

# IMPLEMENTATION OF THE NIGERIA DATA PROTECTION REGULATION: PUBLIC SECTOR PERSPECTIVE

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# NITDA AND DATA PROTECTION

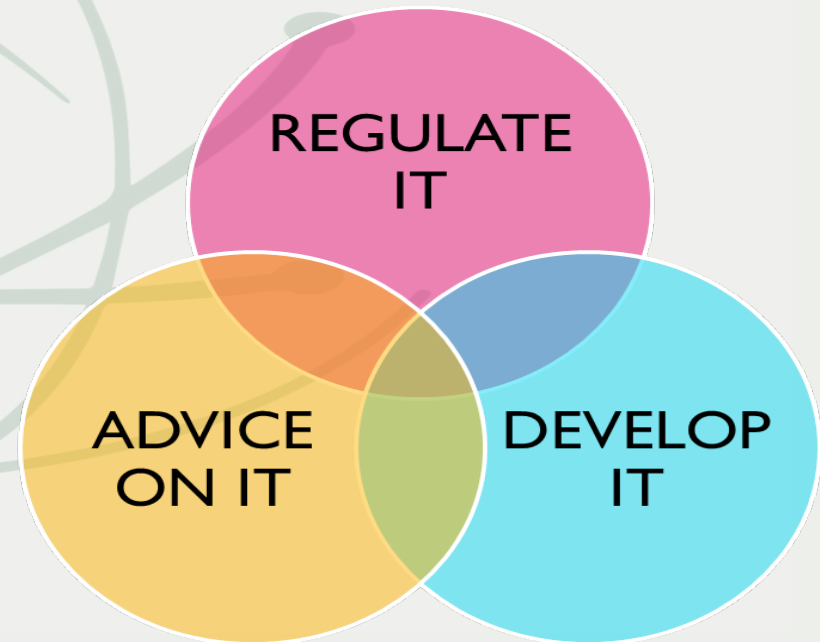
- NITDA was established to implement the National IT Policy of 2000. Strategy 13.3(iii) of the Policy provides **Ensure the protection of individual and collective privacy, security, and confidentiality of information**
- S.6(c) of NITDA Act 2007 provides- **the Agency shall-**
  - (a) Create a frame work for the planning, research, development, standardization, application, coordination, monitoring, evaluation and regulation of Information Technology practices, activities and systems in Nigeria and all matters related thereto and for that purpose...**
  - (c) develop guidelines for electronic governance and monitor the use of electronic data interchange and other forms of electronic communication transactions as an alternative to paper-based methods**

# NITDA MANDATE

## THE LAW

Section 6 NITDA Act 2007: The Agency shall create a frame work for the planning, research, **development, standardization,** application, **coordination,** monitoring, evaluation and **regulation of Information Technology practices, activities and systems in Nigeria** and **all matters related thereto and for that purpose,** and which without detracting from the generality of the foregoing shall include providing universal access for Information Technology and systems penetration including rural, urban and under-served areas.

## IN THREE WORDS



# NDPR OBJECTIVES AND SCOPE

## OBJECTIVES

- Data Privacy Protection
- Secure Exchange of Data
- Improve Business Environment
- Create Sustainable jobs

## SCOPE

- All Residents of Nigeria
- All Nigerians
- Public Sector
- Private Sector

# WHAT DOES IT MEAN TO PROCESS DATA?

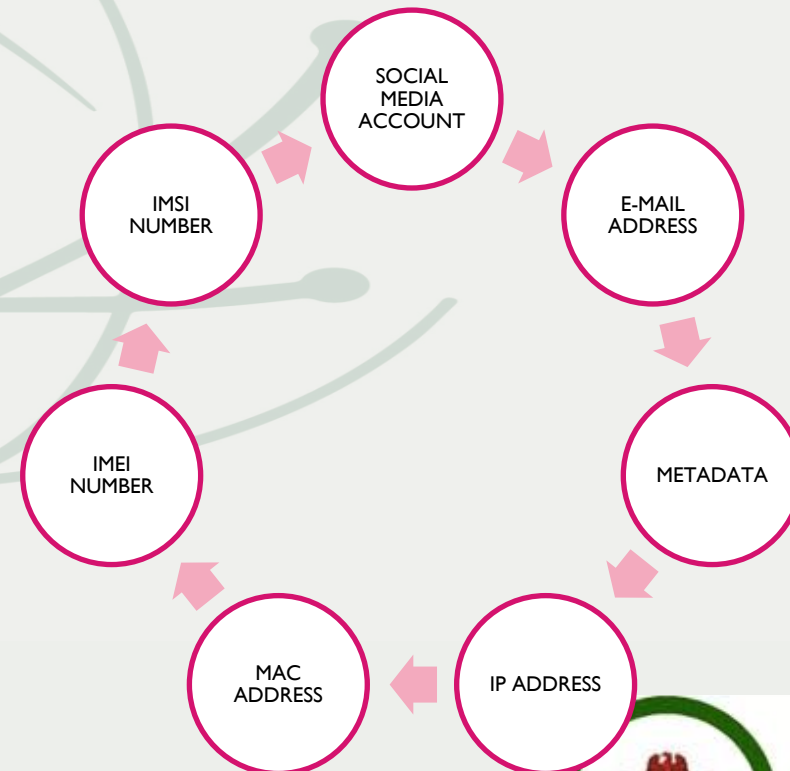
- Art. 1.3 defines “Processing” as any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as **collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;**

# UNDERSTANDING PERSONAL DATA

## CLASSICAL PERSONAL DATA



## DIGITAL PERSONAL DATA





# PRINCIPLES OF DATA PROCESSING

SN	PRINCIPLE	NDPR PROVISION
1	Lawfulness and Legitimacy	Art. 2.1(1 a) Personal data collected and processed must be legitimate and for lawful purpose
2	Specific Purpose	Art. 3.1(7c) Controller to inform Subject of purpose of collection
3	Accuracy	Art. 2.1(b) processed PD shall be adequate and accurate
4	Storage and Security	Art. 2.1 (c) PD shall be stored for the period only for the period they are reasonably required to so do. Art. 2.1(d); 2.6 Onus of Security lies on the Controller
5	Confidentiality, Integrity and Availability	Art. 3 enumerates the rights of a data subject. The principles of information security management which includes CIA are all covered
6	Compliance and Enforcement	Art. 4.1(4) DPCO are licensed to aid Compliance. Enforcement would be done by NITDA upon default by Controllers and Administrators

# Class Discussion One

Nosebook is a start startup whose business model is to **capture** millions of subscribers on its social media platform. The platform **collects, structures, organises** personal data for the purpose of big data **analytics**. It **sells** business intelligence to advertising companies. The company has a data centre in Argentina where it **stores, processes, transmit and record** User's personal data.

Nosebook owns a software that structures, **combines** and **disseminates** personal data by using other data through mediums other than Nosebook.

Damuwa, a Nosebook user has made a complaint and now wants to know all his data **held, stored, used, altered, consulted** on or **traded** by Nosebook.

Nosebook CEO has met with Damuwa, they are willing and able to comply and pay \$5 million if Damuwa withdraws the petition.

***Discuss the issues raised by this scenario and provide your own advise***



# Class Discussion Two

SmartGrid is an electricity Distribution Company. It launched an App SmartPower, to help its customers buy power from the comfort of their homes. The App became an instant hit. Over 2 million subscribers downloaded it.

Sharpman the CEO then decided to launch a fashion and luxury goods outfit. He directed Brainbox the CTO to mine the data to get the rich and comfortable customers. Mails, phonecalls and other marketing activities were targeted at the select customers.

***Discuss in view of the principle of specificity and limitation of purpose***

# THE DATA PEOPLE

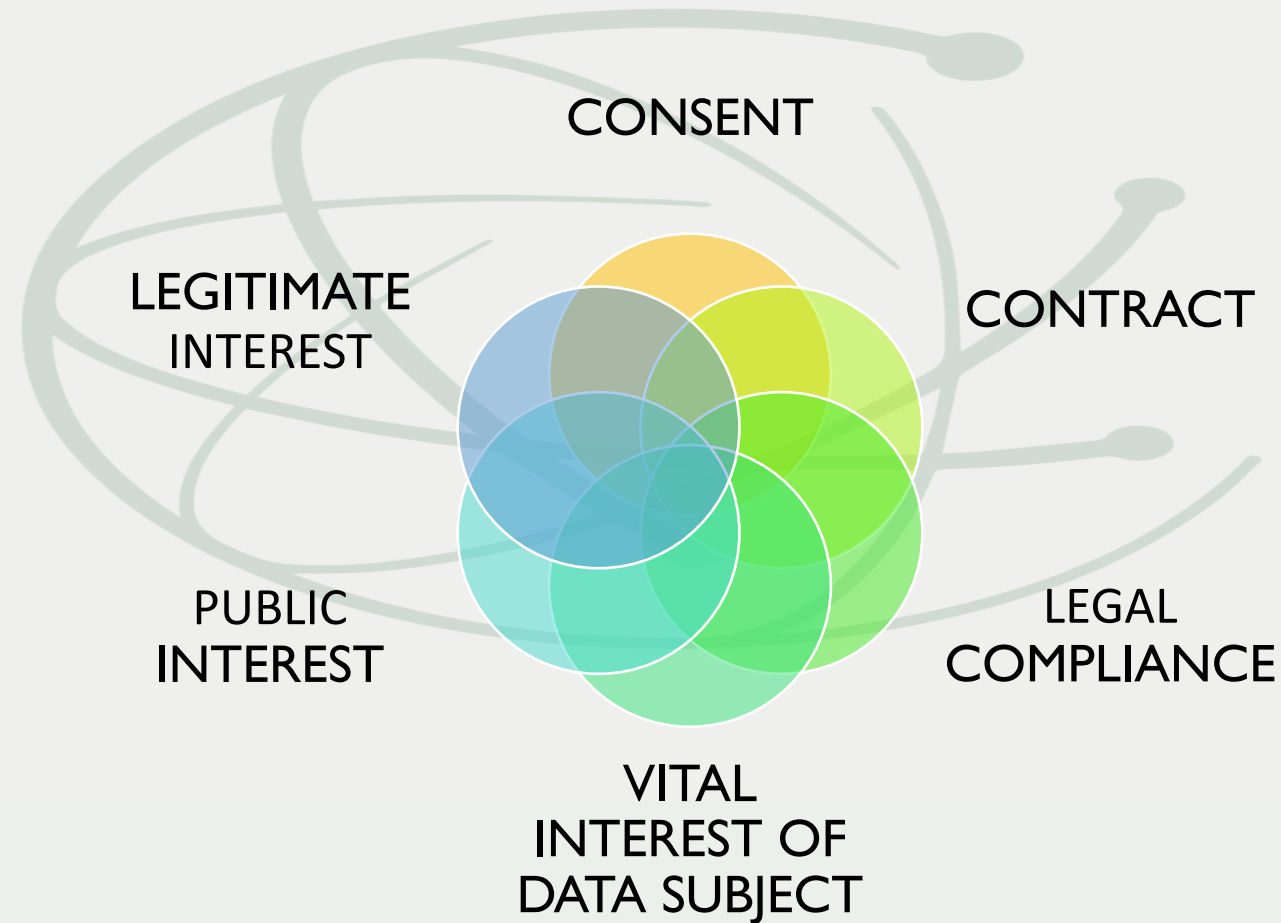


- **DATA SUBJECT-** The individual whose data is to be protected
- **DATA CONTROLLER-** An entity who determines the purposes for and the manner in which Personal Data is processed
- **DATA ADMINISTRATOR/PROCESSOR-** One who processes data
- **DPO-** In-house Data Officer of a large Data Controller
- **DPCO-** NITDA Licensed Orgs. Who provide Data Protection services

# ACCOUNTABILITY IS KEY

- **Art 2.1(3) *Anyone who is entrusted with Personal Data of a Data Subject or who is in possession of the Personal Data of a Data Subject shall be accountable for his acts and omissions in respect of data processing, and in accordance with the principles contained in this Regulation.***
- You are accountable to the Data Subject and NITDA
- Third parties i.e entities other than the Controller and Processor are also included under the responsibility of the Controller in terms of compliance.

# LEGAL BASES FOR PROCESSING PERSONAL DATA



# RESPONSIBILITIES OF A DPO

- Get Board and Management buy-in into data protection implementation
- Develop and constantly review Business Case for implementation
- Inculcate Data Protection as a culture across board
- Understand the data process of each operational unit of the organization
- Constantly train and retrain staff
- Advise the CEO on practices that could trigger breaches
- Interpret the roles of different units in the light of data protection

**POLICY MAKER** + **POLITICIAN** +  
**PRACTITIONER** = EFFICIENT DPO



# THE ROLE OF DPCOs IN IMPLEMENTATION

## • DOCUMENTATIONS

- ✓ Data Protection Strategy
- ✓ Privacy Policy
- ✓ Review of Contracts in line with NDPR/GDPR
- ✓ Forms- Data Subject Access Request; Rectification etc.
- ✓ Inventory of Processing Activities
- ✓ Data Protection Impact Assessment

## • TRAINING/CAPACITY DEVELOPMENT

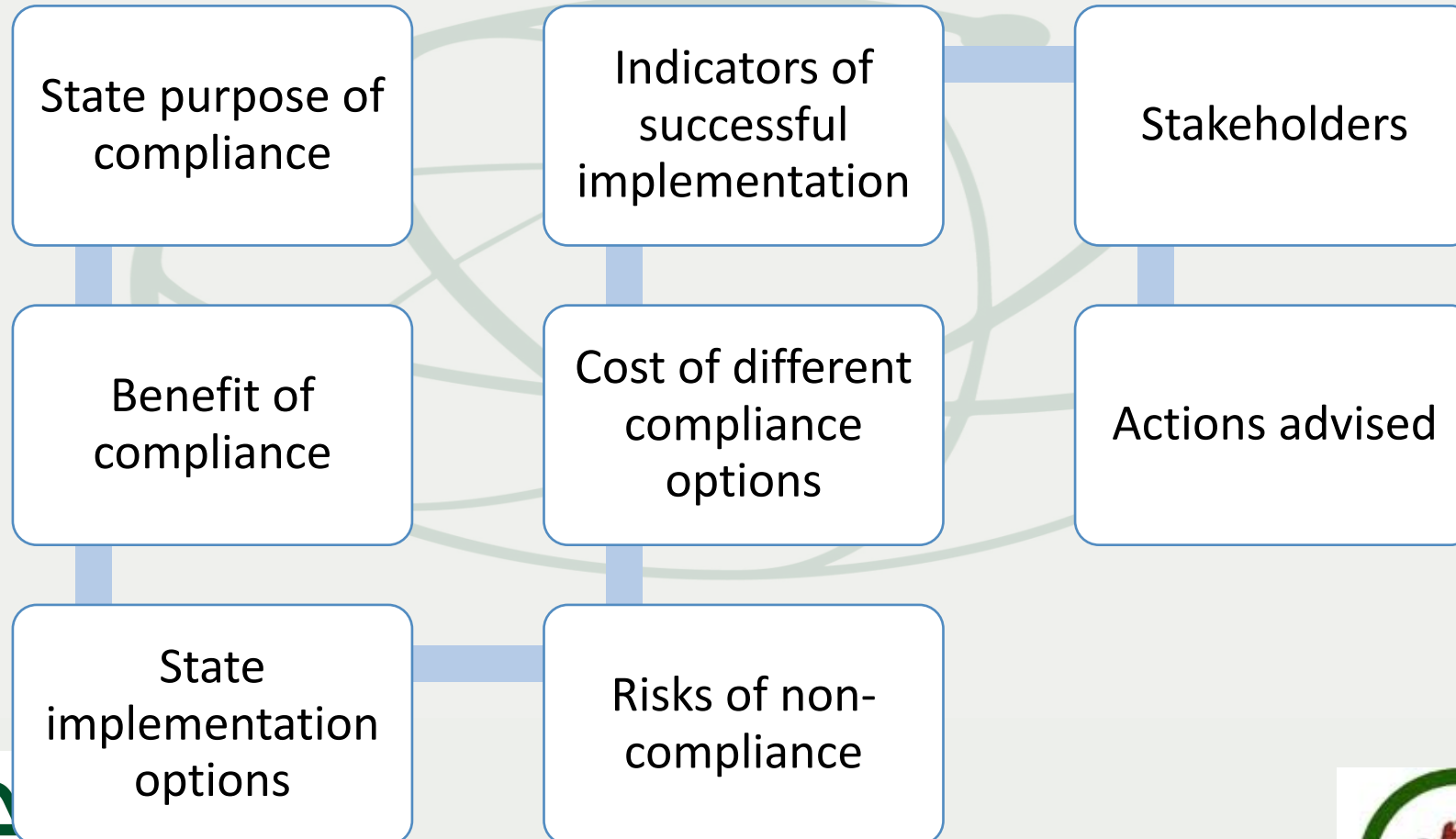
- ✓ General Trainings
- ✓ In-house pre and post implementation orientation
- ✓ Consultations
- ✓ Recruitment and capacity for DPOs

## OTHERS:

- ✓ Brand Enhancement through Compliance
- ✓ Responding to Regulatory queries
- ✓ Incident Management



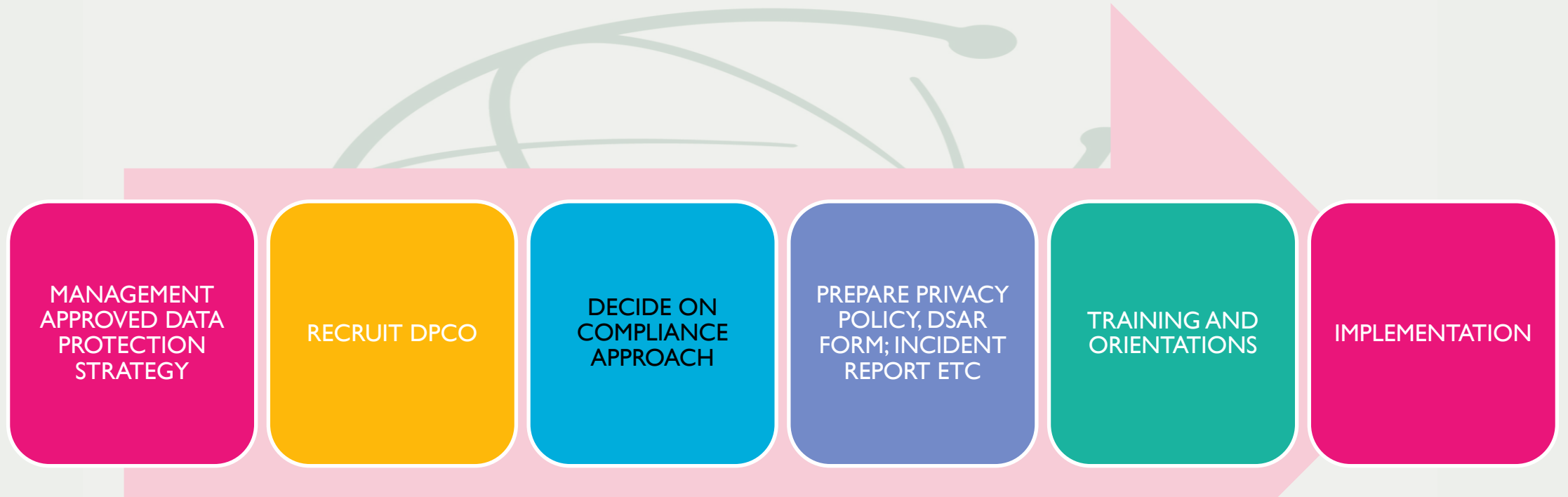
# PREPARING A MEMO FOR NDPR COMPLIANCE



# COMPLIANCE CHECKLIST FOR MDAs

SN	CHECKLIST	NDPR
1	Conduct Data Audit	Art. 3.1 (7)
2	What is Legal Basis for Processing?	Art. 2.2
3	Clarity on Data Processing	Art. 2.5
4	Privacy by Design	Art. 2.6
5	Awareness and Capacity	Art. 4.1 (3)
6	Develop and Circulate Data Privacy Policy- which contains DPIA Process; Notification of Authority	Art. 2.5
7	Design system for easy rectification, portability etc.	

# PATH TO COMPLIANCE



# WHY SHOULD WE COMPLY?

- **A**- Attraction of reputable investors
- **B**- Brand Image Enhancement
- **C**- Customer/Citizen Loyalty
- **D**- Data Process Maturity
- **E**- Earning Power
- **F**- Focus for your organization. Reduce distractions
- **G**- Goodwill with Government, Citizens and Businesses

# FURTHER READING

- Nigeria Data Protection Regulation 2019
- Guidelines for the Use of Personal Data by Public Institutions
- NITDA Privacy policy as a sample Privacy Policy



- **QUESTIONS AND ANSWERS**