

## **Effects of Information Policy on Transborder Data Transfer and Information Technological Development.**

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### **Abstract**

*The nations of the world have become intertwined in a global society, which if they are to grow and prosper would take the best policies and practices from their individual societies and cultures. Advanced technology is making it possible to begin the process of creating effective information infrastructures in developing countries. Therefore it is essential that information principle and policies are adopted to protect economic and social development, cultural and political differences for all nations.*

*This paper discussed various issues that will need to be addressed before a workable set of policies will be put in place such as rationale for a global information policy, information society policy, ICT policy, internet policy, e-commerce legislation policy, information technology development policy, security and privacy policies, transborder data transfer flow policy, privacy and data protection policies, government and private sector relationship policies, standard policy as well as education and training policies, and the challenges faced by developing global information policy.*

*After an extensive study the paper recommends that international regulation framework and policies should be made to cut across national borders in order to protect the economic, technological, political, educational and cultural differences for all nations of the world.*

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### **Introduction**

Information policy is a set of interrelated principles, laws, guidelines, rules, regulation, procedures guiding the oversight and management of information also it is a set of rules formal and informal that directly restricts, encourage or otherwise shape the flow of information. Tina James (2001) believes that it is the policy initiatives that promote the use of tools and concepts associated with global information society with a view to realizing their potential in achieving national, social and economic development goals.

Finquelurenis (2000) stressed that global information policy is an inter-governmental program whereby regional government pledge to harness the new opportunities of the information age to create equitable societies through better access to information with the aim of narrowing the gap between the information- rich and the information-poor in the context of fast and permeable evolution of ICTs. He went further to state that global information policy framework known as e-strategies; ICT policies, public strategies, concern every aspect of human and the broader societal, democratic, cultural and economic dimension of information access and use. Access to information is fundamental to all aspects of our lives prospects, it create an enabling

environment for free and independent sources of information ,and on the widespread availability of the ICTs , production of local digital content and developing the capacity to use them.

Tina James (2001) believes that it is the policy initiatives that promote the use of tools and concepts associated with global information society with a view to realizing their potential in achieving national, social and economic development goals. Information policies differ from country to country, it is developed along with other variables such as level of economic development and historical context, contributes to the difficulty in finding a common policy in the regional environment.

Information is power and money and is very important because it gives the organization the competitive edge over its competitors, many organizations are information based the emphasis is not based on what you produce but what information do you have to beat your competitors in terms of its strength, weaknesses, opportunities, and threat. The introduction of ICT has created an explosion; it has open up new perception e.g. e-commerce, e-government, e-health, e-learning, etc. It has also increased democratic process of governance for example the conduct of general elections in Nigeria in April 2011 with the use of ICT tools has brought about transparency, which was shown throughout the world through the use of Information technology. Therefore as information is solving a particular problem so it create another, there is need for a guideline or a framework that will regulate the management of information, guarantee privacy and security of information.

#### Rationale for a global information policy

The continued growth of information and globalization of knowledge creation ,the generation of non-print formats such as multimedia and digital ,the rapid expansion of wireless technology and the need to increase the level of sharing of information/resources among countries, has made it mandatory to develop a global information policy. Without such a policy the global information environment will become more like a sheep without a control. Policy is a crucial element of strategic planning it provides guideline for the implementation of strategies i.e. cause of action to achieve goals and objectives.

#### Purpose of Information Policy

- Protection of privacy of individuals and organizations
- Preservation and reliability of networks of information transfer.
- Protection of intellectual property rights of those who create the information through a legal framework.
- Promote uniform handling of similarly information exchange activities
- Introduce continuity of action and decision among the participants.
- Serves as a major communication link to the various global constituents.

In view of this policies should be written in solving specific problems ,to prevent errors from reoccurring and to implement information strategies, however

UNESCO (2009) explained the concept of information for all which means that

- Information literate communities, where people in all walks of life are empowered to seek, evaluate, use and create information effectively to achieve their personal, social, occupational and educational goals.
- All people have access to information services including the media, ICTs and in whatever other forms they present themselves.
- Community libraries and community information centers are accessible to all.
- Qualified information professional staffing libraries and achieves.
- Information resources relevant to local communities accessible, available and affordable.
- Digital access, computer, internet in all community libraries.
- Mobile phones being used for information creation and access.
- People with computer literacy (ICT skills) and media literacy.

Moreover, Daniel(2000) asserts that Information policy includes : Literacy, Privatization and distribution of government information, Freedom of information access, Protection of personal privacy, Intellectual property rights. He went further to explain the government rules and responsibilities for information which includes;

- To provide information, and maintain information that meets specific Information needs,
- To protect the privacy of personal data, to make decision about which information to disseminate as how to disseminate it effectively.
- To regulate communication systems

To support libraries and schools

- To support libraries and schools
- To classify information related to national security.
- To classify interrelationship among stake holders in information sector, e.g. the extent to which information is a social good.
- that is society depends on members sharing a common base of information
- a commodity a property which can have economic value and can be owned bought and sold.
- a capital investment leading to increased productivity.
- an instrument of government which is necessary for such function as the census, collecting taxes, catching and prosecuting criminals, protecting public health, distributing social benefits, issuing licenses etc.

Rowland's (2002) state that policies should be flexible, dynamic and responsive to changing circumstances, whereas Mansel and Wihn(1998) confirmed that good policy with regard to the building of the information society must rely only on sufficient technical and material resources (the networks) and skills but also be coherent with other societal policies. Furthermore, they pointed out that information policy not only shape events (proactive information policy) but also respond to events (reactive information policy). They were optimistic that the rapid development of e-commerce in many countries and region of the world has led to different responses from governments. These range from full blown participative policy process to implementation strategies, involving rapid formulation of legislation to accommodate digital signature, changing tax structures, and the security risk surrounding online business transactions.

The three hierarchical levels for information policy as proposed by Rowlands are :

Infrastructural policies, vertical information policies, and horizontal information policies.

- Infrastructural policies: deals with the development of natural infrastructures required to support an information society. It is a pre-requisite for progress in education, e-commerce, freedom of information and universal service etc.
- Vertical information policies includes sectoral policies such as education , tourism , manufacturing , health etc.
- Horizontal information policies are those policies that impact on broad aspects of society eg policy relating to freedom of information, tariffs and pricing and the use of ICTs by government internally and in its relationships with citizens, business, labour , academia etc. He stressed the need for integrating national ICT strategies overlaps with four well established policy fields which are technology , Industry , telecommunications and media. Sectoral policies such as education , employment, health ,welfare etc are increasingly need to address issues relating to ICTs and the growing interdependence between the development of ICT policies .

Information Society consist of a social structure based on the free creation , distribution, access and use of information and knowledge, the globalization of various fields of life. A new type of society in which humanity has the opportunity to lead a new way of life, to have a higher standard of living, accomplish better work, and to play a better role in the society through the global use of information and telecommunication technologies. However Alvin Toffler(1980) identified three 'waves 'of civilization, the first wave was agricultural revolution, the second was driven by industrial revolution and the third wave information revolution by creating a global society highly dependent on information creation and transfer ,with its own jobs ,work ethics ,concept of life ,economic structures and political mindsets, through advanced telecommunications. However information revolution is having a greater impact on the world than any other revolution. Furthermore several conceptual operational endeavours such as global villages ,information super highway ,national world, information infra-structure are examples that world leaders in government ,information industries and libraries are genuinely interested in improving the transfer of information from one human being to another and technology is certainly the only means for improving the human condition throughout the world.

UNESCO (2008) Emphasized the importance of access to information, provide relevance and usefulness of information for good governance and transparency. The following are priority areas of advice on policies issues to be pursued.

#### Information Literacy

It empowers people in all walks of life to seek evaluate, use and create information effectively to achieve their personal , social , occupational and educational goal, it is the basic human right in a digital world and promotes social inclusion in all nation closely linked are the other two related literacy's in a digital world –computer literacy (ICT) skills and media literacy (various kinds of mediums and formats by which information is transmitted) .

#### Information Preservation

The traditional ways of preserving information (libraries, archives and museum) are challenged to keep pace with the rapid growth of information. They are faced with new challenge to digital technology, because as technology advances the stability and lifespan of documents is considerably decreasing and many important documents in electronic format may not survive or will become completely inaccessible, within a short time which may result to permanent loss to collective memory of human kind.

### Information Ethics

According to Jubxubowicz (2009) ethical principle for knowledge societies derive from the universal declaration of human rights and include the right to freedom of expression, universal access to information ,especially that which is in the public domain , the right to education , the right to privacy and the right to participate in cultural life . Inequality of access to ICTs between countries and between urban and rural communities within countries, poses more stress to the ethical issues.

### Information accessibility

The development of internet, create an unprecedented opportunity for sharing information, as well as promoting linguistics diversity and preserving languages, that would otherwise become extinct therefore, countries are encourage to develop a digital content strategy and encourage the development and promoting of governmental public domain information and the creation of new content where thousands of worlds languages will be digital connected to all people which will allow communities to create their own content in their own language.

### ICT

ICT helps in improving the standard of living in developing regions of the world, although there is the problem of availability of ICT in the rural and some urban areas. Therefore privately run community telecentres with payphones, computers, and fax and internet access are the various ways of accessing information, based on ICT technology, therefore government regulation to set up support and finance the operation is essential in order to bring ICT services to rural and some urban regions of the world.

Some Problems Envisaged with the use of ICT are:

- Lack of availability due to rural and urban differences
- Lack of purchasing power to access ICT
- Low quality of telecommunication services

ICT is one of the means of achieving development developmental goals with the theme, development and access for all. The disparity in the level of access to ICT between nations and within countries poses a great concern to the information era. For example the density of telephone lines in the rural areas of developing countries can be up to 100times lower than the urban areas, while the explosion of cellular has gone a long way towards reducing this differences, other differences are the gaps between the degree of access and effective use of ICTs and provision of social services for instance in government, health care, education and agriculture. Policy makers therefore face a challenge in devising schemes that will allow their countries to meet the MDG goals and build an inclusive information society.

Moreover sound policies should be made to allow market economy to develop and create a market economy for ICTs and market liberalization, thereby operators would enjoy stable regulatory environment and local entrepreneurs are free to invest and obtain a return from provision of public services. Innovative policies that stress community access and financial support that is provided through well – targeted competitive subsidies , within a clear and transparent output –based aid (OBA)framework can influence substantial increased investment to achieve both positive social returns and commercial viability. The general successful operations in telecentres and financial performances shows that people irrespective of their economic level , are willing to spend on ICT services for personal or business purposes. The telecentres are equipped with any combination of telecommunications services such as telephony , fax, e-mail and internet ,office equipment such as computers, modem ,CD-Rom , printers and photocopiers ,media services , including radio ,TV, audio devices and multi-media hardware and software all there serves as a mechanisms to promote access to ICTs in developing regions. The international organization such as World Bank, information Development (ifoDev.), support small scale pilot project as a way of promoting the widespread use of ICTs as an essential tool for development and access to information.

#### Benefit of ICT to global information economy

- Gains from access to technology generate information, which can promote jobs and entrepreneurship in such industries as data processing and call centers.
  - Liberalization of telecommunications regulations especially, in Senegal and South Africa has spawned a host of “telecentres”, providing access to telecommunications and creating thousands of jobs, and providing public access broader range of ICT services and governmental information.
  - ICT can also be made relevant to the objective of poverty alleviation, through its effect on economic growth and also by improving access to health care, education and other social services, be it private /public assistance to community –based organization, to provide access tailored to the need of poor persons.
  - Application of ICT to traditional industries such as agriculture and fisheries could result in important efficiency gains through improved access to market information and to existing good new markets .Access to better information on farming and fishing methods: models to optimize yields, and meteorological information to determine planting cycles, could also be used to good effect.
  - The need for the government to create an enabling and supportive environment for locally owned and controlled ICT businesses (both medium and small enterprises)in attracting much needed foreign investment into the ICT sector .
  - Global forces especially the WTO and regional blocks has put government under pressure to change policies to accommodate global trading and commerce activities through telecommunication which is considered a national assets and forms the backbone of an interconnected world economy that requires speed and efficiency of information transfer , encourage foreign and domestic private sector participation to inject the capital , technical and managerial skills , needed for this larger-scale infrastructure rollout. All these have to be considered when policies are formulated
- facilitates sharing and delivery of information throughout the world
- digitalized library materials are now been shared worldwide.

## INTERNET

Gary Stix (1994) stated that the internet has become the world biggest blackboard it is the network of millions of interconnected computers through the whole world. Internet is the key driver of the information society and the EU commission strategies aims to bring every citizen, home, school, business and administration online by making internet access faster, cheaper, and more secured, also to create a digital literate and entrepreneurial access by investing in people and skills, and stimulate the use of the internet. To achieve this, a clear legal framework has to be established covering the take up and development of new technologies and applications.

Also it promotes availability and access to the internet, e-commerce and also setting common technical standards in mobile telecommunications such as GSM, (UMTS) Digital television, DVD and radio. Anyone can mine the internet riches from office or home it is now a target for vendors, advertisers, for seeking new markets because internet context passes across national and international borders.

Except for occasional destructive pranks by perverse hackers, credit card fraud, ATM scammers, e-mail scammer and other abuse of human activities are criminal in nature which poses threat, to internet communication from country to country which could have international implications. French government in 1996 proposed international laws of the internet, he recognizes the internet challenge to traditional notion of national sovereignty. Computer networks allow routine control of activities across national boundaries; laws are generally territorial, extending within the borders of the jurisdiction of the enacting government.

Gigante (1996) agreed that cyberspace transcend those borders, creating new incentives regarding information transfer. For the internet users to comply with many different laws would be a burden that would frustrate internet development and innovative, therefore an international legal framework is essential to ensure the internet's orderly evolution into a true transborder information and entertainment networks. In other words Smith(1999) declares that open flow of personal information reflects the practical benefits that such accessibility brings, the personal information helps businesses to deliver, the right products and services to the right customers, at the right time, at more effective and lower cost , other benefits are:

- enhances customer convenience and service
- permits consumers to be informed rapidly and at low cost
- improves efficiency and significantly reduces the costs of many product and services
- facilitates a wide range of payment options including instant credit.
- allows for real consumer mobility so that consumers can obtain credit.
- promotes competition by facilitating the entry of new competitors into established markets
- facilitates the detection and prevention of fraud and other crimes .

Electronic commerce legislation

The e-commerce consumers and business depends upon a substantial legal framework that guarantees for commercial transactions carried out electronically and allows for the free movements of electronic services. A balance should be reached in order to regulate e-commerce and the risk of over regulation which may affect the rapid growth of e-commerce to avoid this e-commerce legislation focuses on essential areas such as protection of copyrights, intellectual property rights, distance marketing of financial services etc.

“Among the Notable Importance Policies, Programme, and Specific Measures which will be recon with when developing a global information policy Are;

- The security and privacy policy, which aims at creating favorable legal and technological solution for authentication, integrity, confidentiality personal data protection, network security etc.
- The completion of the internal market for e-commerce , which aims to secure free provision of electronic services and provide customers and business with legal guarantees
- The e-content programme which support the development of cultural and linguistic multimedia contents for internet.
- The e-learning which coordinates community activities related to education in digital age.

### **Development of information policy**

The process of empowering the communities involves an integrated approach in ICTs for the development intervention to ensure that the overall goals are achieved for improving people’s quality of life and creating more equal open society in the region. The key challenge is to consider the longer-term use and the role of ICTs in society while making policies intended to support infrastructure development. In developing country the focus is on the infrastructure development dimension policy, at the expense of the development of human resources capacity and to the production, exchange and dissemination of information content. In view of this,

Derric Cogburn (1999) contend that there are some issues to be considered during an information policy formulation process which are:

- The information economy and national economic development. “Information Economy” refers to “a new global economic structure” where in the production of information goods and services dominate wealth and jobs creation, and is based on the use of information and communications technologies (ICTs) , in addition the information economy and society are driven by ICTs with economic, political, social and cultural forces. Countries that fail to get on board the digital revolution may face loss of competitive economic strength and market share, and a decline in national income. The three focus areas are radio communications, telecommunication, standardization and telecommunications development.

African telecommunication union (ATU)

ATU was established in December 1999 the specialized telecommunication agency of the OAU the vision of the union is to make Africa an equal and active participant in the Global information society. The mission of the union is to promote the rapid development of info-communications in African, in order to achieve universal service and access in addition to full inter-country connectivity in the most effective manner.



- Governance of the internet

This require setting technical standards for the internet needs to favour openness and consensus the need of developing countries , civil society and emerging entrepreneur has to be considered .

- Convergence and development of relevant content services and applications, government must develop the policy capacity to establish frameworks and manage transition in a volatile and unstable information environment. Policies need to be developed to enable citizens communicate at all levels ,and to have access to relevant application and services.

- Development of Human Resources Capacity

ILO (2001) confirmed that Employment report identified lack of human resources capacity, on the African continent which has been a major concern especially, the scarcity of skills is even more critical in the area of ICTs. Information policies therefore have to give priority to the development and retention of valuable ICT skills if such policy is to be implementable. Attention should also be given to gender to ensure that there is equitable access to ICTs and the benefits they can offer.

- Integrating equity and freedom of expression in information policy

Freedom of expression in ICTS should be governed by policy and regulatory framework that are distinct from the framework governing radio ,the print media , television and other emerging communication technologies , different countries need to develop different responses to the issues of freedom of expression in their policies and to ensure effective integration of different types of policies. Hence the right to communicate is a fundamental human right, related access and use of the internet and electronic communication infrastructure are equally fundamental, if government need to ensure that ordinary people have access to public information and that marginalized groups can share in the benefits of internet access, public information is disseminated through the internet in a way that is accessible to users of low-end technologies.

- Freedom of expression and information exchange

People must be able to express opinions and ideas and share information freely when using internet, policy should consider the following aspects relation to freedom of expression

- The right to communicate Legal and regulatory framework
- Ability to express opinion and ideas and share information freely
- Regulation of ownership
- Licensing and control of intellectual property privacy.
- Governance structures
- Informing people of their rights.

Equality of opportunity should take into consideration factors of gender, level of education and literacy, household income, language, race and ethnicity, physically disabled; this is based on the issues that policy should be drawn.

- Global regional and national governance of ICT infrastructure

Transparency and accessibility. All decision-making processes related to the governance and development of ICT, for examples assigning of telephone numbers activation, authorities domain names and numbers should be open and accessible at global regional and national levels.

### International Dimension

The internet and e-commerce are global by nature, therefore common rules should be developed which will involved multilateral organization such as international communication union (ITU) established to harmonise standards and rules in order to facilitates communications. World trade organization (WTO ) ensure global telecommunication regulations and licensing. World Intelligent Organization ( WIPO), the organization of economic cooperation and development (OECD) etc, the general agreement of trade and services and telecommunication included liberalization and telecommunication markets, was part of the achievement of (WTO) . Many organizations are information based which gives them the competitive edged over their competitors; therefore the use of ICTs has caused an explosion of open market and telecommunication market.

### Security and Privacy

Security and privacy protection is necessary for wide take-up of the internet. For example the EU has adopted a legal framework ensuring the legal and mutual recognition of electronic signature (authentication and integrity) also a regulation liberalization, the intra-community trade of encryption products.(confidentiality) and protection of personal data. For example EU has put up an action plan to promote a safer use of internet by combating illegal and harmful content, tackle cyberspace, and network security and privacy others are education and training access for the elderly, the sick and the disabled, e-commerce, e-government, e-health, e-environment.

### Challenges of Global information policy

Riggs(2005) examined major issues and challenges on the path of global information policy which have to be resolved are;

- financial resources. Many countries do not have the money to acquire the necessary telecommunication systems.
- Limited experience with the outside world and limited knowledge about other cultures
- Language competencies
- Standard do not exist in all parts of the world to accommodate new digital formats
- Democracy, Some countries do not enjoy the freedom to share information with other countries
- In operability protocols, some countries do not have the means for effectively interconnecting with other telecommunications system.
- Lack of information infrastructure, such as software, physical /human resources and data /information /knowledge, one or more of these are lacking in developing countries.
- Copyright has been compounded by online multimedia resources ,therefore copyright laws from different countries are considered in the light of library cooperation
- Vision –there is lack of understanding and apprehension about the importance of information in some parts of the world thereby preventing investing in the global infrastructure.

- Planning skills –there is the need for a strategic plan o direct the global information infrastructure so as to achieve good result
- Information policy – A comprehensive global information policy is necessary for setting the direction for cooperation and collaboration in sharing library and other intellectual resources

### **Transborder Dataflow**

Robinson (2004) stated that transborder dataflow is the transfer of data containing personal or sensitive information, from an entity in one country to another jurisdiction and is an area of increasing regulation around the world, while Longworth (1995) agreed that, the advent of global networks such as the internet now makes it possible to collect, process, transmit and exchange personal data on internet browsing on an unprecedented scale. The growing awareness of the power of information as a resources of the power of information and the increasing volumes of personal information (or data) that was flowing between countries, led to the coined of the world transborder data flow in 1980 in response to the European privacy concerns.

Wapies and Noris(1992) emphasized that transborder data flows is the movement of machine-readable information across national boundaries through the use of electronic technologies for the purpose of storage or processing , however main (1989) believed that within any organization , information must be collected and processed on a timely basis to support the firms decision-making and control functions to satisfy share holder requirements and to comply with governmental directives. In the light of this wang (1993) classified the factors that complicate the data flows process for individual and multinational companies as privacy concerns, economic , considerations , sovereignty and cultural differences

While Bovasso(1992) contend that an integrated network organization framework is needed to facilitate information system function , for example the multinational companies such as federal express requires the construction and maintenance of a database that include detailed information on clients both (shippers and recipients) on transportation and communication facilities within all countries where the firm operates, characteristics of the items being shipped and instant access to database by all federal express offices and terminals, wherever located in the world. There is the need for global internet freedom act , to deal with internet jamming, censorship, blockage of access to websites and e-mails , most especial when their citizens are attempted to access topics they don't want accessed. A typical example is the temporary blockage of internet access by Egyptian leader Hosni Mubarak during the Egyptian crisis. The GIFA would expose repressive government and intimidation and persecution of their citizen who use internet, without observing the fundamental human rights of the citizen.

Transborder data flows includes the supply or exchange of personal information ,between business units or divisions within the same organization or where one entity is providing data processing services to another, or where transfer of personal information is ancillary to a commercial transaction. The most intensive forms of tbdf occurs in the area of human resources , financial records, banking insurance , credit transfer ) customer related information such as marketing and travel reservation ) public sector agencies and on-line data transfer.

Privacy and data Protection

Longworth (2000) stressed that the transfer of personal data to third countries is governed by article 25 of EU data protection directives (95/46/EU) passed in 1995 .Which states that:

1- Member States shall provide that the transfer to a third country of personal data which are undergoing processing or are intended for processing, after transfer may take place only if the third country in question ensures an adequate level of protection.

2-Consideration shall be given to the nature of the data, the purpose and duration of the proposed processing operation or operations, the country of origin and country of final destination, the rules of laws, both general and sectoral in force in the third country in question and the professional rules and security measures which are complied with in that country.

3. The member states and the commission shall inform each other of cases where they consider that a third country does not ensure an adequate level of protection as stated in paragraph 2.

4. Where the commission finds that a third country does not ensure adequate level of protection within the meaning of paragraph 2, of this article. Member states shall take the measures necessary to prevent any transfer of data of the same type to the third country in question.

The European union data protection directives on the protection of individual with regard to the process of private data , including public and private sector and foreign entities, covers the collection, storage , used and disclosure of personal data with stringent rules for the processing of sensitive data for example information on health. The directives primary purpose was to implement the right of privacy under the European convention for the protection of human rights and fundamental freedom and to ensure equivalent level of protection in EU member state, for the purpose of facilitating and integrated economy through free movement of information.

The free movement of such data required member of the EU to implement their own national privacy law, to reflect the data export restriction in the directives. The directives emphasis that data transfer from an EU member country to third country can only take place where that country ensures an “adequate level of protection”. This poses a great concern to the impact of such constraint on those organization within EU country that need to export or supply personal data to organization in third country , what if that country does not have any privacy law, or what if it laws fails to satisfy EU “adequacy” text?. It means sharing and exchange of information will be difficult to achieve which is against the objectives of the present day information era . Where personal data have increasingly been treated, as key business commodities and asset.

The knowledge economy make use of information including personal data, increasing capacity and sophistication of information technologies (ICT) which are resulting in the globalization of international data transfer. In otherworlds the framework mechanism for privacy protection on global networks are explained in three parts according to the EU directives 1998.

The ability of the system to deliver a good level of compliance with the rules which is characterized by the following factors.

- High degree of awareness among data controllers of their obligations and among data subjects of their right and the means of exercising them.
- The existence of effective and dissuasive sanctions.

The existence of system for direct verification by supervisory, auditors or independent data protection officials the second criteria is to measure the effectiveness of a data protection system by estimating the level of support and help to individual data subjects in the exercise of their rights, which includes:

A rapid and effective means of redress for the individual

A complaint referral mechanism. The individual should know who to contact for the purpose of a data challenge in case of data transfer, of and subsequent reuse or disclosure of those data.

A form of institutional mechanism for the independent investigation of complaints.

The third criteria from article 29 of the EU directives recognize the need to provide “appropriate redress” or a legal remedy to the aggrieved data subject which requires

The right to have a complaint adjudicated by an individual arbiter

Some form of remedy for the data subject such as compensation and /or injunctive or declaratory orders.

The availability of appropriate dispute resolution mechanism and for these arrangements to be prescribed at time of contracts formulation. However the following list of categories of data transfers could pose particular risks, to privacy and the development of appropriate privacy protection mechanism for such data should be a priority for third countries. They are:

Transfers involving certain sensitive categories of data as defined by articles of EU directives.

Transfer involving which carry the risks of financial loss (e.g. credit card payment over the internet)

Transfer carrying a risk to personal safety

Transfer made for the purposes of making a decision which significantly affects the individual (such as recruitment or promotion decisions, de-fraud of credit etc

Transfer which carry a risk of serious embarrassment or tarnishing of an individual’s reputation.

Transfer which may result in specific action which constitute a significant intrusion into an individual private life such as unsolicited telephone calls.

Repetitive transfers involving massive volumes of data (such as transactional data processed over telecommunications networks the internet etc)

Transfer involving the collection of data in a particular covert or clandestine manner (e.g. internet cookies)

-Transborder data transfer in the on-line world

The advent of the internet has exacerbated the threat to personal privacy, the use of telecommunication technology in customer to business (C2B) poses particular problems in terms of privacy protection especially, where it involves the collection of personal data, from

individual or consumer in a way which is outside their knowledge or beyond their control. The problem arose due to linkages being made between building consumer trust, and the facilitation of electronic commerce. Moreover in the on-line world, the nature of C2B interaction is such that often there will be no pre-existing relationship between the participants, the web –browsing may be random or intermittent. Site visits by the consumer to establish relationship such as, ordering goods on-line from a particular business or applying for credit, irrespective of distance time and geographical location that separate them. Consumer provides personal details in the course of a website interaction, whether of credit card and other payment details, contact details and personal preferences in the transaction to acquire goods and services, in this process data generated are transferred and it is likely to be transborder. The on-line C2B interaction requires that protection of privacy interest of consumer must begin prior to contractual stage. The legal status of privacy protection policies or statements is less clear, individual consumer may have limited prospect of enforcement depending on national laws , the consumer might have a cause of action for misrepresentation or recourse under trade practices, or consumer protection laws, jurisdictional issues. Consequently the globalization of commerce has brought about increasing transactions involve parties, from more than one country or involve obligation to be performed in more than one country, this gives rise to the choice of law questions , and issues such as where will the disputes be determined?. Is effective interim relief available, pending trial?. And will a judgment obtained in one jurisdiction be enforceable elsewhere, either against the assets of the dependent or against the defendant personally. ?

Generally it is provided that contracting parties are permitted subject to a criterion of reasonableness, to select which legal system will govern a particular transaction, that is which national courts will have authority to rule on the interpretation of the contract, where parties are resident in Canada and Nigeria , it would be open to them, to provide that the contract should be governed by Canadian law but any dispute should be brought before Nigeria court, however Sainty (2004) stated that in contrast to the centrally standardized and monitor EU privacy regime which prohibited the transfer of personal information out of the EU, without adequate privacy protection in the recipient jurisdiction ,the multinational, put economic pressure on US to ensure that they could continue to deal with the personal information of EU citizens.

This prompted the US department of commerce to develop a less prescriptive approach to data protection tagged “safe harbor” framework which was approved by the EU and came to effect in November 2000. The US organization agrees to treat information in accordance with the following seven privacy principles.

- (a) Notice that at the time of collection organization must indicate
  - i- The purpose for collection and use
  - ii- The means by which the individual can contract the organization
  - iii- The type of third parties to which the organization discloses the information
  - iv- The choices and means the organization offers for limiting its use and disclosure
- (b) Choice – organization must give the individual the opportunity to opt out from having their information disclosed to a third party or used for incompatible secondary purpose.
- (c) Onward transfer –before disclosing to a third party organization must apply the notice and choice principles/ EU directives or another finding of adequacy.
- (d) Access – organization must provide individuals with the access to their information, they must also provide ability to convert , amend or delete information that is inaccurate

- (e) Security – organization must take reasonable precaution to protect personal information from loss, misuse and authorized access, disclosure, alteration or destruction.
- (f) Data Integrity – personal information must be relevant to the purpose for which it is used and an organization should ensure it is reliable.
- (g) Enforcement – the organization must have (i) recourse mechanism in place to handle complaints and disputes. (ii) Procedures for verifying implementation of the principles.(iii) obligation to remedy problems arising out of failure, to comply with the principles. The safe harbor principles are enforced indirectly by federal and state laws concerning unfair and deceptive acts in data transaction processes. Apart from safe harbor principles, data protection at a federal level is fragmented and focuses on areas such as spam, children information, health information and financial information , for example the US has the children’s on-line privacy protection Act rule which is enforced by the FTC and applies to the collection of personal information from children under 13years over the internet. It ensures that the consent to use, disclose and control information is in the hands of parent and guardians.

## Conclusion

Policy making is a dynamic process in which formal rules and prescription play a limited role in matching vision with realities. Therefore it is essential that information principle and policies on regional and international context be adopted to protect economic, socio-advancement, educational and cultural differences for all nations.

Worldwide accepted legal restrictions and protection strategies that are based on international law that will guide the transfer of personal information and to avoid misuse of information by fraudulent people, should be put in place to cut across countries and national borders, so as to ensure sharing of information through inter-connected communication in the various regions of the world.

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