

Come clean over MySejahtera's dealings

Sensitive data is at risk if it falls onto the wrong hands

LETTER TO THE EDITOR

OPPOSITION leader Datuk Seri Anwar Ibrahim has raised serious concerns citing the Public Accounts Committee (PAC) hearing on March 24 this year regarding the alleged "sale" of the MySejahtera application to a private company.

It was said that this transfer of ownership has been decided by the Cabinet on Nov 26, 2021, allowing the Finance Ministry to approve Health Ministry's (MoH) appointment of MySJ Sdn Bhd through direct negotiation.

This raise concerns on the fate of the vast personal data collected by MySejahtera and draws criticisms on poor governance standards.

Sensitive data could be at risk if there are regulatory and system loopholes, risking personal health information and other data to fall into the wrong hands.

Data is the "digital gold", and data brokers can sell this highly sought-after information to the highest bidder.

Therefore, the ecosystem surrounding the handling of the data must be protected with proper governance processes and systems.

Despite this obvious need, MySejahtera was initially reported to have been developed without a contract by private company called KPISoft Sdn Bhd (now known as Entomo Malaysia) through a corporate social responsibility (CSR) deal that started on March 27, 2020, and ended on March 31, 2021.

In September 2021, Prime Minister Datuk Seri Ismail Sabri Yaakob reportedly said that the government was finalising payments to MySejahtera developers upon the expiry of the CSR period.

Even if this potential data security loophole for example, proper procedure to ensure ownership and sufficient legal backing to enforce the protection of personal data was meant to be addressed by purchasing all rights from the original developer KPISoft, it should not have happened via direct negotiation to MySJ.

Accordingly, the sequence of events surrounding MySejahtera deals appears to be a form of a "CSR trap", which could be a prelude to a lucrative contract without competition.

Echoing PAC's report dated Dec 1, 2021, what was initially thought of as the lack of an initial contract between the government and KPISoft, should allow the government to take over MySejahtera and its data without additional costs.

Instead, as reported by *Code Blue*, there was an agreement to transfer MySejahtera's intellectual property (IP) and software license from Entomo to MySJ via a five-year, three-month licensing agreement between the two parties on Oct 6, 2020, for a staggering cost of



Pic by Muhd Amin Naharul

Authorities must come clean over these questionable dealings, take steps to protect sensitive personal data, and clarify the situation once and for all

RM338.6 million.

In an attempt to clarify the situation, a press statement by MoH dated March 27 mentioned that on March 26, 2022, the government has decided that the MySejahtera application is owned by the government and that MoH has been appointed as the primary or main owner of this application for national public health management.

One might wonder if MoH would still have made the decisions and come up with statements if the PAC didn't make the revelation or if the public didn't make much noise.

Even if we take MoH's statement at face value, the question arises on data handling and ownership from the time before March 24, 2022, or before the licensing agreement took place on Oct 6, 2020.

Notwithstanding the nature of licensing agreement, can data before these periods be guaranteed to not have fallen into the hands of third parties?

MoH's statement also asserted that MySejahtera data has always been under their supervision whereby data management follows MoH's procedures and is subject to the Prevention and Control of Infectious Diseases Act 1988 (Act 342), the Medical Act 1971 and international standards.

The word "supervision" instead of ownership is peculiar, and none of these official statements necessarily confirms that MoH owns the data.

Data ownership and its protection must be spelled out in some form of agreement, backed by a combination of effective legislation, physical system structure, digital system design and enforcement mechanisms.

Firstly, we can only wonder how much a two-year contract for managing services of MySejahtera would cost given that IP and software licensing from Entomo to MySJ costs RM338.6 million.

These statements also indicate that there are only two actors now — MoH and KPISoft/Entomo.

If MySJ has no role, there must be categorical statements in response to the issues raised in the PAC hearing.

On the other hand, if MySJ was indeed the recipient of the alleged sale of MySejahtera from KPISoft/Entomo, was the transfer including user personal data? This is a valid question as it could involve the breaching of the Personal Data Protection Act 2010.

Also, procurement of data and systems was not specifically mentioned. Instead, "procurement for the management of the MySejahtera application" was mentioned.

Though this could be nit-picking on linguistic accuracy, the nuance in meaning is important. Buying the rights to manage the application may not be the same as buying rights to the data and systems.

The health minister appears to have realised that this categorical confirmation is missing in the MoH's written statement and supplemented this by stating that MySejahtera is wholly owned by the government with MoH as the primary or main owner, including all data received by MySJ, through his Twitter account.

Assuming "MySJ" means MySejahtera (and not MySJ Sdn Bhd), it would mean that the health minister himself confirmed MoH ownership of data without a third party or company being involved.

In addition to ignoring the topic of MySJ entirely, how can MoH guarantee that only it has access to this data?

The MoH's statement stated that MySejahtera data is uploaded daily to a cloud server network.

Where is the server and who owns it?

As reported in *Code Blue*, MySJ only acquires a license to the KPISoft's software specifically for MySejahtera "and does not acquire any other rights or ownership interests" under the five-year licensing agreement.

Specifically, the agreement "grants MySJ rights to use the KPISoft software to exclusively develop, own the application trademark for MySejahtera, and test and support the MySejahtera app".

Note that owning the application trademark may not be the same as owning the application in its entirety.

Therefore, how can the government guar-

antee that only MoH has access to this data and that the data will not be accessible by the server owner or operator, and in this case, KPISoft/Entomo and MySJ?

In addition to raising further questions on data security and integrity, the lack of clarification on MySJ is baffling.

Are we supposed to just ignore the rest of the issues raised in the PAC report?

Or, is the MoH's statement indirectly stating that these reports are untrue or never happened?

It has been reported that during the PAC hearing, an MoH official added that the best model for procuring the (MySejahtera) system is being negotiated, whereby MoH must determine the system operator and maintainer should MoH procure the entire MySejahtera system.

Therefore, was MySJ intended to be the said operator and maintainer of MySejahtera?

Again, this does not necessarily mean owning the data. Either way, if the sale or transfer did happen, why was it through direct negotiation?

This is particularly concerning given that there are valid questions surrounding the ownership of MySJ and KPISoft.

An open tender process with good governance standards would ensure these alleged linkages and potential conflicts of interest are accounted for and flagged.

EMIR Research asserts the following points as the way forward for the authorities:

1. Ownership and access to data in MySejahtera must remain only with MoH
2. There must be full transparency and due process with any dealings related to MySejahtera
3. Apply strictest governance and integrity standards when dealing with vast amounts of highly sensitive personal data
4. Investigate MySejahtera deals through an independent commission to ensure loopholes are addressed and prevent repeat cases in the future
5. Re-affirm that user personal data are fully protected and have not been transferred to any other parties
6. Ensure data integrity and privacy through sufficient legislative and systems (physical and digital) safeguards are in place
7. Clarify all statements and concerns raised in the PAC's report, particularly on the "sale" to MySJ

Authorities must come clean over these questionable dealings, take steps to protect sensitive personal data, and clarify the situation once and for all.

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