Working Group on COVID-19 related Privacy and Data Protection Issues

(hereafter 'the Working Group')

Terms of Reference

1. Preamble

As countries across the world continue to respond to the COVID-19 pandemic while slowly reopening businesses, resuming work and vital industry operations and as citizens learn to adapt and adjust to the new normal, the GPA community continues to be confronted with unprecedented common data protection and privacy challenges arising from the pandemic. The acceleration in the pace of digital transformation and formulation of new digital solutions have created privacy risks that need critical analysis and appropriate solutions. It is necessary to reiterate and re-emphasize the need to value common principles in privacy and data protection to enable appropriate and proportionate use and sharing of information, as well as digital innovation, necessary to support efforts to tackle the global pandemic.

The past couple of months have exemplified the invaluable and pivotal role of privacy and data protection authorities play in providing guidance and assistance to governments, relevant organizations and other stakeholders on how to handle and share appropriately personal data in the context of the pandemic. As plans for response and recovery become operational, it is important that measures to adapt to the new normal take data protection and privacy requirements fully into account.

Hence, the 42nd Closed Session of the GPA adopted the Resolution on the Privacy and Data Protection Challenges Arising in the Context of the COVID-19 Pandemic, to which the Assembly resolved to:

- Welcome the *Compendium of Best Practices* complied by the Privacy Commissioner for Personal Data, Hong Kong, China, drawing on contributions of members of the GPA COVID-19 Taskforce and GPA community;
- Call upon all GPA members and observers to continue to promote regulatory cooperation, including with relevant non-privacy supervisory authority as well as with regional networks, as COVID-19 prevention, mitigation and response require coordinated responses at global level;
- Call upon all key actors engaged in contact tracing measures, including digital contact tracing solutions, to take a data protection and privacy by design approach when designing these measures to recognise the pivotal role privacy and data protection play in promoting public trust;
- Encourage all GPA members and observers to continue to contribute to the expansion of the GPA COVID-19 Response Repository and event calendar created on the GPA website;
- Ensure to continue building and strengthening our collective capacity, including through the hosting of workshops or webinars, in order to adequately respond to the data protection and privacy issues arising from the COVID-19 pandemic, in particular the key issues and priorities identified through the GPA COVID-19 survey; and
- Establish a new temporary Working Group (Working Group on COVID-19 related Privacy and Data Protection Issues) with an initial mandate of one year to continue the work of the Taskforce.

The Working Group will be chaired by the chair of the COVID-19 Taskforce, Commissioner Raymund Liboro, National Privacy Commission, Philippines.

2. Purpose

The Working Group will continue the work of the GPA COVID-19 Taskforce to build and strengthen the GPA's collective capacity in responding to data protection and privacy issues arising from the COVID-19 pandemic. This is in line with the Assembly's vision and mission of maximising the Assembly's voice and influence and enhancing capacity building for GPA members and observers. The Working Group will continue to provide leadership within the GPA membership community and in the context of COVID19 by examining the emerging data protection and privacy challenges posed by the pandemic and the road to recovery, in order to identify:

- the practical ways in which these are being addressed, sharing information with the membership to enhance capacity building for members and observers,
- where GPA network activities can encourage a common good practice approach across jurisdictions;
- relevant engagement opportunities for influencing the international privacy debate on the COVID-19 response with external stakeholders in order to demonstrate GPA leadership and influence.

3. Remit and Deliverables

The primary role of the Working Group is to coordinate and help drive the GPA's practical responses to the privacy challenges emerging from the COVID-19 pandemic, with a view to informing future public positions on COVID-19 related topics by the Assembly and enhancing capacity building capabilities for the GPA privacy community.

Specifically, the Working Group will:

- Make recommendations for and coordinate the GPA's responses on privacy and data protection issues arising in the context of the COVID-19 pandemic and the road to recovery, particularly those issues and priorities identified through the GPA COVID-19 survey and share information across the membership;
- Engage with GPA members and observers with a view to keeping the Compendium of Best Practices updated as new privacy and data protection issues emerge as part of the ongoing COVID-19 recovery response;

- Collaborate with relevant international organizations, networks and privacy advocates in strengthening the capacity of GPA members and observers and sharing of information on the other pressing issues identified through the GPA COVID-19 survey;
- Report on the progress of the Working Group, and the scope of any related considerations for future working arrangements, to the 2021 closed session.

In all the work of the Working Group, inclusivity and legal and geographical diversity should be considered in order to ensure the delivery of a comprehensive GPA response with the potential to resonate with the whole Assembly's community.

4. Leadership and Relevant Engagement and Reporting Activity

The meetings of the Working Group will be convened and conducted by the Working Group Chair.

Specifically, the Working Group Chair will:
- Provide leadership and direction to the Working Group to ensure it meets its objectives as set out above and within the agreed timeline;
- Convene and chair the meetings of the Working Group and establish the content of meeting agenda, arrange the meetings of the Working Group and ensure that relevant documents are circulated to the participants in a timely way, including the summary and action points of each meeting;
- Ensure that priorities are identified, matters are progressed smoothly and in a timely manner during meetings and in the overall work of the Working Group;
- Ensure the Working Group reaches clear decisions over action points and allocated tasks in an inclusive and timely way;
- Monitor the implementation of tasks and action points from previous meetings and ensure these are consistent with the Working Group's agreed remit and Terms of Reference;
- To undertake work as the Chair of the Working Group, including attendance at relevant events and meetings, or delegate such work to other members of the Working Group as appropriate; and

- To report, with the support of the GPA Secretariat (see section below on the role of the Secretariat), on the Working Group's activities to the Executive Committee and 2021 Closed Session, as required.

The Sub-Group Leads will:

- Propose, plan and organize their respective activities and projects, subject to the approval of the Chair and the Working Group members, to reach out to other GPA members and Observers, and relevant networks;

- Monitor the progress and implementation of proposed activities and projects;

- Give updates during Working Group meetings on the progress of activities and projects; and

- Prepare a short report or executive summary after every activity, event or project which will be included in Working Group Reports and Working Group Annual Report for circulation to the GPA community.

5. Membership and Responsibilities

Membership of the Working Group will be inclusive and diverse in order to reflect the different views and geographical perspectives of the GPA community.

Members will:

- Hold appropriate decision-making authority to be able to make decisions on behalf of their Head of Authority;

- Demonstrate commitment by making a practical and meaningful contribution to the work of the Working Group by ensuring to progress work and complete allocated actions and tasks in between meetings as well as by actively contributing to the preparations ahead of the virtual closed session meeting;

- Ensure relevant documents to inform discussion at meetings are shared with the Working Group Chair in a timely way;

- Communicate with and provide feedback from their organisations and ensure regular communication with the Working Group Chair and GPA Secretariat as well as other relevant stakeholders (e.g. Executive Committee) as appropriate;

- Make best efforts to join Working Group meetings. Where attendance from the main nominated representative is not possible, substitution of a deputy is acceptable

provided that the deputy will be able to act with delegated authority. Members submitting apologies for meetings, and who are unable to send a deputy, should notify the Working Group Chair in advance.

6. Frequency of Meetings and Duration of the Working Group

It is proposed that the Working Group will meet on a fortnightly basis in the initial stages. Thereafter, once the workplan and the activities have been scheduled, the Working Group may meet once a month, or whenever necessary.

Given the varied geographical composition of the Working Group and in recognition of the difficulty of accommodating different time zones, the meetings will be arranged by the Working Group Chair on the Atlantic and Pacific time zones on an alternate basis. A calendar of meetings will be agreed in advance, at the first meeting or shortly after, in order to ensure predictability. It will be possible to adjust meeting dates when necessary.

The Working Group will be operational until October 2021, with the possibility to extend its mandate for a further period agreed by the Closed Session, if required.

7. Organisation of work

In view of the size of the Working Group and in order to maximise its efficiency and ability to progress work quickly, it is envisaged a smaller group with particular expertise and resource capacity will drive the work on emerging privacy issues caused by the COVID-19 pandemic with a wider group of Working Group members driving the delivery of capacity building activities and development of case studies of good practice.

The organisation of the Working Group will be modelled as per the previous COVID-19 Taskforce, with the Sub-Group on Emerging Issues and Sub-Group on Capacity Building.

8. Secretariat

The GPA Secretariat shall provide the following assistance and support to the Working Group:

- Provide support to the Working Group Chair to ensure regular updates on the work of the Working Group are provided to the GPA Chair and Executive Committee as well as relevant stakeholders, as appropriate;

- Ensure that the COVID-19 resources and calendar feature on the GPA website are kept regularly updated;

- Identify opportunities in collaboration with the Working Group Chair and in consultation with Working Group members, where appropriate, for the Working Group and/or Executive Committee members to speak or participate at relevant COVID-19 events in alignment with the 2020 Resolution commitment to collaborate with relevant international organisations, networks and privacy advocates in strengthening the capacity of GPA members and observers;

- Support the sub-group lead and members on coordination and delivery of capacity building activities, when necessary;

- Ensure that invitations for relevant COVID-19 events and capacity building activities are circulated to the GPA members and observers; and

- Ensure, together with the Working Group Chair, that the Working Group outputs for consideration at the 2021 closed session are delivered within the established deadline.