

Dear Chairman and Members of the Taskforce:

The Proposed Privacy and Data Protection Policy and Bill 2018 is an important step in the right direction toward fulfilling the fundamental "right to privacy" as enshrined in Chapter of Kenya's Constitution.

1. Part IV (38) of the Bill on "Notification and communication of breach" does not specify period within which a data breach may be disclosed to the Data Commissioner and/or the data subject. It is crucial to provide a statutory timeframe so that data controllers and processors are held accountable for maintaining robust data protection measures. This is particularly crucial for Sensitive Personal Data, whose breach may be significantly consequential for data subjects. Providing such a timeframe would be in line with global practice and ensure Kenya maintains competitiveness and credibility on an international level.
2. Secondly, it is important to distinguish the processing of personal data in the public and private sectors. As such, there should be distinct laws and policies for government agencies in their handling of personal data versus non-public entities.

I only recently came across the Proposed Policy and Bill and did not have time for more substantive comments. I welcome an opportunity to do so given my expertise in this area. I am a Certified Information Privacy Professional for Europe (CIPP/E) and the United States (CIPP/US), and have dealt with privacy and data protection issues across Asia-Pacific, Europe and the U.S.--including grappling with changes following the Schrems decision and the General Data Protection Regulation. Here's an article with the International Association of Privacy Professionals, where I a long time member: <https://iapp.org/news/a/a-newbies-safe-harbor-odyssey/>

Respectfully,

Elias Okwara