

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
Second Regular Session

House Bill No. 9785



Introduced by Representative JOEY SARTE SALCEDA

CONSUMER DATA RIGHTS ACT OF 2024

EXPLANATORY NOTE

The proliferation of digital technologies has ushered in an era where consumer data have become a cornerstone of economic development, innovation, and connectivity. As the custodians of vast amounts of personal information, both public and private entities play a pivotal role in shaping the digital landscape. In light of this, it is imperative that the Philippine National Government establishes a comprehensive framework that not only safeguards the rights of consumers but also fosters an environment of trust, transparency, and responsible data handling practices.

The Consumer Data Rights Act is a legislative initiative designed to address the evolving challenges posed by the increasing reliance on consumer data in our digital economy. This Act acknowledges that a consumer data right framework in the Philippines is a cross-industry imperative, necessitating a comprehensive, whole-of-government approach for interpretation and implementation by various regulatory bodies. This top-down, legislative approach ensures the establishment of a set of standards that guarantee consumer protection and benefits regardless of the data source.

In crafting this legislation, due consideration has been given to aligning our regulatory framework with international best practices, drawing inspiration particularly from the U.S. Consumer Financial Protection Act (CFPA) of 2010 and Australia's Consumer Data Right (CDR) regime.

Empowering Consumers

At the heart of this legislative proposal is the recognition of the inherent right of individuals to fully control and manage their consumer data. For the purpose of this Act, the term “consumer data” encompasses financial and transactional data related to a consumer, whether recorded in a material form or not, that are collected, processed, and stored by data holders.

By granting consumers the right to access and transfer their consumer data securely, we aim to empower them to make informed decisions about the use of their information. This not only enhances individual privacy but also establishes a foundation for trust between consumers and the entities that handle their data.

Fostering Innovation and Competition

The Consumer Data Rights Act is crafted to strike a balance between consumer protection and commercial innovation. By enabling consumers to direct the secure transfer of their data to trusted recipients, this legislation encourages competition and innovation among service providers. This competitive environment is expected to drive improvements in products and services, thereby benefitting consumers and promoting a dynamic digital economy.

Establishing Standards and Accountability

To ensure the effectiveness of this framework, the Act creates an inter-agency and multi-sectoral Consumer Data Rights Commission (CDRC) tasked with developing and maintaining consumer data standards. These standards encompass technical specifications, security requirements, and authentication mechanisms, setting a benchmark for entities handling consumer data. The Act also establishes accountability mechanisms, including an accreditation process for data recipients that will be allowed to receive consumer data directly from other data holders with the consumer’s express informed consent. To enforce these measures, additional penalties for non-compliance shall be imposed.

Transition and Collaboration

Recognizing the diversity of the entities engaged in consumer data handling, the Act incorporates provisions aimed at facilitating a smooth transition to the new regulatory environment. Collaboration with industry stakeholders is emphasized, promoting a cooperative approach that involves industry associations in the development and adoption of best practices.

In essence, the Consumer Data Rights Act of 2024 is a forward-looking legislative initiative that seeks to harness the benefits of the digital economy while safeguarding the rights

and interests of consumers. It reflects a commitment to a future where individuals have greater control over their digital footprint, businesses thrive through healthy competition, and the nation continues to lead in the responsible and innovative use of consumer data.

In view of the foregoing, the passage of this bill is earnestly sought.



JOEY SARTE SALCEDA

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
Second Regular Session

House Bill No. 9785

Introduced by Representative JOEY SARTE SALCEDA

CONSUMER DATA RIGHTS ACT OF 2024

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

CHAPTER I GENERAL PROVISIONS

Section 1. *Short Title.* - This Act shall be known as the "Consumer Data Rights Act of 2024."

Section 2. *Declaration of Policy.* - The State recognizes the vital role of consumer data in fostering innovation and economic growth. It is the policy of the State to empower consumers, promote fair competition, and establish a framework for the secure and transparent use of consumer data.

Section 3. *Definitions.* - As used in this Act:

- a. *"Accredited data recipient"* refers to data recipients authorized under this Act to receive consumer data directly from data holders upon the express informed consent of the consumer.
- b. *"Informed Consent"* refers to any freely given, specific, informed indication of will, whereby the consumer, after being provided with adequate information, signifies agreement to the collection, processing and sharing of their financial and transactional data by the accredited data recipient.

- c. *"Consumer"* means any natural person whose data, including but not limited to financial, transactional, and other related data, is collected, processed, and stored by entities.
- d. *"Consumer data"* encompasses all financial and transactional data related to a consumer, whether recorded in a material form or not, that are collected, processed, and stored by data holders.
- e. *"Data holder"* refers to persons, natural or juridical, that collect, process, and store consumer data, encompassing personal, financial, and transactional information. This includes, but is not limited to, organizations in various sectors such as banking, telecommunications, utilities, healthcare, and any other entities engaged in the collection and processing of consumer data.
- f. *"Financial data"* refers to any data related to a consumer's financial transactions, including but not limited to account information, financial history, and credit scores.
- g. *"Transactional data"* refers to any data related to a consumer's commercial transactions, interactions, or activities, which may include, but is not limited to, communication records, online interactions, and historical transaction information. A data holder is deemed to have made available sufficient transactional data if it makes available at least 24 months of such information.

CHAPTER II CONSUMER DATA RIGHTS COMMISSION

Section 4. *Creation of the Consumer Data Rights Commission.* - (a) The Consumer Data Rights Commission (CDRC) is hereby created to oversee the implementation of this Act and specify the technical standards for the secure transfer of consumer data. The CDRC shall be an attached agency of the Office of the President of the Republic of the Philippines.

(b) The CDRC shall be composed of the following members:

- i. Chairperson: Appointed by the President of the Republic, with recognized expertise in information technology, data protection, consumer rights, or related fields.
- ii. Representative from the National Privacy Commission (NPC): The Commissioner or a designated representative from the NPC shall serve as a member.
- iii. Representative from the National Telecommunications Commission (NTC): The Commissioner or a designated representative from the NTC shall serve as a member.

- iv. Representative from the Philippine Competition Commission (PCC): The Commissioner or a designated representative from the PCC shall serve as a member.
- v. Representative from the Private Sector: Appointed by the President upon recommendation of industry associations representing data holders and accredited data recipients. The private sector representative shall have proven expertise in data management, information technology, or legal fields.

(c) The CDRC members shall have a term of office, qualifications, and responsibilities as prescribed by law.

(d) The CDRC shall meet regularly to deliberate on matters related to consumer data rights, issue regulations, and perform other functions as mandated by this Act.

(e) The CDRC shall establish advisory committees, including representatives from civil society and academia, to provide expert advice on specific issues related to consumer data rights.

Section 5. Powers and duties of the CDRC. - (a) The CDRC shall have the authority to seek the cooperation and compliance of relevant government agencies, industry stakeholders, and the public to ensure a balanced and inclusive consumer data rights regulatory framework.

(b) The CDRC may receive funding from the government and may also generate revenue through fees, charges, or other means as prescribed by law to support its operations.

(c) The CDRC shall submit an annual report to the Congress, providing an overview of its activities, key regulatory decisions, and recommendations for improvements to the Consumer Data Right regime.

CHAPTER III CONSUMER DATA RIGHTS

Section 6. Right to Informed Consent. - (a) Consumers have the right to full control over their data and be fully aware of how it will be used and shared.

(b) With respect to every data holder, and in addition to the consent requirements under Republic Act No. 10173 and other existing laws, the following consent process rules shall be followed:

- i. Data holders shall obtain explicit and informed consent from consumers before collecting, processing, or sharing their financial data.
- ii. The consent process shall be transparent, and the information provided shall be clear, easily understandable, and prominently presented to consumers.
- iii. Consent shall be obtained for specific purposes, and consumers shall be informed of the nature and scope of the data processing activities.
- iv. Data holders shall provide consumers with the option to grant or withhold consent, and such choice shall be free from coercion or undue influence.
- v. Consent obtained shall be documented, and data holders shall keep a record of the information provided to consumers during the consent process.
- vi. Consumers shall have the right to withdraw their consent at any time, and data holders shall promptly cease processing the data upon withdrawal, subject to any legal or regulatory obligations requiring data retention.

Section 7. *Right to Receive Own Consumer Data.* - Consumers shall have the right to request and receive, at no cost, a copy of their data held by data holders. Data holders shall provide consumer data in a machine-readable format usable by consumers, and in a timely manner. The right to data access may include comprehensive data on a consumer's transactions, interactions, and engagements with data holders.

Section 8. *Right to Direct Transfer to an Accredited Data Recipient.* - Consumers have the right to direct the transfer of their data from a data holder to an accredited data recipient in a machine-readable format usable by the accredited data recipient, and in a timely manner. Data holders shall establish secure and standardized mechanisms for the transfer of data as directed by consumers. The transfer of data shall be done in a manner consistent with the interoperability and security standards outlined by the CDRC.

Section 9. *Right to Data Deletion.* - Consumers have the right to request the deletion of their data held by data holders under certain conditions, including the termination of their relationship with the data holder. Data holders shall promptly delete the requested data, subject to any legal or regulatory obligations requiring data retention.

CHAPTER IV DATA HOLDERS AND ACCREDITED DATA RECIPIENTS

Section 10. *Registration of Data Holders and Data Recipients.* - Data holders and accredited data recipients shall be registered as either personal information controller or personal information processor with the CDRC, as the case may be, and shall continuously demonstrate compliance with security and privacy standards set by the CDRC.

Section 11. *Security Standards.* - (a) Data holders and accredited data recipients shall implement and maintain robust security measures within the technical standards prescribed by the CDRC to ensure the confidentiality and integrity of consumer data. Security standards shall include encryption protocols, access controls, and incident response procedures.

(b) The CDRC shall periodically audit data holders to assess compliance with security standards.

Section 12. *Timely and Efficient Data Transfer.* - (a) Data holders and data recipients shall establish systems and procedures within the technical standards prescribed by the CDRC to facilitate timely and efficient data transfers as directed by consumers. Data transfer mechanisms shall adhere to interoperability standards and global best practices to ensure secure and seamless exchanges.

Section 13. *Accreditation of Data Recipients.* - (a) The accreditation of data recipients is imperative to ensure the secure and standardized direct transfer and handling of consumer data when requested by the consumer, fostering consumer trust, promoting compliance with established standards, and mitigating risks associated with unauthorized access and data breaches.

(b) The CDRC shall prescribe the procedure and requirements for entities seeking to be an accredited data recipient, and shall assess the applicant's capability to handle consumer data securely and responsibly, emphasizing the importance of accreditation in ensuring the secure and standardized transfer and handling of consumer financial data.

Section 14. *Privacy Impact Assessments.* - Data holders and data recipients shall conduct regular privacy impact assessments to identify and mitigate potential privacy risks. The results of privacy impact assessments shall be submitted to the CDRC within ten (10) calendar days after being conducted.

CHAPTER IV REGULATORY ENFORCEMENT

Section 15. *Enforcement Powers.* - The CDRC is empowered to investigate complaints, conduct audits, and impose fines and sanctions for violations of the provisions of this Act. It shall coordinate with relevant government agencies to ensure alignment and consistency in the implementation of this Act with existing laws.

Section 16. *Penal Provisions.* - (a) Any data holder or accredited data recipient found guilty of unauthorized disclosure of consumer data, in violation of the provisions of this Act, shall be subject to imprisonment of not less than [number] years and a fine of not less than [amount] Philippine pesos.

(b) In addition to the penalties provided in subsection (a), the CDRC may impose administrative fines and sanctions on data holders or accredited data recipients for other violations of this Act, as follows:

- i. For failure to obtain informed consent: a fine of not less than [amount] Philippine pesos for each offense.
- ii. For failure to comply with security standards: a fine of not less than [amount] Philippine pesos for each offense.
- iii. For failure to adhere to the purpose limitations of the consumer's consent: a fine of not less than [amount] Philippine pesos for each offense.
- iv. For failure to conduct privacy impact assessments: a fine of not less than [amount] Philippine pesos for each offense.

(c) Any officer or employee of a data holder or accredited data recipient who knowingly and willfully participates in, aids, abets, or conspires in the commission of any violation under this Act shall be held liable as a principal and subject to the same penalties provided herein.

(d) In the case of juridical entities, the penalty shall be imposed upon the officers or employees who are directly responsible for the violation, as well as the entity itself.

(e) The fines collected under this Section shall be remitted to the General Fund of the National Treasury and shall be utilized to further enhance data protection initiatives and consumer awareness programs.

(f) The penalties provided in this Section shall be without prejudice to the right of consumers to seek damages in accordance with existing laws.

Section 17. *Reporting Requirements.* - (a) Data holders and accredited data recipients shall submit regular reports to the CDRC on their data handling practices and security measures.

(b) The CDRC shall publish aggregate reports on the state of consumer data rights and data protection in the country.

Section 18. *Consumer Awareness.* - The CDRC shall undertake initiatives to raise consumer awareness about their rights under this Act. Educational programs on data privacy and consumer data rights shall be promoted in schools and public spaces.

Section 19. *Cross-Border Data Flow.* - The CDRC shall collaborate with relevant international bodies to establish mechanisms for secure cross-border transfer of consumer data. Cross-border data transfers shall be subject to adherence to internationally recognized data protection principles.

Section 20. *Review and Evaluation.* - The CDRC shall conduct a comprehensive review of this Act every two (2) years to assess its effectiveness and recommend amendments if necessary. The review process shall include consultations with all relevant stakeholders.

CHAPTER VI MISCELLANEOUS PROVISIONS

Section 21. *Interpretation.* - Any doubt in the interpretation of any provision of this Act shall be liberally interpreted in a manner mindful of the rights and interests of the consumer about whom the data is processed.

Section 22. *Implementing Rules and Regulations (IRR).* - Within ninety (90) days from the effectivity of this Act, the Commission shall promulgate the rules and regulations to effectively implement the provisions of this Act.

Section 23. *Transitory Provision.* - Existing industries, businesses and offices affected by the implementation of this Act shall be given a six (6) month transitory period from the effectivity of the IRR or such other period as may be determined by the Commission, to comply with the requirements of this Act.

Section 24. *Separability Clause.* - If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

Section 25. *Repealing Clause.* - (a) The provisions of Chapter II, Sections 7 and 9 of Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012," are hereby amended.

(b) Except as otherwise expressly provided in this Act, all other laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

(c) This Act shall complement and not derogate existing laws related to data protection, privacy, and consumer rights, including but not limited to the following laws:

- i. Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012," which governs the processing of personal information in the private and public sectors;
- ii. Republic Act No. 7394, otherwise known as the "Consumer Act of the Philippines," which protects the interests of consumers, including the right to fair business and marketing practices;
- iii. Republic Act No. 9513, otherwise known as the "Credit Information System Act," which regulates the establishment and operation of credit information systems; and
- iv. Other relevant laws addressing financial transactions, consumer protection, and data security.

Section 26. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,