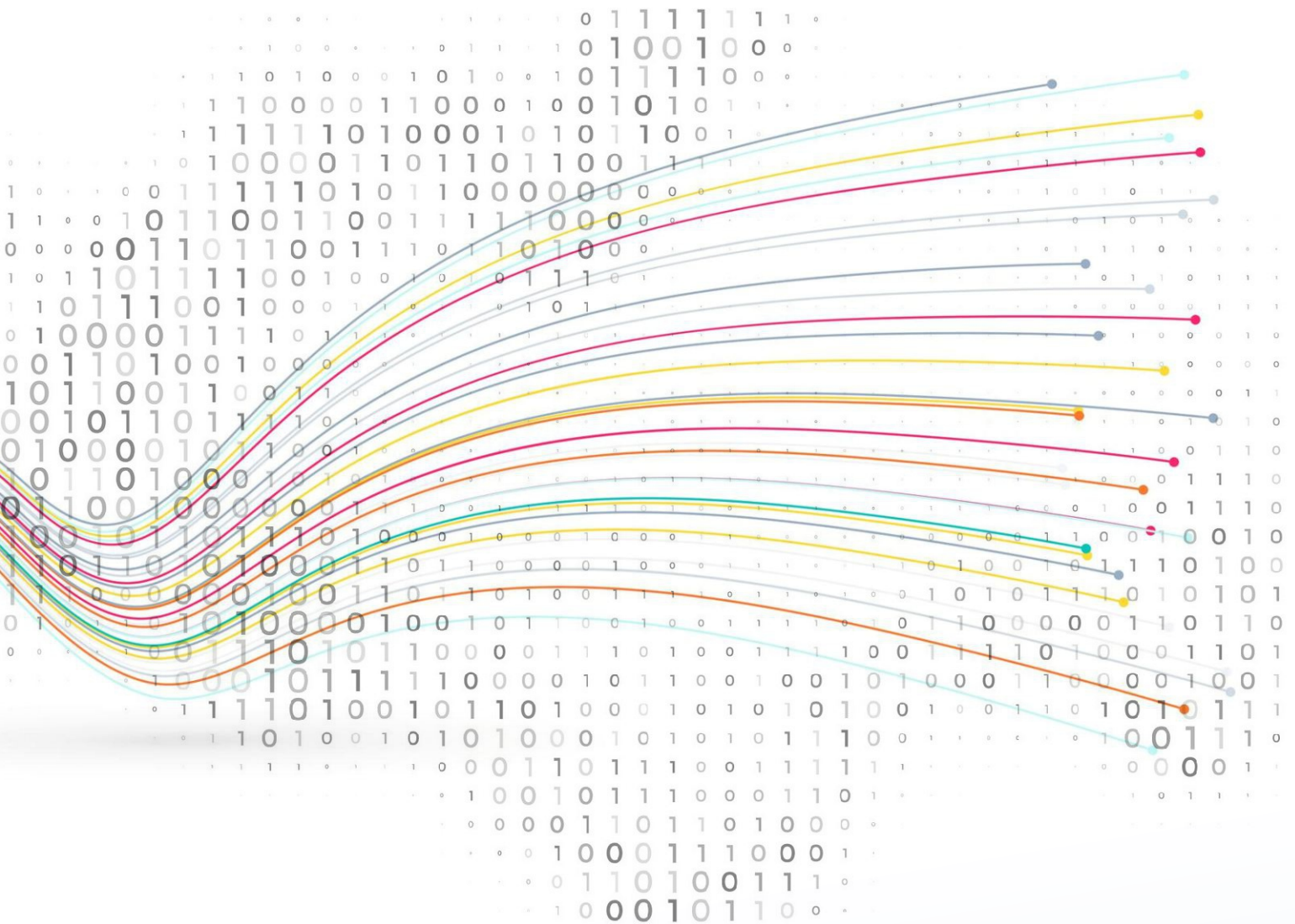




TOPE ADEBAYO LP



DATA BREACH ALERT:
IS YOUR PERSONAL
INFORMATION SAFE?

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[The recent reports](#) of a data breach at the National Identity Management Commission (NIMC) have raised serious concerns about data privacy and security in Nigeria. This alleged incident reveals the weaknesses in our current data protection system and the pressing need for stricter enforcement. This article examines the breach, its effect on data privacy, the legal framework under the Nigeria Data Protection Act 2023 (NDPA), and the rights and remedies available to you if your data is breached.

DETAILS OF THE ALLEGED BREACH

Recently, [reports](#) surfaced that unauthorized websites were selling National Identification Numbers (NINs), Bank Verification Numbers (BVNs) and other personal data for as little as ₦100. The Minister of Information, Communication and Digital Economy has announced that investigations into the alleged breach have been launched. [Early findings](#) suggest that unauthorized access to the NIMC database allowed these sites to collect and sell personal data, raising serious concerns about the effectiveness of NIMC's current data protection measures.

IMPACT ON DATA PRIVACY

This alleged exposure of Nigerians' personal data has wide-ranging effects:

- 1. Identity Theft:** People whose data has been compromised face a higher risk of identity theft, which can result in financial loss and damage to their reputation.
- 2. Financial Fraud:** Access to personal data can enable fraudulent financial transactions, negatively affecting the victims' credit and financial standing.
- 3. Public Trust:** These breaches weaken public confidence in the government's ability to protect sensitive information, which is crucial for the successful rollout of identification system and other public database systems.

LEGAL FRAMEWORK FOR DATA PROTECTION IN NIGERIA

The Nigerian Data Protection Act (NDPA 2023) is the law that governs the protection of the privacy and personal data of individuals in Nigeria. It must be noted that government agencies, ministries, departments, and other public institutions are also bound by the provisions of the law when handling people's personal data. The NDPA ensures that both private organizations and public authorities handle this information responsibly and securely. It achieves this through several key mechanisms:

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- 1. Establishing Rights for Individuals (Data Subjects):** The NDPA grants individuals (data subjects) rights over their personal data, such as the right to access, rectify, erase, and object to the processing of their data. This gives individuals more control over their information and its use.
- 2. Imposing Obligations on Organisations (Data Controllers and Data Processors):** The Act places strict obligations on organizations that collect and process personal data. These obligations include obtaining lawful consent for data processing, ensuring data security, and notifying individuals and authorities if a data breach occurs.
- 3. Regulating Cross-Border Data Transfers:** The NDPA sets out rules for transferring personal data outside Nigeria, ensuring these transfers are secure and comply with international data protection standards.
- 4. Creating an Independent Regulatory Body:** The Act establishes the Nigeria Data Protection Commission (NDPC) as an independent body responsible for overseeing data protection activities, enforcing compliance, and promoting awareness of data protection rights and obligations.
- 5. Providing for Remedies and Sanctions:** The NDPA offers remedies for data breaches or non-compliance with the Act and imposes sanctions, including fines and imprisonment, for violations of data protection regulations.

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By setting up these mechanisms, the NDPA aims to create a data protection system that builds trust between individuals and organizations, promotes responsible data handling practices, and safeguards the fundamental right to privacy in the digital age.

THE NDPA VIOLATIONS IN THE DATA BREACH

The alleged NIMC data breach raises serious concerns under the NDPA. The unauthorized access and potential sale of sensitive personal data, including National Identification Numbers (NINs), could be a major violation of the Act. If the allegations are proven, the NIMC may be found in breach of its obligations under Sections 39 and 40 of the Act to implement adequate security measures and promptly notify affected individuals and the NDPC of the breach.

Moreover, the NDPA's provisions on sensitive personal data under Section 30 of the Act are particularly relevant in this case. NINs and other personal identifiers could be classified as sensitive data, requiring a higher level of protection. The alleged sale of such data would not only violate the NDPA but also infringe on individuals' constitutional right to privacy guaranteed under Section 37 of the Constitution.

YOUR RIGHTS UNDER THE LAW

If your data has been mishandled, the Nigerian Data Protection Act 2023 offers you protection. Here is what you need to know:

- 1. Complaint:** If your personal data has been misused or mishandled, you have the right to file a complaint with the Nigeria Data Protection Commission (NDPC).
- 2. Investigation:** The NDPC will investigate your complaint if it has merit. They can also initiate investigations on their own if they suspect any organization of violating the data protection rules.
- 3. NDPC's Powers:** The NDPC has the authority to order individuals to appear for questioning, provide relevant documents, or give statements under oath during their investigations.
- 4. Access to Information:** You have the right to request access to your personal data and the NDPC can direct organizations to provide it in an understandable and usable format.
- 5. Compliance and Enforcement:** If an

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organization is found to be misusing your data, the NDPC can issue orders to remedy the situation. This could involve requiring them to correct the issue, compensate you for any damages, or pay fines. Non-compliance can lead to further legal action.

6. **Judicial Review:** If you disagree with the NDPC's decision, you can seek judicial review within 30 days of the decision.
7. **Compensation:** If you have suffered harm due to the misuse of your personal data, you have the right to sue the organization responsible and seek compensation in court.
8. **Forfeiture:** In some cases, the court may order an organization to forfeit any profits they gained from misusing your data.

9. **Corporate Responsibility:** Both the organization and its management can be held liable for data breaches unless they can prove they took adequate measures to prevent them and were not directly involved.

CONCLUSION

The alleged NIMC data breach is a clear reminder of how crucial data security is in Nigeria. The NDPA requires any organization or entity who processes and controls data to put in place "appropriate technical and organizational measures" to protect personal data. This means preventing unauthorized access, accidental loss, or destruction of data. The breach raises questions about whether the NIMC had adequate security measures to protect the sensitive personal data it holds.

The incident shows the need for strong data security practices, such as encryption, access controls, regular security audits, and incident response plans. It also shows the importance of constantly monitoring and updating security measures to deal with new threats. The NDPA's focus on data security is not just a legal requirement but a key necessity to protect people's privacy and maintain public trust in digital systems.

PLEASE NOTE THAT THIS ARTICLE IS FOR INFORMATION PURPOSES ONLY AND DOES NOT CONSTITUTE LEGAL ADVICE

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