

## CHAPTER NINE



### **Other Relevant Matters**



## 9.1.0 PRIVACY AND DATA PROTECTION

The principal legislation on privacy and data protection in Nigeria is the Nigeria Data Protection Regulation (NDPR) issued by the National Information Technology Development Agency (NITDA) pursuant to its powers under Section 32 of the NITDA Act as a subsidiary legislation. The right to privacy in Nigeria is constitutionally guaranteed under Section 37 of the Constitution of the Federal Republic of Nigeria 1999 (as amended). The Constitution provides that the privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communication, is guaranteed. Thus, for this purpose, the National Information Technology Development Agency (NITDA) was established and statutorily charged with the responsibility of regulating and monitoring the use of electronic data and information technology.

### **The main objectives of the NDPR are as follows;**

- a. To safeguard the rights of natural persons to data privacy;
- b. To foster safe conduct of transactions involving the exchange of personal data;
- c. To prevent manipulation of personal data and
- d. To ensure that Nigerian businesses remain competitive in international trade; through the safeguards afforded by a just and equitable legal regulatory framework on data protection, and which regulatory framework is in tune with global best practices.

This regulation applies to all activities and transactions that involve storage and processing of personal data of Nigerians home and abroad, and natural persons living in Nigeria. The NDPR stipulates that any company that acts as either data protectors or data controllers, must file periodic audit reports of compliance with the NDPR by engaging the services of licensed Data Protection Compliance Organisation (DPCO). Again, the NDPR also mandates data processors and data controllers to also appoint a Data Protection Officer who will be in charge of ensuring compliance with the NDPR amongst many other requirements for compliance.

### **Other Major Legislations**

A. The Freedom of Information Act 2011: Section 14 of the Act restricts the sharing and disclosure of personal information of data subjects without their express permission.

B. The Cybercrimes (Prohibition, Prevention, etc.) Act 2015: This Law criminalizes and punishes cybercrimes and privacy breaches in Nigeria.

C. The Nigerian Communications Commission Act and Regulations (NCC) 2003: The NCC regulates the telecommunication sectors and processing of personal data of subscribers. It also restricts transfer of data to third parties without consent and appropriate approval.

D. The National Identity Management Commission (NIMC) Act 2007: The Act stipulates that prior approval must be granted by the NIMC before accessing the personal details of Nigerians on the database amongst many other things.

## 9.2 INTELLECTUAL PROPERTY PROTECTION

The Intellectual property rights that an individual or an organisation has are protected under the Nigerian Legal system. The three principal laws guiding intellectual property in Nigeria are the: **Copyright Act, Patents and Design Act, Trademarks Act.**

### I. Copyright Act:

According to Section 1 of the Copyright Act, the works eligible for copyright protection are; literary works, musical works, artistic works, cinematography films, sound recordings and broadcast. However, before literary works, artistic works, and musical works can be registered, such work must be original and fixed. Copyrights on literary, musical, and artistic works last for 70 years after the death of the author, while in the case of government, they last for 70 years after the work is created. Copyrights in cinematography and sound recording last for 50 years in Nigeria.

### ii. Patents and Design Act:

Patents are granted on inventions. Before an invention can be patented, such invention must be new and capable of industrial application. Subject to the payment of annual renewal fees, the life span of a patented invention is 20 years.

### iii. Trademarks Act:

a. Companies and other business organizations operating in Nigeria can register their brand identity with which they trade under the Trademarks Act, with the Trademarks and Patents

Registry in the Federal Ministry of Trade and Investment. Before a brand can be registered, the mark must contain one of the following:  
The name of a company, individual, or firm represented in a special or particular manner.

- b. b. The signature of the applicant for registration or some predecessor in his business.
- c. c. An invented word or invented words.
- d. d. A word or words having no direct reference to the character or quality of the goods, and not being according to its ordinary signification, a geographical name or surname.
- e. e. Any other distinctive mark.