

# Nigeria Data Protection Regulation

Summary

# Introduction

- The National Information Technology Development Agency (NITDA) is statutorily mandated by the NITDA Act of 2007 to develop Regulations for electronic governance and monitor the use of electronic data interchange and other forms of electronic communication transactions.
- This Regulation was issued by the NITDA on 25 January 2019 by virtue of Section 32 of the NITDA ACT of 2007.

# Scope of the Regulation

- The Regulation applies to all transactions intended for the processing of personal data and to actual processing of personal data notwithstanding the means by which the data processing is being conducted or intended to be conducted and in respect of natural persons in Nigeria;
- It applies to natural persons residing in Nigeria or residing outside Nigeria but of Nigerian descent and
- It shall not operate to deny any Nigerian or any natural person the privacy rights he is entitled to under any law, regulation, policy, contract, for the time being in force in Nigeria or in any foreign jurisdiction.

# Major Highlights of the Regulation

- Anyone involved in data processing is to develop security measures to protect data; such measures include but not limited to protecting systems from hackers, setting up firewalls, storing data securely with access to specific authorized individuals, employing data encryption technologies, developing organizational policy for handling personal data (and other sensitive or confidential data), protection of emailing systems and continuous capacity building for staff.
- The Data Subject must have given consent to the processing of his or her personal data for one or more specific purposes. Data Controller is under obligation to ensure that consent of a Data Subject has been obtained without fraud, coercion or undue influence.
- A data controller is required to only transfer data to a foreign country or international organization subject to the supervision of NITDA and the Attorney General of the Federation (AGF).

# Major Highlights Cont'd

- A data controller must enter into a written contract with any third-party processing data on its behalf that requires adherence to the Regulation.
- Organizations must display a “simple and conspicuous” and easily understandable privacy policy that contains specified content
- Within three (3) months of the issuance of the Regulation, all public and private organizations in Nigeria that process personal data must make available to the general public their data protection policies, which must comply with the Regulation.
- Every data controller must designate a Data Protection Officer (“DPO”) to ensure compliance with the Regulation.
- Within six months of the issuance of the Regulation, each organization subject to the Regulation must conduct a detailed audit of its privacy and data protection practices, in compliance with the requirements of the Regulation.

# Penalties

The Regulation states that any entity found to be in breach of the privacy rights of any data subject will be liable, in addition to any other criminal liability, for the following:

- For data controllers “dealing with more than 10,000 data subjects,” a fine of 2% of annual gross revenue of the preceding year or 10 million Naira, whichever is greater; or
- For data controllers “dealing with less than 10,000 data subjects,” a fine of 1% or 2 million Naira, whichever is greater.

# Conclusion

- The issuance of the NDPR shows NITDA's commitment towards safeguarding the privacy of individuals by protecting their personal data. The standards set out in the Regulation are reasonable.

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