



COMMUNICATIONS AUTHORITY - KENYA

Per email: pdp@information.go.ke / pdp@ca.go.ke

3 September 2018

Dear Sir/Madam

RE. DATA PROTECTION BILL ("BILL") 2018

The Foschini Group Kenya Limited ("Foschini Kenya" or "we") is a retailer, trading as a number of retail brands, but most prominently as Foschini, Markham and American Swiss.

Foschini Kenya recognises its responsibility to protect the personal data of its customers, employees and suppliers. Foschini Kenya is committed to processing personal data responsibly and in line with this commitment, we would like to submit the following comments on the Bill:

Section	Foschini Kenya comments
Section 1 - the definition for "disclosure" refers to a data processor but no definition is provided for a data processor.	A definition for a data processor should be provided.
Section 31— the section regarding transfers of personal data out of Kenya appears under the subheading "Special personal information".	Section 31 should appear under a heading of its own. A proposed heading title could be "Transborder flow of personal data".
Sections 6 and 7 - the processing of personal data is limited to instances where the data subject has provided explicit consent; or where the right to privacy may be overridden by a legitimate interest (e.g. national security or in the public interest).	We would propose a wider set of justifications to process personal data, namely: <ul style="list-style-type: none">• data subject's or competent person's consent (where the data subject is a child);• processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is a party;• processing complies with an obligation imposed by law;• processing protects a legitimate interest of the data subject;• processing is necessary for pursuing the legitimate interest of the responsible party or of a third party to whom the information is supplied.

LR No 1/1228
Information Commission for Kenya



Kindly confirm receipt of these comments and thank you for allowing us the opportunity to provide input on the Bill.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Chevreau', written over a light blue horizontal line.

ANNA CHEVREAU

Senior Manager: Legal Compliance
TFG Finance & Advisory

LR No J/1228
1st Floor Chaka Place.
Argwings KI-iodhek Road
Nairobi, Kenya

PO Box 2)9d8-00100
Nairobi, Kenya

TO FoschInT Group Kenya limited | Reg No. CP@2OTgWB9517

Tel: +27 (0)21 938 1911

DIRECTORS • G Hansen. N A | •4aritz

www.tfg.co.za