



DUALE, OVIA &
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Registration Requirement for Tech Companies Controlling or Processing Personal Data

Technology (“Tech”) companies increasingly deal in data. Most Tech companies offer data-centric, consumer-focused services, and incorporate data and analytics into their corporate systems. These include players in fintech, e-commerce & retail-tech, e-health, logistics, agric-tech, edu-tech, energy & renewables, recruitment & human resources, auto-tech, prop-tech, entertainment-tech, and reg-tech. Comprehensive data-centricity is now a critical factor in tech business models. Companies who perform unrelated or ancillary tech services use data to optimize marketing activities.



Introduction

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Data used by Tech companies usually include personal data, especially if the business model is B2C or a combination of B2B and B2C. Personal data are information relating to an individual that can be identified by reference to an identifier such as name, identification number, location data, etc.

Nigeria’s data protection laws require tech companies that deal with personal data to register with the Nigeria Data Protection Commission (the “Commission”). In this edition of #TMTThursday, we explore registration considerations of tech companies to ensure compliance with data protection laws.



Threshold for Registration

Tech companies required to register with the Commission must either:

I. **Be Resident in Nigeria**

This covers tech companies that are domiciled, resident in, or operating in Nigeria and that process or intend to process personal data of more than such number of individuals who are within Nigeria, as the Commission may prescribe; or

II. **Process Personal Data of/relating to Nigerians**

Tech Companies that process personal data of particular value or significance to the economy, society or security of Nigeria as the Commission may designate.¹

Registration Categories

Companies that meet the criteria above are further broken down into different categories, in terms of requisite data protection standards, as well as application fees. The categories include the following:

¹ Section 65 Nigerian Data Protection Act 2023



1. **Major Data Processing-Ultra High Level:**

These are companies that process personal data of over 5,000 (Five Thousand) data subjects in 6 (six) months. They are expected to abide by global and highest attainable standards of data protection. Tech Companies that offer telecommunication services, insurance services, payment gateway and payment services may fall within this category. The registration fee for tech companies within this category is ₦250,000 (Two Hundred and Fifty Thousand Naira only).

2. **Major Data Processing-Ultra High Level:**

These are companies that process personal data of over 1,000 (One-Thousand) data subjects within 6 (six) months. They are expected to abide by global best practices of data protection. Tech Companies that provide medical services/HMO services may fall within this category. The registration fee for Tech Companies within this category is N100,000 (One Hundred Thousand Naira only).



3. **Major Data Processing-Ordinary High Level:**

These are companies that process personal data of over 200 (Two Hundred) data subjects within 6 (six) months. Small and medium scale Tech companies that have access to personal data which they may share, transfer, analyse, copy, compute or store in the course of carrying out their businesses fall within this category. Companies within this category are expected to abide by global best practices of data protection. The registration fee for tech companies within this category is N10,000 (Ten Thousand Naira only).

FAQ 1: Am I a Data Controller or a Data Processor?

- **Data Controller:**

Data controllers are entities that determine the purpose and means for processing personal data. In other words, a data controller “controls” how, when, and where personal data is processed, as well as “who” processes the personal data. A data controller is responsible for the recording and use of personal data of consumers/end-users.

- **Data Processor:**

Data processors are entities that process personal data on behalf of a data controller. Essentially, a data processor treats/processes personal data, but the use of that data and the overarching objectives for the personal data is decided by another entity – the data controller.



FAQ 2: Is a Cloud Service or Operator of a SaaS Business Required to Register with the Commission?

- Yes. Cloud service players or operators of software-as-a-service (SaaS) platforms are required to register with the Commission. A cloud service or a SaaS is technically considered both data controller and a data processor. This is because both solutions collect personal data as well as decide the purpose of the collection. SaaS platforms typically maintain the control of any collected data and decide how that data is processed.

Conclusion

The classification and registration of companies that deal with the personal data facilitates data accountability and keeps controllers and processors of data on their toes in relation to how they deal with personal data. The classification also ensures that companies put in place adequate and appropriate technical and organizational frameworks for the protection of personal data taking into consideration the risk to the value and volume of data that is being processed.

