

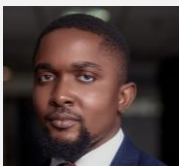
Key contacts



Ijeoma Uju
Partner,
Corporate & Commercial
ijeoma.uju@templars-law.com



Oghomwen Akpaibor
Managing Counsel,
Corporate & Commercial
oghomwen.akpaibor@templars-law.com



Uwemedimo Atakpo Jr.
Associate,
Corporate & Commercial
uwemedimo.atakpo@templars-law.com

Regulatory Update

NDPC Issues the Nigeria Data Protection Act General Application and Implementation Directive 2025

On 20 March 2025, the Nigeria Data Protection Commission (the "**Commission**" or "**NDPC**") issued the Nigeria Data Protection Act 2023 General Application and Implementation Directive (the "**GAID**") 2025 to guide the implementation of the provisions of the Nigeria Data Protection Act (the "**NDPA**").

The GAID was issued by the Commission in its role as Nigeria's independent data protection and privacy regulator, pursuant to its powers under the NDPA and the Constitution of the Federal Republic of Nigeria (the "**Constitution**"), to provide best practice directives consistent with the NDPA.

The GAID introduces new data protection directives characterized by key provisions that include the following:

1. Cancellation of the Nigeria Data Protection Regulation (NDPR) 2019

The GAID definitively addresses the question of the NDPR's continued applicability since the passage of the NDPA in 2023. It stipulates that upon the GAID's issuance, the Commission will cease to apply the NDPR as the legal framework for data privacy and protection in Nigeria. Nevertheless, the GAID clarifies that the validity of actions undertaken pursuant to the NDPR

prior to the issuance of the GAID is not affected.¹This implies that all actions taken including annual audit returns filed pursuant to the NDPR prior to the issuance of the GAID, remain valid.

2. Expansion of Section 2 (2) (C) of the NDPA

In recognition of the universality of the fundamental right to privacy, the GAID appears to have expanded the scope of coverage of Section 2 (2)(c) of the NDPA² by introducing new categories of data subjects entitled to the enjoyment of data subject rights under the NDPA - subject only to the derogations permitted under the 1999 Constitution and any preemptory norm or international treaty applicable to Nigeria under international law. According to the GAID, these categories of data subjects to whom Section 2 (2)(c) is applicable are:

- a) A data subject who is within the territory of Nigeria – regardless of nationality and migration status.
- b) A data subject whose personal data has been transferred to Nigeria.
- c) A data subject whose personal data is in transit through Nigeria – without more;

A Nigerian citizen who is not within Nigeria, taking into account the universal right to privacy under the United Nations Universal Declaration of Human Rights, 1948 as well as the International Covenant on Civil and Political Rights, 1976.³ It is worth noting that the NDPC may seek mutual legal assistance from relevant authorities where such Nigerian citizen is resident in order to safeguard such citizen's privacy right as may be recognized under international law. Nonetheless, in such circumstances, the GAID limits the obligation of a data controller or processor under (d) above, to the terms of any mutual legal assistance in existence between the Commission and the relevant authority where the Nigerian citizen is domiciled or any applicable international law.

3. Filing of Annual Compliance Audit

Further to the NDPC's categorization of data controllers of major importance (DCPMI) through its Guidance Notice – see here [CLIENT-ALERT-NDPC-ISSUES-GUIDANCE-NOTICE.pdf](#), the GAID has further segmented audit and filing obligations among the different categories of DCPMIs. Data controllers or data processors within the UHL or EHL category are required to register once and file Compliance Audit Returns (**CAR**) annually. While data controllers and processors in the OHL category are required to register with the Commission and renew their registration annually but are no longer required to file CAR with the Commission.⁴ Additionally the deadline for filing the CAR has officially been moved from 15th of March to 31st of March every year.

4. Compliance Measures by Data Controllers and Data Processors

The GAID introduces several compliance directives applicable to data controllers or data processors in line with the NDPA. These directives include:⁵

¹ Article 3(3) General Application and Implementation Directive

² Section 2 (2) (c) provides that the NDPA will apply where a data controller or processor is not domiciled in, resident in, or operating in Nigeria, but is processing personal data of a data subject in Nigeria

³ Article 1(4) General Application and Implementation Directive

⁴ Article 9 General Application and Implementation Directive

⁵ Article 7 General Application and Implementation Directive

Compliance Audits for New Entities

- All data controllers and processors are required to conduct a compliance audit within 15 months of commencement of business and thereafter annually – the requirement to file such audit with the Commission is however only applicable to DCPMIs under the UHL and EHL categories;

Privacy and Cookie Notices

- All cookies require active consent of the data subject⁶. Data controllers and processors are required to provide privacy and cookie notices on the homepage of their websites. The cookie notice is required to give data subjects the opportunity to decline or accept the notice and must be displayed in such a way as to significantly obstruct the middle, left or right side of the homepage of a website. Under the GAID, the display of a cookie notice at the bottom of a webpage is regarded as a lack of transparency in data processing;

Semi-annual Data Protection Reports

- Data controllers and processors are required to prepare and maintain semi-annual data protection reports of data processing within 6 months. This would be considered by the Data Protection Compliance Organization while conducting the annual compliance audit and would be included in the CAR to be filed with the NDPC.

5. Annual Credential Assessment of Data Protection Officers

The GAID introduces an Annual Credential Assessment (ACA) requirement for Data Protection Officers (DPOs). In this regard, the Commission will maintain a database of Certified DPOs who have been designated by data controllers and data processors pursuant to Section 32 of the NDPA. The Commission will further conduct an ACA of the designated DPOs to ensure that they maintain the level of professionalism required to carry out their responsibility towards safeguarding the rights and interests of data subjects as required by the law.

6. Standard Notice to Address Grievance

The GAID introduces a Standard Notice to Address Grievance (SNAG) for aggrieved data subjects to serve on data controllers or processors (through various communication methods like email, physical addresses, courier service etc.) when they believe their data privacy rights have been violated. It is important to note that the SNAG is not mandatory for making direct complaints by data subjects to the Commission. Rather, it serves as a standard template for internal grievance resolution within organizations. Upon receiving a SNAG, data controllers or processors must communicate their decision to the Commission via an electronic platform to be designated by the Commission.

7. Increase in Annual Audit Filing Fees

The Commission through the GAID has upwardly revised the CAR Filing fees. The new filing fees are as follows:⁷

⁶ Necessary cookies which do not process sensitive data, financial data or any data stored privately by a data subject does not need the ticking of a box or similar methods, however all other forms of cookies require a specific selection of "yes or no" (alternatively: "accept" or "reject") options presented to the data subject.

⁷ Schedule 10 General Application and Implementation Directive

Ultra-High Level DCPMI

Tier A – 50,000 data subjects and above, fee of N1,000,000 (One Million Naira)

Tier B – 25,000 - 49,999 data subjects, fee of N750,000 (Seven Hundred and Fifty Thousand Naira)

Tier C – below 25,000 data subjects, fee of N500,000 (Five Hundred Thousand Naira)

Extra-High Level DCPMI

Tier A – 10,000 data subjects and above, fee of N250,000 (Two Hundred and Fifty Thousand Naira)

Tier B – 5,000-2,500 data subjects, fee of N200,000 (Two Hundred Thousand Naira)

Tier C – below 2,500 data subjects, fee of N100,000 (One Hundred Thousand Naira)

Conclusion:

The GAID introduces significant updates to Nigeria's data protection framework, particularly in response to evolving technology and stakeholder engagement with personal data. Data controllers, processors, and their DPOs should stay informed about these changes to maintain compliance and safeguard the confidentiality and integrity of personal data.

TEMPLARS is a licensed Data Protection Compliance Organisation, and we are available to assist your organisation with its data protection needs.