Balancing Data Protection and AgTech Innovation: Exploring Ethical Data Sharing in the Agri-Food Sector

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Data Governance

- Establishment and management of authorities , accountabilities, rules, processes and practices for managing data and guiding data related activities and execution of policies and practices.

- It is a strategic business initiative that determines and prioritizes the financial benefits data brings to an organization as well as mitigating the business risks of poor data management practices.

- Deals with the definition and responsibilities of data policies, processes, and standards /concerned with people, processes and procedures.

- Implications for lack of data governance-reputational damage, consumer trust, administrative fines and penalties (Nigerian case study)

Goal of Data Governance

- Facilitate better decision making

- Protect needs of business and data stakeholders

- Promote the adoption of common approach to data handling

- Reduce costs, increase productivity and effectiveness through coordination of efforts.

Consent

For consent to be valid, it must meet the following criteria

1. Freely given – Farmers must be offered control and genuine choice

2. Specific- Consent must be given specifically for a particular processing operation

3. Unambiguous- Farmers must make a clear statement or an affirmative action which must leave no doubt as to their intention to give consent

4.Informed Consent- Farmers must be given all the necessary information/details of the processing activity in a language and form they understand so that they can comprehend how the processing activity will affect them.

Condition for Informed Consent

The following information must be provided to farmers prior to obtaining their consent

1. The identity of the controller/processor

2. Purpose of the processing operation

3. Type of personal data to be collected from the farmers

4. Whether data will be shared with third parties

5. Whether data will be transferred out to the country and the possible risks of transfer

6. The farmer's data subject rights

7. Implications for providing withholding or withdrawing consent

N/B- Farmers must have capacity to give consent /Age verification requirements. Example and case study

Burden of proof in relation to consent

Data processor/controller bears the burden of proof for establishing a farmer's consent to the processing of their personal data for a specified purpose.

ROLE OF INFORMED CONSENT

- Farmers given control over their personal data

- Farmers know the full details of the processing activities

- Meet the legal requirements

Farmers' Data Ownership & Privacy

- Farmers exercise ownership and control over their personal data.

- Farmers own the data for as long as it can be used to identify them.

- Ownership and control is lost when the data is anonymized.

- When controllers and processor anonymize data in such a manner that a farmer can no longer be identified by making reference to the data, they become owners of the data

- Edward Williams Vs Information Commissioner (2022)

- N/B African perspective.

Good practice and challenges of informed consent

Good Practices

• Obtaining written/ recorded consent as opposed to oral consent

Challenges

• Language barrier

• Farmers disinterest in their personal data

• Keeping up with emerging legislation and other developments in privacy laws

• Lack of uniformity in legal requirements-makes compliance difficult.

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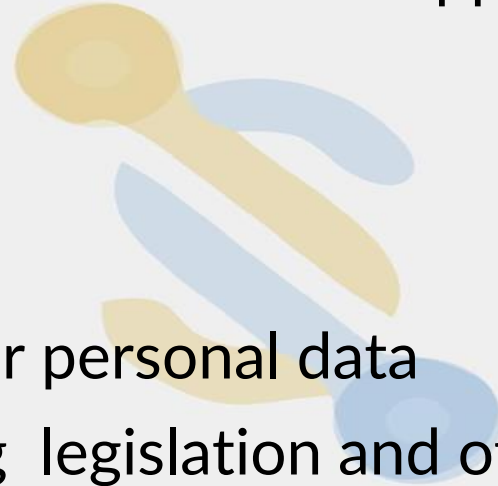
Developments in regulation and compliance

- Enactment of data protection legislation across the African Continent (Ethiopia, April)
- Malabo convention
- NADPA
- Adequacy dialogue between Kenya & EU

- Nigerian Meta Fine (220 Million USD), Nigerian Fidelity bank fine (558,000 USD)

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Responsibilities of Donors , companies, NGOs in the AgTech Sector.

Compliance with the various laws and regulations that affect their operation i.e EU GDPR, KDPA, GDPA etc.

Accountability requirement

Policies, procedures, information security, etc.

Thank You

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