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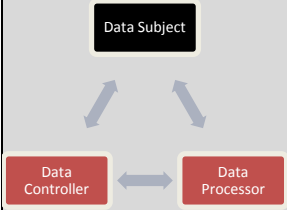

DATA PROTECTION IN NIGERIA: WHAT ORGANISATIONS NEED TO KNOW

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	<p>The increasing interest in data protection laws results from digitization and the consequential ease of compromising data; the global scalability of data breaches using the internet and cloud computing; and the incentive for data breaches owing to the acquired value of data in today's business world.</p>
	<p>Personal Data, not company data, is the subject of data protection. Personal data is defined to mean any information relating to individuals who can be personally identified from that data either on its own or with other data held. It includes names, addresses, telephone numbers, date of birth, job titles, etc.</p>
	<p>The Data Protection Regulation 2019 issued by the National Information Technology Development Agency (NITDA) pursuant to the NITDA Act 2007 is the most relevant legal framework on data protection. This Regulation mirrors the broad strokes of the EU General Data Protection Regulation.</p>
 <pre>graph TD; DS[Data Subject] --> DC[Data Controller]; DS --> DP[Data Processor]; DC <--> DP;</pre>	<p>The 3 main players in the data protection field are: the Data Subject, who is the beneficiary of the data protection law; the Data Collector, being the entity that determines the purpose for which the data protection law is enacted; and the Data Processor, who is responsible for taking any action in relation to the data. A company is a Data Collector with respect to the data of its employees, service providers, etc. The Company may however be a data processor where it receives data from its clients for the purpose of carrying out specific services.</p>
	<p>The purpose for collecting personal data must be specific and legitimate. Data collected for one purpose should not be deployed for another purpose without the consent of the data subject. Thus, when</p>





	seeking data subject's consent, it is advisable to state a broad range of purposes for which the data is sought to be collected.
	Personal data should be stored only for as long as is necessary. The company needs to define a justifiable data storage policy. The ability to justify the length of storage is key.
	Personal data must be secured against foreseeable hazards, including cyberattacks, viral attacks, manipulation, etc. The duty is on the company to put in place all reasonable technical and security measures, bearing in mind the state of technology. It is advisable to review the security measures from time to time to maintain alignment with technological improvements.

CONDITIONS FOR LAWFULLY PROCESSING DATA

Personal data may be lawfully processed on any of the following circumstances:

	Where the data subject has given consent. Consent must be a freely given, specific, informed and unambiguous indication of the Data Subject's will and must be evidenced by a clear affirmative action . Silence is not consent, neither can consent be implied.
	Where processing is necessary for the performance of a contract to which the data subject is party, e.g. the company can process personal data of its employees for any purpose that relates to the employees' employment.
	Where processing is to enable the Data Controller comply with its legal obligations; for e.g. the Company would be right to process personal data for the purpose of tax remittance for its employees or to fulfil pension obligations.



	Where the processing is to protect the vital interest of the data subject or another natural person. This would provide a basis for the Company to process data in order to ensure security of lives or property.
	To carry out a task that is necessary for public interest

IMPORTANT DEADLINES SET BY THE REGULATION

25th April 2019 (Three months from the issuance of the Regulation)	Data Controllers are required to publish their data protection policies in line with the Regulation
25th July 2019	Data Controllers are to conduct a detailed data protection compliance audit, and audited report is to be filed at NITDA
15th March each year	Data Controllers processing personal data of more than 2,000 data subjects, are required to submit annual data protection audit report to NITDA.

WHAT COMPANIES MUST DO

1. Appoint a Data Protection Officer or outsource the role to a competent person or firm
2. Conduct company-wide Data Compliance Audit
3. Develop an appropriate Data Privacy Notice
4. Insert data protection clauses in contracts or prepare standalone data protection contracts with third party data processors
5. Develop a Company-wide data protection policy to ensure that each new initiative conforms with data protection requirements.
6. Train employees on the Company's data protection policy
7. Train Company employees on data protection

JACKSON, ETTI & EDU'S DATA PROTECTION SERVICES



Our Data Protection & Compliance team is involved in providing advisory on data protection issues. Our advice is provided in the context of the peculiarities of the clients' sector. We also provide data protection compliance audits to evaluate organisations' level of compliance with the GDPR and NITDA Data Protection Regulations.

Our services include:

- Advising on the organisation's obligations under GDPR and/or NITDA data protection regime
- Assessing data protection risk and proffering practical solutions
- Drafting data protection policies and standard data privacy clauses
- Drafting data transfer agreements or data processing agreements/clauses for third party data processors
- Developing a general data protection and privacy policy statement
- developing a data privacy policy framework for organisations
- Organising data protection compliance training

Key Contacts



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Jackson, Etti & Edu is a full-service law firm with a sector focus, rendering legal services to Nigerian, Pan-African and International clients in diverse jurisdictions. We have earned a reputation for delivering commercial advice across all the key sectors: energy & natural resources, fast moving consumer goods (FMCGs), financial services, health & pharmaceuticals, real estate & infrastructure, and technology, media & entertainment.

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