

PROTECTING CONSUMER DATA IN ONLINE TRANSACTIONS: NIGERIA

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INTRODUCTION: WHEN THE REAL COST IS DATA

- The price consumers pay for services is no longer only a question of money, but more increasingly that of personal data.
- Social media platforms, wearables, communication devices, applications and household gadgets that have become part of every day lives all collect some personal data about users. Ideally, they require this data in order to appropriately serve users and to create innovations which will be attractive to consumers.
- Typically, the consumer is compelled to consent to the use of that data in any way the service provider deems fit, including sharing with third parties.



DATA HARVESTING AND ITS CHALLENGES

- **Types of data collected**

- Financial
- Location
- Social Interests/activities
- Movement tracking
- Social connections
- Health information

- **Concerns**

- Extensive data harvesting: sometimes operators collect more information than they actually need to deliver the service in view.
- Safe storage and transfer of data
- Transparency about potential use of the data – informed consent.
- Transfer of consumer personal data to third parties – what are the obligations of such third parties?
- Extra territorial transfer of data - governing law



“Nigeria is now home to over 200 fintech standalone companies, plus a number of fintech solutions offered by banks and mobile network operators as part of their product portfolio. Between 2014 and 2019, Nigeria’s bustling fintech scene raised more than \$600 million in funding, attracting 25 percent (\$122 million) of the \$491.6 million raised by African tech startups in 2019 alone... However, the sector is still relatively young. As Africa’s largest economy and with a population of 200 million—40 percent of which is financially excluded.”

McKinsey & Company, [“Harnessing Nigeria’s fintech potential”](#) September 2020



COVID 19 IMPACT ON DIGITALISATION

Increased uptake of digital solutions; increased vulnerability

The screenshot shows the Oxford Business Group website. At the top, there is a navigation bar with 'Login' and 'Register' buttons. Below it, a menu includes 'Country Reports', 'Covid-19 News', 'News & Views', 'Video', 'CEO Surveys', 'Sectors', 'Blog', 'Interviews', 'Shop', 'Events', 'Advisory', and 'About'. A prominent banner reads 'Covid-19 Economic Impact Assessments' with a subtext 'Register for FREE daily updates'. Below the banner are dropdown menus for 'All 17 Sectors' and 'All 40 Countries', along with a 'Keywords (optional)' field and a 'Search' button. The main article headline is 'Digital solutions offer hope for Nigeria as it begins phased easing of Covid-19 lockdown', dated '5 May 2020'. A yellow sidebar on the right contains the text 'IF YOU WANT TO GET AHEAD, GET INSIDE THEIR HEADS.'.

The screenshot shows the African Business magazine website. The header includes 'African BUSINESS' and navigation links for 'Sectors', 'Regions', 'Interviews', and 'African Banker'. A search bar is labeled 'In Focus'. Below the header, there is a description of the magazine: 'African Banker is a quarterly magazine dedicated to banking and finance in Africa.' with a 'Subscribe now' link. The main article is titled 'Covid-19 sparks digital banking rush in Nigeria' by Michael Nwadike, dated 9 July 2020. The article features a photo of hands using a smartphone. To the right, a 'Most Popular' section lists five items: 1. Zambia's debt default poses questions for China; 2. Ground shifts for thermal energy in Africa; 3. AfroLandTV: the 'new Netflix' for Africa?; 4. Pressure grows on South Africa to dissolve state airline; 5. South Africa targets new China partnership as growth slumps.



REGULATORY FRAMEWORK

- 1999 Constitution of the Federal Republic of Nigeria
 - Section 37

“The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.”
- Federal Competition and Consumer Protection Act, 2018 (FCCPA) mandates the FCCPC to
 - Section 17
 - (a) Administer and enforce of the FCCPA and any other enactment with respect to competition and protection of consumers.
 - (l) Protect and promote consumer interest.
 - (s) Protect consumers from unscrupulous exploitation by businesses
 - (x) Act generally to reduce risk and injury to consumers.



REGULATORY FRAMEWORK

- The Nigeria Data Protection Regulation, 2019 (NDPR) –
 - 2.3 – Data must be obtained only by consent of the data subject. Such consent must be without fraud, coercion or undue influence.
 - 1.3 – *“Consent’ of the Data Subject means any freely given, specific, informed and unambiguous indication of the Data Subject’s wishes by which he or she, through a statement or a clear affirmative action, signifies agreement to the processing of Personal Data relating to him or her”*
 - 2.11 – Transfer of personal data to a foreign country subject to the supervision of the Honorable Attorney General or subject to the consent of the data subject.
 - 3.1 – Data subjects right to access their personal data held by businesses; right to transfer such data to another business; to request that their personal data be deleted; and to withdrawn consent.



THE ROLE OF THE FCCPC

- Educate consumers about their rights with respect to the ownership and usage of their data.
- Promote business responsiveness to their obligation to respect and protect consumer privacy rights in relation to personal data.
- Promote and enforce consumer data privacy rights.
- Develop relevant guidelines/guidance for consumers and businesses.
- Identify peculiarly vulnerable groups and provide targeted protection.
- Ongoing research work in the fintech sector to better understand consumer behavior and vulnerabilities. – In partnership with a private organization Innovation for Poverty Action (IPA).



INTER AGENCY COLLABORATION

- Joint enforcement in cases relating to extra territorial transfer of consumer personal data.
- Data collection by multinationals, ensuring source country access to such data.
- Collaboration on sanctioning multinationals who misuse consumer personal data from other countries.
- Share learnings.



Thank you!

