

COMPLIANCE NOTICE FROM THE NIGERIAN DATA PROTECTION BUREAU (NDPB)



Dear Valued Partner,

The Nigerian Data Protection Bureau (NDPB)¹ has issued its first Compliance Notice (VOL.1/NDPB/CN/1/22) wherein it focused on the National Data Protection Adequacy Programme (NaDPAP) Whitelist. The NaDPAP Whitelist is a list of all organizations that have complied with the provisions of the Nigerian Data Protection Regulations (NDPR) 2019 and has duly informed the Bureau of the technical and organizational measures it is taking for data protection and privacy. This Whitelist will be published on the NDPB website, major newspapers and will be shared with local and international establishments

Does This Notice Apply To You?

Privacy and data protection is rooted in the Constitution. The right to privacy is a fundamental right enjoyed by every citizen of Nigeria². You therefore have a duty to ensure that you do not breach that fundamental right in respect of any one.

Furthermore, the NDPR 2019 applies to two categories of persons:

1. All natural persons residing or carrying on business in Nigeria, and all Nigerians residing outside Nigeria; and

2. All natural and artificial persons that collect, process or in any way deal with the personal data of class (i) above³.

Personal data is any information relating to an identified or identifiable natural person and include name, address, email address, photo, bank details, social media posts, medical information, and like information. ⁴If you or your organization collect, records, stores, retrieves, uses, or transmit any form of personal data in respect of any person, then the provisions of the NDPR and the Compliance Notice (VOL.1/NDPB/CN/1/22) applies to you and your organization.

What Is Required Of You?

In accordance with the Compliance Notice, organizations are required to take the following steps:

1. Read and understand the provisions of the NDPR 2019 as it relates to data collection and processing by your organization.
2. Develop and implement a privacy policy⁵ that is consistent with the NDPR 2019⁶.
3. Notify the Organization's customers and online visitors of the privacy notice/policy⁷.
4. Designate at least one or two members of the organization as the organization's Data Protection Contact(s). These contacts will be eligible for a free induction course in data protection regulatory compliance sponsored by the NDPB and will thereafter serve as the organization's Data Protection Officers (DPOs).
5. Mandate all your service providers to comply with NDPR 2019⁸.

What Is Your Exposure?

The Compliance Notice gives organizations till the 25th of November 2022 to take the steps listed above and duly notify the Bureau of the technical and organizational measures they are taking for data protection and privacy in order to be listed on the NaDPAP Whitelist.

The Compliance Notice also provides for penalties for failure to comply as follows:

1. Where the organization deals with less than 10,000 data subjects, 1% of the annual gross revenue of the preceding year or two million naira whichever is greater.

2. Where the organization deals with 10,000 or more data subjects, 2% of the annual gross revenue of the preceding year or ten million naira whichever is greater.

The National Information Technology Development Agency (NITDA) is empowered to impose other penalties and sanctions.

¹The NDPB was created by the Federal Government in February 2022 to among other things oversee the implementation of, and work with other stakeholders to achieve the objectives of the Nigerian Data Protection Regulations (NDPR) 2019

²Section 37 of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended)

³Article 1.2 of the NDPR 2019

⁴Article 1.3 of the NDPR 2019

⁵A privacy notice or policy is mandated by the NDPR 2019 and is a statement informing a data subject how your organization collects, uses, retains and discloses person data. The NDPR Implementation Framework provides for the information that must be stated in a privacy notice.

⁶This is in line with Articles 2.5 and 4.1(1) of the NDPR 2019.

⁷This is in line with Article 3.1(1) Ibid

⁸This is in line with Article 2.7 Ibid

For further reading, we have developed a detailed guide to data protection in Nigeria for your use and you can access it on our website at www.candelp.com.

Yours faithfully,

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