

INTERNATIONAL FORUM ON PRIVACY AND DATA PROTECTION

Presented by:

Adv. C Weapond - Full-time Member

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**INFORMATION
REGULATOR
(SOUTH AFRICA)**

*Ensuring protection of your personal information
and effective access to information*

TOPICS

- Background
- Introduction
- Challenges in South Africa and Africa
- Social Media – WhatsApp Privacy Policy
- Conclusion

BACKGROUND



BRIEF BACKGROUND

The Information Regulator (Regulator) consists of five (5) Members who were appointed on 01 December 2016 in terms of section 41(2)(a) of the Protection of Personal Information Act No. 4 of 2013 (POPIA).

Members of the Regulator consist of a Chairperson who is appointed in a full-time capacity and four other persons, as ordinary members of the Regulator. Two of the four members have been appointed in a full-time capacity and two ordinary members have been appointed in a part-time capacity.

INTRODUCTION



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The COVID-19 pandemic resulted in an increased use and reliance on online and virtual activities, i.e. online shopping and remote working

Therefore, COVID-19 had the unintended consequence of over reliance on online and virtual means, especially amongst mid and high income earners in South Africa

A report on the State of ICT in South Africa reveals that South Africa has about 50% internet penetration

Recent reports suggests that another data breach could have occurred whilst Facebook suggests otherwise, claiming that it was old compromised data recirculating on the internet

CHALLENGES IN SOUTH AFRICA AND AFRICA



CHALLENGES IN SOUTH AFRICA AND AFRICA

South Africa experienced a few material / significant data breaches over the past few years which include:

1. Dracore Data breach (2017);
2. Liberty Life Group (2017); and
3. Experian (2020).

The following significant international data breaches occurred during the pandemic:

1. Zoom;
2. Google.

The Cambridge data analytica data breach highlights some of the continuous challenge's.

CHALLENGES IN SOUTH AFRICA AND AFRICA (cont..)

In respect of the Dracore's data breach, over 30 million economically active South Africans records were compromised.

Challenge No. 1

- Should data subjects want to institute legal action, it might prove difficult to pinpoint the exact source where the same data of a data subject's have been compromised in more than one of incident.

Challenge No. 2

- Some data breaches which involves data subjects from South Africa occurs outside of the Republic of South i.e. Cambridge Data Analytics in which incident more than 400 000 Facebook profiles of south africans were compromised.

CHALLENGES IN SOUTH AFRICA AND AFRICA (cont..)

The data breach occurred in the UK but South Africa were referred to the Ireland Office of Facebook.

The final report from the ICO did not provide recourse for all jurisdictions affected by the data breach

The South African data protection legislation is only applicable in South Africa unlike the GDPR which have extra territorial application.

Social Media – WhatsApp Privacy Policy



SOCIAL MEDIA – WHATSAPP PRIVACY POLICY

South African users of WhatsApp are governed by the Privacy Policy for users living outside of Europe

According to the analysis conducted by the Information Regulator in South Africa, more protection is offered to users living in Europe even though the south African legislation is substantially similar to the GDPR.

Challenge No. 1:

- South Africa has learned through various media reports that the ICO's Office in the UK is taking action against Facebook.
- The German Data Authority has taken action against Facebook.
- South Africa is concerned about the fragmented approach adopted by the different jurisdictions and have thus approached the Global Privacy Association (GPA) for a uniformed approach.

SOCIAL MEDIA – WHATSAPP PRIVACY POLICY (CONTI..)

Challenge No. 2:

- Only a few countries in Africa has adopted data protection legislation which makes it very difficult to engage countries on the African continent
- No uber or over arching legislation for the african continent like the GDPR

CONCLUSION



CONCLUSION

In respect of data breaches which affect multiple countries, more should be done to achieve recourse for all affected jurisdictions.

The GPA should play a more active role in instances of cross border issues and where multiple jurisdictions are affected.

Enforcement and cooperation between regulators should be strengthened.

Network of African Data Protection Authorities wrote to Facebook to enquire about their Revised Privacy Policy

THANK YOU

