

Uniform Personal Data Protection Act

Proposed Amendment to Section 7(b)(6) Final Reading

Section 7(b)(6) should read:

(6) permits analysis for generalized research or for the research and development of a product or service. For purposes of this subsection, “generalized research” means the use of personal data to discover insights related to public health, public policy, or other matters of general public interest and does not include use of personal data to make a prediction or determination about a particular data subject.

Comment

“Generalized research” as described in (b)(6) means the use of personal data to discover insights about a population rather than an individual. This would include the use of personal data to initially train an AI or machine learning algorithm. However, subsequent use of such an AI or machine learning algorithm in order to make a prediction or decision about a data subject is not generalized research, and thus it must comply with this act through another provision. When the results of generalized research or a machine learning training process are used to create personalized communications based on a data subject’s personal data, subsection (c) will often be relevant to the determination of compatibility.

Subsection (b)(6) also recognizes routine research and development (R&D) as a compatible use. If personal data is used to develop or improve a product or service that the data subject should expect, for example to test whether a new machine learning algorithm improves the functioning of an email system, a game, or a payment system that the data subject intends to use, this processing is compatible under the research and development provision of subsection (b) (6).