



Newsletter

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H.E President, Dr. William Samoei Ruto, PhD., CGH., Officially Launches Data Protection Registration System as Kenya Marks Data Privacy Day 2023

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FOREWORD

The **ODPC Newsletter** is a channel for cutting edge news, insights, reports on Data Protection and key activities of the Office of the Data Protection Commissioner. I am glad to release this edition covering the first quarter of 2023 as part of our commitment to improving communication with our stakeholders on the key operations of the office.

This publication is a unique one as it features H.E. Dr. William Samoei Ruto, PhD., C.G.H., during the official launch of the Data Protection Registration System when Kenya celebrated the 2023 Data Privacy Day. The celebration was the 3rd one for the regulator since it began operation. It further delves into the Celebration of Data Privacy Day that brought together players across the data protection eco system for in-depth conversations on Data Protection.

I'd like to commend the more than 2,000 entities that have have complied with the DPA and issued with registration certificates through our Data Protection Registration System. As an office, we continue to receive and resolve Data related complaints, an indication of increasing awareness of data subjects of their rights under the DPA.

Over this first quarter, we've begun working on five sector-specific guidance notes which are aimed at guiding entities on how to comply with the Data Protection Laws; in addition to the guidelines on cross-border data sharing aimed at guiding international transfers.

In the same spirit, the office has also upscaled its stakeholder engagement activities through exhibitions, multi-sectoral engagements, participation in industry events, media campaigns as it seeks to enhance protection of personal data.

As you read through this newsletter, I invite you to give us your feedback and ask questions on how to enhance Data Protection and best practices in ensuring we, "Mwananchi Watchdog" solidly guard your privacy rights.

Immaculate Kassait. MBS
DATA COMMISSIONER

H.E President, Dr. William Samoei Ruto, PhD., CGH. Graces Data Privacy Day 2023

Commemoration of the Data Privacy Week 2023

The Office of the Data Protection Commissioner celebrated the Data Privacy Day 2023 with week-long activities leading to the Data Privacy Day 2023 as part of efforts to raise awareness, promote the right to personal data privacy and provide an opportunity to reflect and share data protection best practices and emerging issues on data protection.

As part of the celebrations leading to International Data Privacy Day, and in partnership with several privacy professionals key among them GIZ, ODPC further held a hybrid session with the financial technologies (FINTECH) sector targeting digital money lenders. The office further organized two virtual masterclasses on the rights of data subjects and how to exercise the rights and another one on the obligations of Data Controllers and Data Processors.

To culminate the week-long activities, ODPC hosted a two-day Data Privacy Conference from January 26th - 27th themed "Promoting Data Protection in a Digitally Transformed Economy" which took place at the Kenyatta International Convention Centre. The conference was focused on raising awareness and promoting conversations about the importance of protecting the privacy of personal information.

The first day which brought together over 400 participants drawn from private sector, civil society, government representatives from various sectors and the general public focused on the panel discussions, and exhibitions.

H.E. Dr. William Samoei Ruto, PhD., C.G.H., the President of the Republic of Kenya graced the main event and officially launched the data protection registration portal. In his remarks, the President underscored the importance of data protection to the Government's Bottom-up Economic Transformation Agenda (BETA) by ensuring that all programs conform to the principles of personal data protection.

Important to note, Kenya has made commendable strides in data protection, including the enactment of the data protection Act and its regulations, respecting the right to privacy, safeguarding personal data, and enabling trust in this digital era.

Official Launch of the Data Protection Registration System

H.E President, Dr. William Samoei Ruto, PhD., CGH, officially launched the Data Protection registration system which went live in July 2022 when the Data Protection Regulations (Registration of Data Controllers and Data Processors) 2021 came into effect.

The Official launch was part of the ODPC series of activities to commemorate Data Privacy Day 2023.

In his remarks, President Ruto said “Data Privacy is a global issue and I am glad to join the world to celebrate a day that remembers the coming to force of the first data protection convention 42 years ago. This day allows us to reflect on opportunities and threats that define privacy in matters of data in this era of the 4th industrial revolution which has changed our lives”

The President reaffirmed the government’s commitment to the implementation of the provisions of the Data Protection Act (2019), through the Office of the Data Protection Commissioner.

The Head of State directed the Cabinet Secretary for Information, Communication and the Digital Economy to work with the National Assembly towards signing, ratifying or accessing the African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention) in accordance with Kenya’s Constitutional Procedure.

As part of the directives, President Ruto also urged all Ministries, Departments and Agencies to ensure compliance with the provisions of the Data Protection Laws.

“County governments are also called upon to follow suit. The private sector, Non-Governmental Organizations and Development Partners handling personal data are similarly expected to comply,” he added.

In his remarks, Cabinet Secretary (CS) for Information Communications, and the Digital Economy Eliud Owalo, who was also present at the event said, “This year’s theme of “Promoting Data Privacy in a Digitally Transformed Economy” is aligned with the government’s recently launched digital superhighway and creative economy.

“It emphasizes the need for us to create an environment that allows the safeguarding of data for every citizen, enterprise,

and organization which has digital access and the capability to participate and thrive in the digital economy. As a country, we must seize the significant socio-economic opportunities that digital technologies bring.”

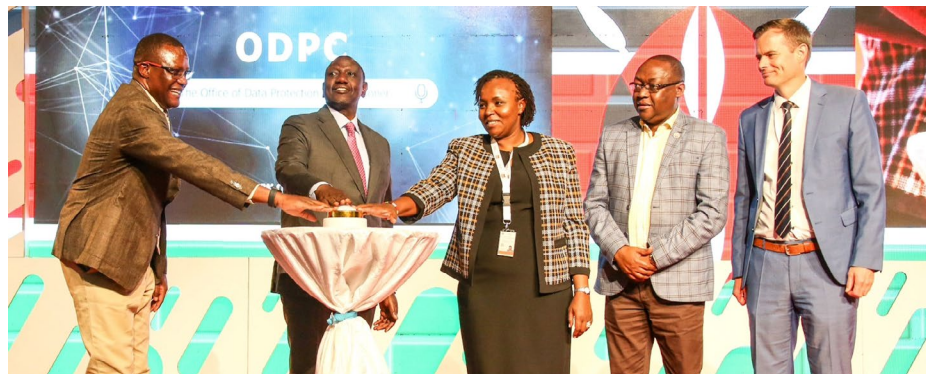
The Data Commissioner, Immaculate Kassait on her part noted that, “compliance with Data Protection laws and regulations is a process, not an event. It is a journey with no motive towards stifling innovation. I encourage data handlers to register accordingly for compliance and reputational purposes.”

The German Ambassador to Kenya, Thomas Wimmer, who was also present, reiterated Germany’s support for Kenya’s digital transformation. He emphasized the potential for data-driven innovation to transform lives, but also acknowledged the risks to safety and privacy.

Wimmer reaffirmed Germany and the European Union’s commitment to working with the Office of the Data Protection Commissioner (ODPC) and the Ministry of ICT and Digital Economy to ensure a strong data protection culture in Kenya. This is seen as a key asset in enhancing the potential for data-driven innovation to transform lives and boost the digital economy.

“Compliance with Data Protection laws and regulations is a process, not an event. It is a journey with no motive towards stifling innovation. I encourage data handlers to register accordingly for compliance and reputational purposes.”

Immaculate Kassait MBS
DATA COMMISSIONER, KENYA



ODPC & Kenya Editorial Yearbook Develop Info Bytes

As part of its initiatives to raise awareness of data protection, the Office of the Data Protection Commissioner partnered with the Kenya Editorial Yearbook to release a two-part info byte on data protection. Kenya Yearbook 2020 documents key social and economic achievements by the Government in FY2019/2020 tied to the Medium-Term Plan and the Big 4 Agenda of Kenya Vision 2030.

In its February 2023 edition, Kenya Editorial Yearbook focused on data protection. The first part booklet focused on “Your Data and the Law” highlighting the rights of data subjects, key terminologies in the Act, the mandate of the office, what constitutes a data breach, complaint and much more.

The second edition majorly focused on the roles of Data Controllers and Data Processors, the registration requirements and process and the obligations of data handlers as stipulated in the Act.





Immaculate Kassait, MBS at the 23rd Commonwealth Law Conference

Data Commissioner Immaculate Kassait, MBS, represented the Office of the Data Protection Commissioner at the 23rd Commonwealth Law Conference, which brought together seasoned personalities from the law community across 56 countries to share experiences, ideas, and discuss emerging issues.

The Data Commissioner participated in a panel discussion on: "Online media giants may be 'too big to care' – But can the law make them care?" In her remarks, she noted that the regulation of online media giants is far from ideal emphasising the need for data protection authorities to leverage on collaboration across borders & promote self-regulation to foster compliance

She also encouraged online media giants to adopt the UNESCO member states' agreement on the ethics of AI and focus on awareness creation to the users on their rights.

The five-day conference which hosted renown guests, including Kenya's Chief Justice Martha Koome, was organized by Commonwealth Lawyers Association to discuss on the theme "Common Challenges in Uncommon Times."

The Commonwealth Law Conference is constituted to uphold the rule of law in the Commonwealth by encouraging exchange of ideas between legal professionals, academics and students, through projects and by driving improvements in legal education.

ODPC's participation in the conference underscored its commitment to cooperation with other countries and multi nationals on data protection by leveraging on experiences on data protection. Further, it aligns with the regulator's role to promote international cooperation and ensure compliance on data protection obligations under international conventions and agreements.

Media Awareness Campaign on Data Protection



The Office of the Data Protection Commissioner launched a media awareness campaign dubbed "Data yako Jukumu lako" targeting the general public. The office sought to explore such and more wide-reaching avenues to enhance enlightenment on Data Protection.

The office developed 5 key messages for the various media that was disseminated on various media platforms, featured on 2 TV stations, 2 National Radio stations, and 13 Community Radios spread across 8 regions in the Country and shared on the ODPC social media platforms.

ODPC Awarded Best Semi-Autonomous Government Agency (SAGA)

In the run up to the International Women's Day, the Office of the Data Protection Commissioner was awarded the best Semi-Autonomous Government Agency (1st runners-up) on Gender Equity at the 5th Edition of the National Diversity and Inclusion Awards and Recognition (DIAR Awards).



DIAR awards is an initiative that recognizes employers, institutions, organizations, and individuals who champion Diversity, and promote Equity, Inclusion, and Belonging (DEIB), in the workplace and society.

During the awards ceremony, the Office was represented by a team led by Deputy Data Commissioners Festus Musyoka and Oscar Otieno. In her remarks, Data Commissioner Immaculate Kassait, MBS reiterated the office's commitment to prioritize gender equality and empowerment which are at the core of the ODPC strategy.

As of March, the number of female employees and leaders from diverse backgrounds continue to grow currently at 45 percent and 44 percent respectively.

"On this year's International Women's Day, we celebrate women's achievements and contributions, especially towards the protection of personal data and privacy. While some progress has been made in accelerating innovation and technology for gender equality, there's room to do more. We all must take responsibility for the protection of personal data by embedding it in our day-to-day digital practices at individual and organizational levels," she noted.

The Office strives to promote personal data privacy, help data controllers and processors appreciate their obligations under the Act and the Regulations and enable the general public appreciate the importance of the right to data protection.



Data Protection & Digitization of Government Services

By Immaculate Kassait MBS, Data Commissioner - Kenya

The government, through the Ministry of Information, Communications and the Digital Economy, is pursuing a paperless government with a plan to onboard over 5000 services on the e-citizen in the next six months.

How can the government provide seamless e-government services at the same time complying with the principles of personal data protection and data privacy?

safe will enhance e-commerce for the country.

Blockchain technologies for data portability in the healthcare sector:

This will ensure timely interventions and reduction of costs, mortalities, and mobility, while still preventing breaches of sensitive and confidential data.

ICT Policies

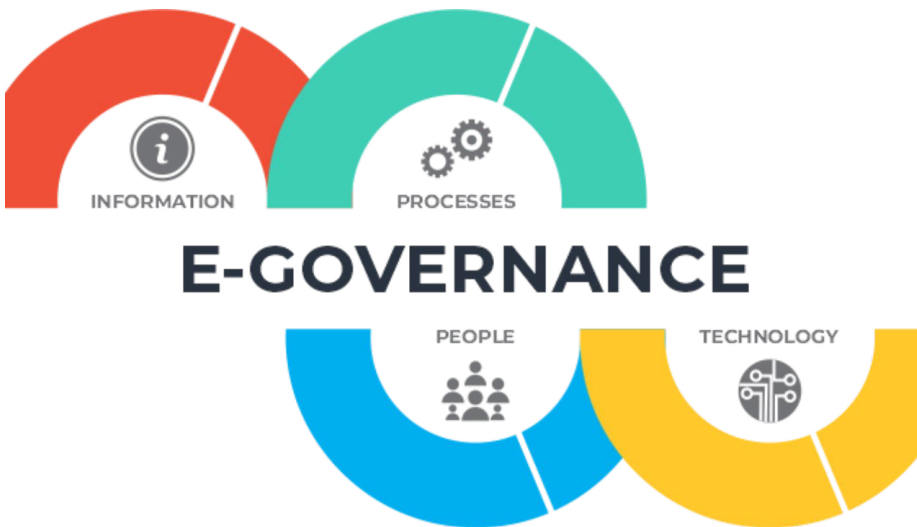
Ensuring emerging technologies such as

research

I would like to emphasize that Data Protection laws and regulations don't stifle innovation, but rather promotes it.

Data Protection by Design and Default

There's a need to re-engineer both the online and offline systems used in collecting data to ensure efficiency in service delivery and compliance with Data Protection Laws and regulations. The ODPC will continue working with the Ministry to ensure digitalization of government services delivery is done in a safe data protection environment.



During Data Privacy Week 2023, I had the pleasure of participating in a panel discussion on Data Protection and Digitization of Government Services Delivery moderated by Rose Mosero (ODPC) with Engineer Daniel Obam (National Communication Secretariat) Dr. John Olukulu (Strathmore Business School) Dr. Bore (Kenyatta National Hospital), and Clifford Nderi (University of Nairobi). *Below are my key take-aways from the session:*

Digital transformation as an enabler in data protection. Digitization of government services increases efficiency by enabling access to information across government offices. Keeping the digital space

Artificial Intelligence systems are not just available to a few organizations is critical in reducing potential of misuse of personal information.

Once-only Principle

Digitization will ensure that once you provide your personal information to one public institution, it will be accessible to other public and private institutions hence, you don't need to submit the same information again. It is imperative that this is done in a manner to respect the principles of privacy and personal data protection.

Digitization in the education sector will help to enhance innovation and

Registration with ODPC Grows Tremendously

Since the Official launch of the Data Protection Registration System on January 27, 2023, ODPC has experienced an increase in the number of Data Controllers and Data Processors applying for registration. This demonstrates the impact of awareness creation and leadership support.

As of March 30, the office had received 4473 applications which are at various stages of processing including 1,901 entities which have been issued with registration certificates.



Issuance of Penalty Notices & Enforcement Notices

During the first quarter of 2023, the Office of the Data Protection Commissioner (ODPC) issued two penalty notices against two companies bringing to three, the total number of penalty notices issued since its establishment.

The companies in question were respondents in complaints made by data subjects for contravening provisions of the Data Protection Act. The Respondents failed to comply with the enforcement notices earlier issued to them thus attracting penalty notices

Each company is required to pay ODPC a penalty of Kenya Shillings Five Million (KES 5,000,000) according to Section 63 of the Data Protection Act, and Regulation 20 of the Data Protection (Complaints Handling Procedure and Enforcement).

Over the same period, the Office issued an enforcement notice to a company due to non-cooperation with several notifications of a complaint launched on the 25th of January, 2023, and a reminder on the 15th February, 2023 against them for publishing of a

personal photo on a company catalog and calendar for marketing purposes. This makes it 5, the total number of enforcement notices issued by the office.

Speaking on the notices, the Data Commissioner Immaculate Kassait, MBS reaffirmed that Data protection is a responsibility of every data controller and processor and it must be the company's top priority whenever they collect, process, or store personal information. She urged businesses to protect personal data by design and by default and cooperate with the ODPC to avoid penalties.

According to section 63 of the Data Protection Act, the maximum amount of the penalty that may be imposed by the Data Commissioner in a penalty notice is up to five million shillings, or in the case of an undertaking, up to one per centum of its annual turnover of the preceding financial year, whichever is lower. Similarly, the office has issued three final determinations on ongoing cases.



ODPC Conducts Training to Digital Credit Providers

In the wake of increased complaints against digital credit providers, the Office in collaboration with GIZ, European Union and Maastricht University conducted training targeted toward managers and data protection officers of various digital credit providers on 8 and 9th March 2023 in Nairobi.

The training brought together more than 50 key stakeholders, scholars, businesses, industry, and government to discuss the landscape of data protection in the FinTech sector while allowing digital lenders to ask practical questions on compliance and registration.

Focus Areas for the Credit Providers

- The fundamentals of the data protection key concepts and principles
- The handling, management, and protection of personal data in the context of the FinTech sector
- The legal basis of data protection
- The processing of sensitive data
- Key roles and responsibilities of different players in the data protection regime, including data controllers, data processors, and data protection officers Roundtable Discussion on the Future of AI





Roundtable Discussion on the Future of AI

ODPC participated in a roundtable discussion on the Future of AI policy organised by Konza Technopolis in partnership with Thunderbird School of Global Management-Africa.

Head of Legal, Susan Waweru joined other experts and stakeholders in AI for a roundtable which focused on identifying path-

ways towards actionable priorities to advance the dual objectives of AI for Social and Commercialisation goals.

Among the key discussion focus areas included partnerships for development in the rapidly evolving sector with infrastructure, talent/capacity building and policy frameworks.

County ICT CECs Sensitized on Data Protection

As part of the push to sensitize organizations including Government institutions on data protection and the importance of protecting the privacy rights of individuals, the Office participated in the induction workshop for all the County Executive Committees(CECs) in charge of Information Communication and Technology(ICT).

The event which was organized by the Council of Governors took place from March 28. In attendance was the Ministry of Information, Communication & the Digital Economy Cabinet Secretary (CS) Eliud Owalo and the Principal Secretary, Department of the Digital Economy, Eng. John Tanui.

CS Owalo acknowledged the importance of data protection at county government level in order to safeguard citizens' private information from compromise, or loss.

"Government institutions including Counties hold a vast amount of data about citizens, including personally identifiable information such as Social Security numbers, driver's license information, and tax and financial information. Therefore, it is important for

county governments to have effective data protection measures in place to ensure that sensitive information is not accessed by unauthorized individuals," he said.

PS Tanui on his part noted the need for collaboration and partnership in order to enhance data protection culture in the country.

Data Commissioner, in her remarks, emphasized the need for counties to adhere to the principles of Data Protection to ensure that data is collected & processed lawfully.

She also urged the CECs to ensure the devolved units abide by data localization in their cloud computing processing operations and ensure that counties keep copies of all forms of data transferred outside the country.

The workshop was aimed at equipping the CECs with the necessary skills and knowledge to effectively manage ICT projects in their respective counties. The event was attended by various stakeholders, including representatives from the private sector, government agencies and development partners.



ODPC Holds Consultative Meetings with National Assembly Committee

Data Commissioner Immaculate Kassait, MBS led a team from ODPC during a consultative meeting with the National Assembly Communication, Information and Innovation committee led by Hon Kiarie John Waweru, Member of Parliament (MP), Dagoretti South Constituency.

During the meeting held on 30th March 2023, the Data Commissioner sensitized members of the Committee on the office's priority programs, in line with the five pillars of the Kenya Kwanza Strategic Development plan.



Kenyans Now Appreciate Their Data Privacy Rights

The Office has received an increase in the number of complaints due to increased awareness as more Kenyans are getting aware of their rights as stipulated under the Data Protection Act, 2019.

As of March 30, the office had received 2,521 complaints. Predominantly, majority of the complainants relate to Digital Service Providers (DCPs) at up to 80 percent

of all complaints.

Deputy Data Commissioner (Complaints, Investigation & Enforcement) assured that the Directorate is pursuing more information regarding other digital lenders and their various products to comprehensively work on the complaints.

As of March 30
2,521
 Complaints Received

Sensitizations to Enhance Compliance with the DPA

The Office of the Data Protection Commissioner in this quarter conducted sensitization of forty Data Controllers and Processors to create awareness of the provisions of the Data Protection Act 2019, and the regulations to enhance compliance.

The sensitizations were conducted either physically or virtually for various entities drawn from governmental, Private, and non-state actors and was attended by more than 2000 participants. The Office continues to receive numerous requests for sensitization on the provisions of the Act and the regulations and will continue to sensitize stakeholders for the understanding of the Act and facilitate compliance.





Data Commissioner at the Official Opening of the ISACA Conference

Data Commissioner Immaculate Kassait, MBS, represented the Ministry of Information, Communication & the Digital Economy Cabinet Secretary (CS) Eliud Owalo during the official opening ceremony of the ISACA 2023 Annual three-day conference themed "Pursuing digital trust" which took place from 27th March.

In her remarks, on behalf of CS Owalo, Ms. Kassait remarked that digital investment cannot succeed without solid trust which enables technology to function reliably, securely and per consumer expectations.

"Digital trust is a fundamental aspect of our relationship with tech and without it,

we cannot fully embrace it. To build digital trust, we must prioritize data privacy, AI, Cybersecurity, mobile security, and other aspects of emerging technology assurance," she said.

Owalo further reiterated the Government's focus on building a digital technology that is robust and trustworthy.

ODPC Exhibition at the ISACA Conference

On the sidelines of the ISACA Conference, ODPC leveraged on the conference and the presence of professionals in the Information Systems, Audits space to create awareness creation on matters of data protection.

The Conference themed "enabling digital trust" brought together key stakeholders in the ICT industry to discuss how to safely deliver digital products and services to their stakeholders.

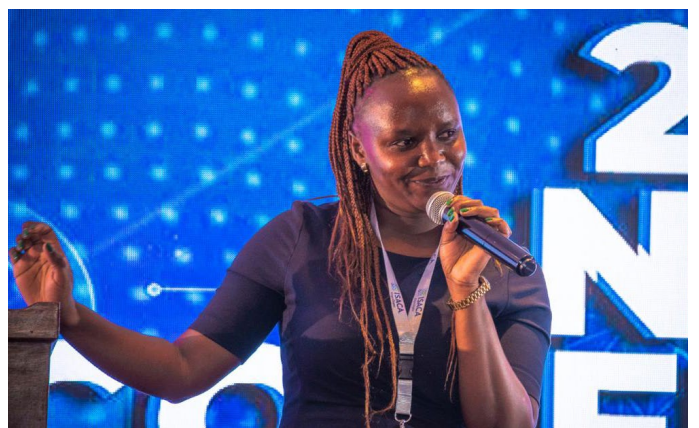
The Data Commissioner Immaculate Kassait Officially opened the conference on behalf of Hon. Eliud Owalo, the Cabinet Secretary Ministry of Information, Communication and Digital Economy

She later on issued a keynote remark and a presentation that highlighted key issues in matters of data protection.

The Office further presided over a session on data protection facilitated by Carolyne Macharia, the principal Compliance Officer at the ODPC.

As part of its awareness creation activities, the office also set up an exhibition booth on the sidelines of the Conference which targeted thousands of participants to sensitize on the Data Protection Act and the mandate of the Office. ODPC staff engaged various visitors, answered questions, and distributed Information, Education, and Communication (IEC) awareness materials.

The booth attracted technology professionals from Government, Private Sector, Civil Societies, and Development partners thus presenting a key opportunity to push the implementation of data protection by design and default in the setup of organization systems.



PICTURE STORIES



H. E. President Dr. William S. Ruto arriving at KICC to grace the 2023 Data Privacy Day, and making a stop at ODPC exhibition booth



Induction retreat hosted by CS Eliud Owalo attended by HODs & CEOs of SAGAs to align with the government's Manifesto



ODPC participated at the launch of a Trainers Workshop at Kenya School of Government, organized by Ministry of agriculture

Multi-Sectoral Engagements

The Office has interacted with various stakeholders in the industry intending to increase knowledge of the gaps, challenges, and how to collaborate with issues in the field of data protection.

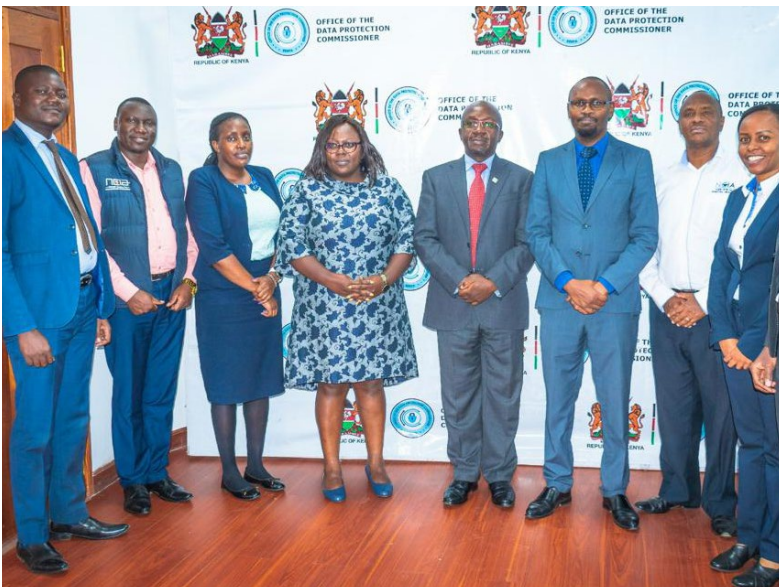


A hybrid session with the financial technologies (FINTECH) sector targeting digital money lenders in partnership with GIZ



A discussion on digitization of civil registration services - ODPC, UNECA, UNICEF & Vital Strategies

The Office, represented by the Deputy DC - Oscar Otieno, at the SecurEXPO East Africa, 2023



A meeting with NCIA to discuss areas of collaboration in implementing the Alternative Dispute Resolution framework

ODPC team at the World Consumer Rights Day, in Kisumu



Which year was the Data protection Act of Kenya enacted in Parliament?

- a) 2019
- b) 2020
- c) 2018
- d) 2014

Which of the following is not a data protection regulation in Kenya?

- a) The Data Protection (General) Regulations
- b) Registration of Data Controllers and Data Processors Regulations
- c) Complaints Handling and Enforcement Procedures Regulations
- d) Data sharing & breach Regulations

Which of the following was the first legally binding international instrument in the data protection field?

- a) Vienna Convention
- b) Treaty of Versailles
- c) Convention 108
- d) Paris Accord

Which of the following companies was fined the biggest data breach fine or penalty ever?

- a) Yahoo
- b) Lehman Brothers
- c) Didi
- d) Equifax

Who first coined the term "Data is the new oil"?

- a) Sergey Brin
- b) Clive Humble
- c) Tim Cook
- d) Bill Gates

Which country was the Malabo Convention (African Union Convention on Cyber Security and Personal Data Protection) first conveyed?

- a) Equatorial Guinea
- b) Cape Verde
- c) Côte d'Ivoire
- d) Guinea-Bissau

Which year was the Malabo Convention (African Union Convention on Cyber Security and Personal Data Protection) drafted?

- a) 2014
- b) 2009
- c) 2019
- d) 2011

WORD BANK

human error, biometric, data, race, Britam Towers, unauthorized, commissioner, regulation, obligation, sensitive, financial, controller

DOWN

- 1. A particular category of personal data
- 3. Fourth word in acronym
- 5. Controlling of an activity by means of law
- 6. Blank access to records is a data breach
- 7. Our head office location
- 11. We all have this to protect data
- 12. Not for public. May cause harm if disclosed

ACROSS

- 2. Responsible for deciding how personal data is processed and protected
- 4. Highest cause of breach
- 8. Information relating to an identified or identifiable individual
- 9. Mostly used to discriminate
- 10. Used for identification and access control



OFFICE OF THE DATA PROTECTION COMMISSIONER

BRITAM TOWERS, UPPERHILL
P.O BOX 30920-00100 G.P.O NAIROBI
info@odpc.go.ke | 0796954269

www.odpc.go.ke

EDITORIAL TEAM:

| Rose Mosero, HSC, FIP (Chair) | Carolyne Tanui (Editor) | Clinton Ooko (Designer) |
| Susan Waweru (Member) | Abdullah Ali (Member) | Yusuf Momanyi (Member) | Sharon Obade (Member) |