

# Summary of the Breakfast Meeting



**Of the Nigeria Data  
Protection Commission Held  
on 29th May 2024**



## Introduction

On 29<sup>th</sup> May 2024, we attended a Breakfast Meeting at the invitation from the Nigeria Data Protection Commission ("**NDPC**") to Data Protection Compliance Organisations ("DCPO"). The meeting turned out to be a discussion between the NDPC and the DPCOs on key issues regarding the implementation of the NDPA and data protection rules in Nigeria. The NDPC team was led by the National Commissioner, Dr. Vincent Olatunji and the Acting Head, Legal and Enforcement, Adamma Isamade.

We have outlined some of the key issues that were discussed during the meeting below:

1. **Nigeria Data Protection and General Application and Implementation Directive (GAID)**

The National Commissioner informed the DPCOs that they are finalising a draft of the GAID which will be presented to DPCOs for their comments and recommendations prior to being issued. He further stated that although the Nigeria Data Protection Regulation (the "NDPR") will be phased out over a period of time, the GAID, when issued, will not replace the NDPR but will complement the Nigeria Data Protection Act (the "NDPA") and other Nigerian data protection laws. The GAID was issued on 1<sup>st</sup> June 2024.

2. **Registration of DCPMIs**

The National Commissioner informed the DPCOs that it is focusing on the ongoing registration of Data Controllers and Processors of Major Importance ("DCPMI") and requested that DPCOs should create awareness about this requirement and encourage their clients to register with the NDPC as DCPMIs.

3. **Requirement for Foreign Companies to have a Nigerian based Data Protection Officer ("DPO")**

The National Commissioner stated that any multinational company processing the personal data of individuals in Nigeria must appoint a DPO who is either Nigerian or resident in Nigeria. This announcement was made in response to concerns about the mandatory requirement on the DCPMI registration portal, which requires the inclusion of the DPO's National Identity Number.



The NDPC's position seems to require all foreign companies to appoint a locally-based DPO, regardless of whether they have a physical presence in Nigeria. This position is in conflict with paragraph 3.5 of the NDPR Implementation Framework, which specifies that the Nigerian subsidiary of a multinational company must appoint a DPO who is based in Nigeria. Furthermore, the NDPC's new requirement does not consider the compliance obligations this may create for the non-resident company such as the "carrying on business in Nigeria" criterion for foreign companies without a local presence.

We hope to receive further guidance from the NDPC on this matter.

#### 4. **Closure of the Online Portal for the Filing of Annual Data Protection Audit Reports**

The National Commissioner announced that the online portal for the filing of data protection audit reports for the 2023-2024 audit year has been closed. This is to allow the Commission to focus on the registration of the DCPMIs. He added that if a DPCO has a valid reason to file an audit report for the year 2023, such a DCPO should write to the Commission to request its approval to file the audit report. In a conversation with a senior member of the NDPC after the breakfast Meeting, we were informed that the online portal was not closed to signal the end of the data protection audit season but was down for technical reasons. We await further clarification on this issue from the NDPC.

#### 5. **Cross Border Transfer of Personal Data**

The NDPC took the view that the Whitelist has been nullified, following the decision of the Federal High Court in the case of ***Incorporated Trustees of Ikigai Innovation Initiative v. National Information Technology Development Agency***<sup>1</sup> Therefore, pending when the NDPC issues further guidance on this issue, cross border transfer of personal data will be carried out pursuant to the provisions of the NDPA which requires prior authorisation of the NDPC for any cross border transfer of personal data.

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<sup>1</sup> [Ikigai v NITDA judgement.pdf](#)



## 6. **African Data Protection Authority Conference**

The NDPC informed the DPCOs that it will be hosting a conference of Data Protection Authorities in Africa in year 2025 and has requested for the cooperation of all DPCOs' to make the conference a success. He mentioned that theme of the conference will be Data Protection and Artificial Intelligence in Africa.

## 7. **Issuance Letter of Non-compliant DCPMI**

The National Commissioner informed the meeting that the NDPC has started issuing letters of non-compliance to entities that are yet to register as DCPMIs. This appears to be a premature action by the NDPC because the deadline for registration has not lapsed. One of the DPCO's at the meeting confirmed that one of their clients had received such a letter.

## 8. **Conclusion**

The Breakfast Meeting with the NDPC was significant because it highlighted several key initiatives and developments in the data protection space in Nigeria. The discussions provided updates on the progress of several initiatives of the NDPC and a sense of the attitude of the NDPC to certain issues especially their interpretation of some of the grey areas of the NDPA.

We will keep you informed of further developments as they evolve.

***This publication has been authored by the Data Protection team of Udo Udoma & Belo-Osagie. For any inquiries on the above update, please email us at [dp@uubo.org](mailto:dp@uubo.org). For more information about our Data Protection offerings, please visit our website at [www.uubo.org](http://www.uubo.org) or email us at [uubo@uubo.org](mailto:uubo@uubo.org).***

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