactions by data users;
- To **safeguard** the interests of **data subjects**.
- **Enforced on 15 November 2013**

## APPLICABILITY OF ACT

- **Personal data** is defined to mean *any information in respect of a commercial transaction* which is:
  - a) being processed;
  - b) recorded with the intention that it should be processed; or
  - c) recorded as part of a relevant filing system
- The Act applies to any person who **processes personal data**

# Example of Personal Data

- Name
- IC numbers, passport numbers
- Driver's license, birth certificate
- Bank account numbers
- Home address,
- Home and personal phone no, email.
- Sensitive Personal Data :- Race, religion, health, political opinion, offence records
- Contact name, number, address, etc
- Other identification like photos, cctv etc

# The Present landscape in Malaysia

***Who owns Malaysians' data?***

Government?

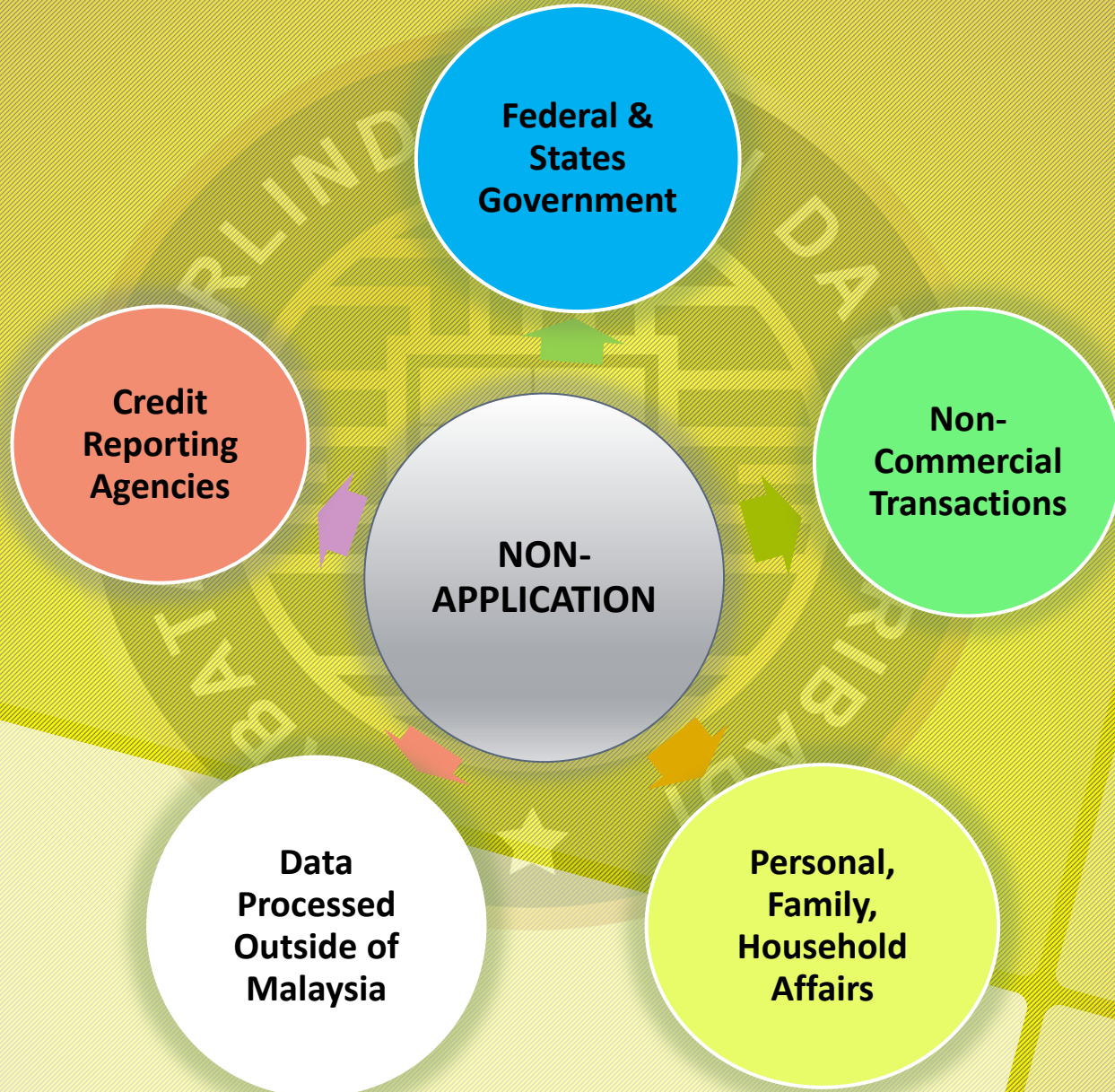
(Systematic access)

Google? Facebook? Twitter?  
Linkedin? And other Search  
Engines?/Groupon/Lazada

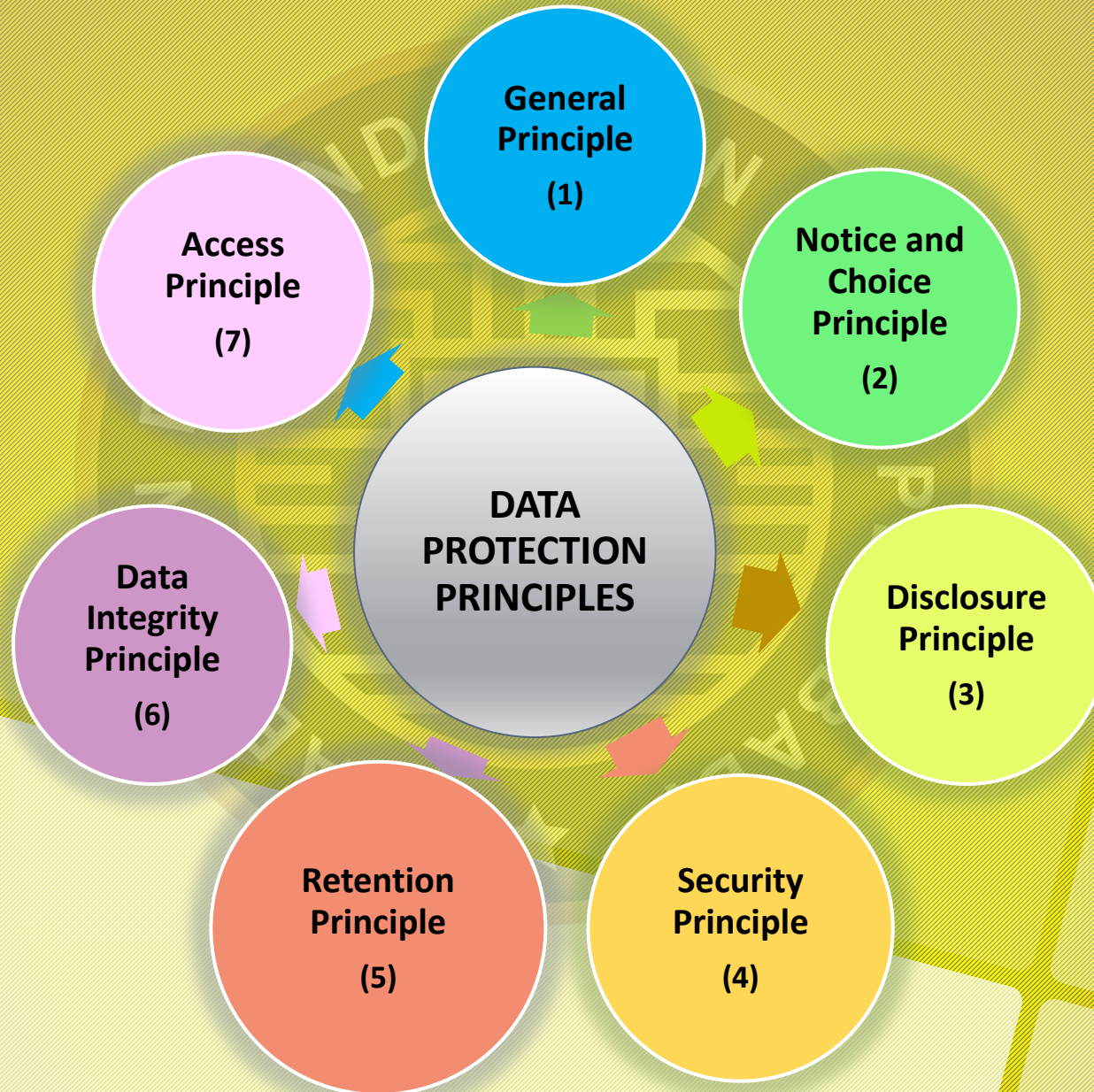
Contextual ownership?

(Others) –  
Banks/Telcos/Insurance/Hotels/  
Developers/Lawyers/Doctors/  
Utilities

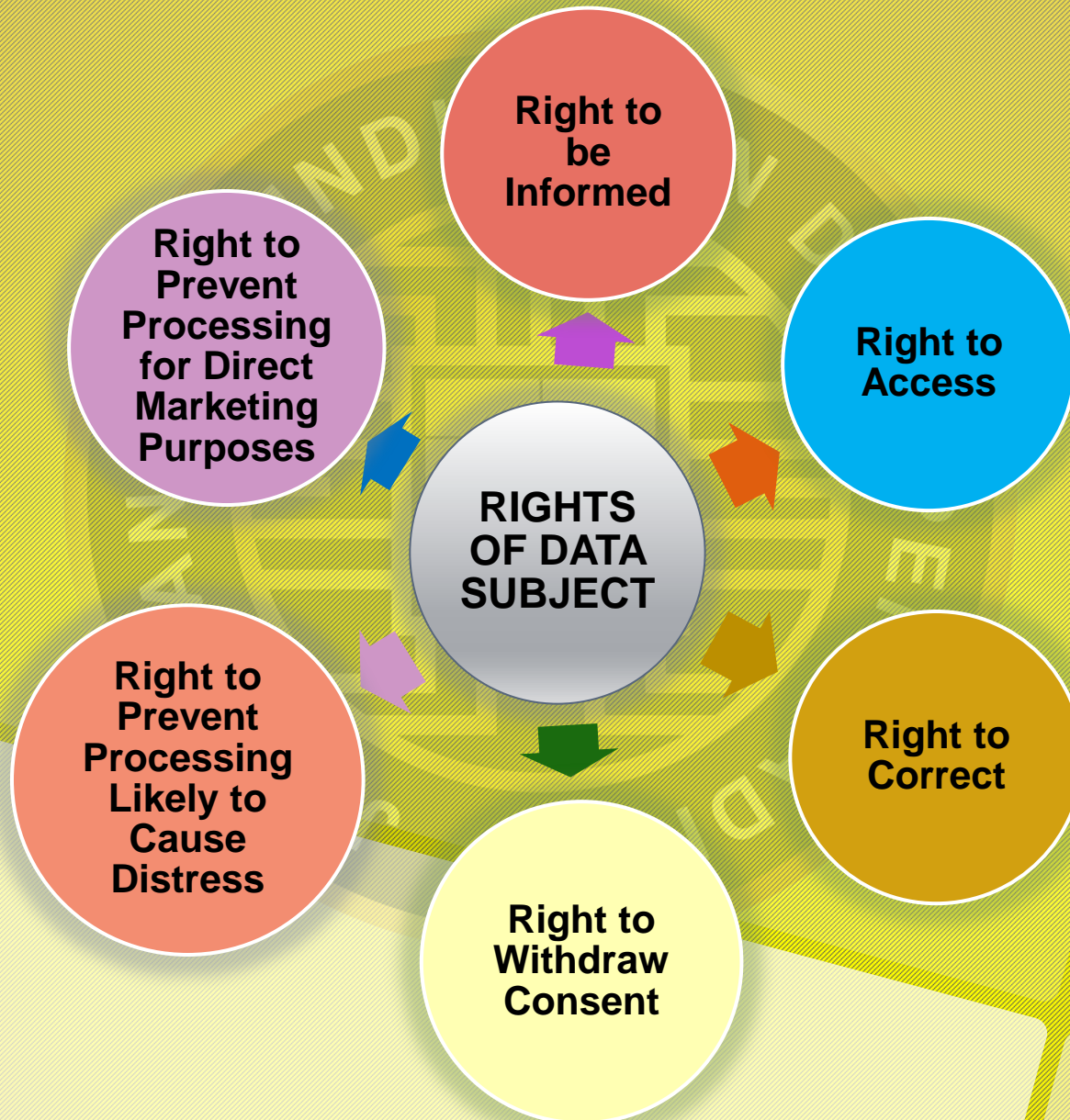
# PDPA 2010 : NON APPLICABILITY



# 7 PRINCIPLES OF PDP



# RIGHTS OF DATA SUBJECTS



# EXEMPTIONS



## Partial

- Crime Prevention/Detection
- Offenders Apprehension/  
Prosecution
- Tax/Duty Assessment/ Collection
- Physical/Mental Health
- Statistics/Research
- Court Order/Judgment
- Regulatory Functions
- Journalistic/Literary/Artistic

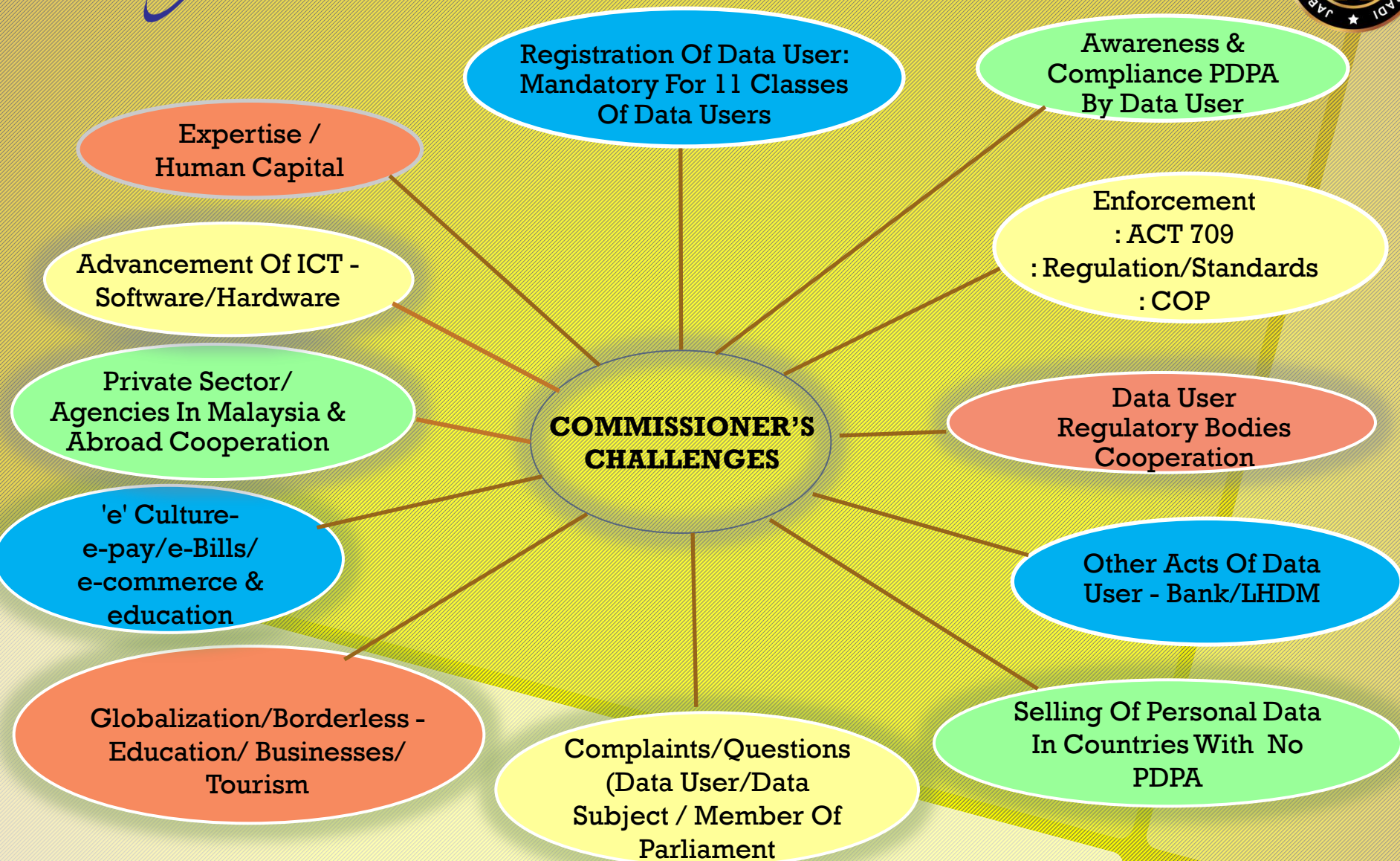


## Total

- Personal
- Family
- Household
- Recreational

# CLASS OF DATA USERS TO BE REGISTERED

- 1. COMMUNICATIONS** (TELCOS/COURIER)
- 2. BANKING & FINANCIAL INSTITUTION**
- 3. INSURANCE**
- 4. HEALTH** (PRIVATE HOSP./CLINICS-MEDICAL & DENTAL/PHARMACISTS)
- 5. TOURISM & HOSPITALITIES** (HOTELS/TOUR AGENTS/COMPANIES)
- 6. TRANSPORTATION** (AIR)
- 7. EDUCATION** (PRIVATE UNIVERSITIES/SCHOOLS)
- 8. DIRECT SELLING**
- 9. SERVICES** (PARTNERSHIP)
  - LEGAL
  - AUDIT
  - ACCOUNTANCY
  - ENGINEERING
  - ARCHITECTURE
- 10. REAL ESTATE**
- 11. UTILITIES**



## QUESTION DATA USER SHOULD ASK INCLUDE:

1. Do we know what types of personal data we hold:
  - a) Electronically (including less obvious data such as CCTV images)?
  - b) On paper?

## QUESTION DATA USER SHOULD ASK INCLUDE:

### 2. Can we justify the collection of this information?

- ☐ Why do we collect it?
- ☐ What it is used for?
- ☐ How long do we hold it?
- ☐ Who has access to it?
- ☐ To whom do we disclose it?
- ☐ Is it held securely?
- ☐ How we dispose of the data?

If we outsource processing of personal data to a data processor (including a 'cloud computing' service provider), are we satisfied that their security procedures are adequate?

# Impact of the Act on your Business

- ❖ Mindset change – adopt best practices, privacy policy, in place
- ❖ Getting ready for a personal data system, subject to inspection by the Commissioner
- ❖ Audit
  - ✓ How do you collect, process and retain data?
  - ✓ Do you have consent from the data subject?
  - ✓ Do you really need all the personal data?
  - ✓ Have you got in place security measures?
- ❖ Sharing of personal data
- ❖ Legacy data
- ❖ Cost of doing business
- ❖ Training & implementation of personal data system

# Expected Outcome Of Data Protection Act

- Protect personal data belonging to the public from being misused through commercial transactions
- Protection of sensitive data from being misused
- Facilitate commerce / trade
- Protect consumer / individual rights

## ***PDPA 2010 brings new hope if:***

- Enforcement is strenuous
- It goes beyond than ticking the box
- compliance exercise
- It is regarded as “DNA”
- It starts from home

# THANK YOU

