

DIGITAL RIGHTS AND FREEDOM BILL, 2019

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A BILL

FOR

AN ACT TO PROVIDE FOR THE PROTECTION OF HUMAN RIGHTS ONLINE, TO PROTECT INTERNET USERS IN NIGERIA FROM INFRINGEMENT OF THEIR FUNDAMENTAL FREEDOMS AND TO GUARANTEE APPLICATION OF HUMAN RIGHTS FOR USERS OF DIGITAL PLATFORMS AND/OR DIGITAL MEDIA AND FOR RELATED MATTERS, 2019

Sponsored by Hon. Mohammed Tahir Monguno

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria-

PART I - PRELIMINARY

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1. The Objectives of this Bill are to:

Objectives

- (a) promote the freedoms of expression assembly and association online;
- (b) guarantee the fundamental privacy rights of citizens in the use, development and deployment of security-related technologies.
- (c) affirm the freedom of citizens and their constitutional right to communicate freely without fear of undue monitoring and interference.
- (d) accord data privacy more priority in the digital age;
- (e) guarantee application of the human rights which apply offline within the digital environment and online;
- (f) provide sufficient safeguards against abuse and provide opportunities for redress where infringement occurs;
- (g) safeguard the digital liberty of Nigerians, now and in the future;
- (h) seek to guarantee the inviolability of communications, except by order of Court obtained in accordance with the due process of Law; and
- (i) equip the judiciary with the necessary legal framework to protect human rights online.

Application 1 2. The provisions of this Bill shall apply throughout the Federal
2 Republic of Nigeria.

3 PART II - FUNDAMENTAL RIGHTS AND FREEDOMS

Right to digital 4 3.-(1) Unlawful, unauthorized and undue interference with the online
privacy 5 privacy of any person, is prohibited under this Bill.

6 (2) Except the context otherwise provides, the Rule of Confidentiality
7 shall apply to the entire provisions of this Bill.

8 (3) Every person shall be entitled to the ownership of online content
9 created by themselves or their agents, and shall be responsible for them.

10 (4) The digital assets or data sets of an owner such as passwords,
11 instructive memos, digital contracts, digital receipts, pictures, medical
12 information, bank accounts, writings, social interactions or anything else that a
13 user has access to primarily in the digital space is inheritable to be managed and
14 owned by his heirs or next of kin.

15 (5) Service providers shall strictly protect the privacy rights of owners
16 against violation by third parties and by the service providers themselves or
17 their agents howsoever; the occurrence of which shall give rise to
18 compensation as shall be determined by the court having due regard to the
19 extent of damage.

20 (6) Every person is guaranteed the confidentiality of his personal
21 data.

22 (7) The integrity and confidentiality of personal data and information
23 of citizens is inviolable and therefore guaranteed.

24 (8) Requests for private data shall follow legally stipulated
25 procedures and Court warrants shall be necessary in order for an intermediary
26 to honour a request for private data, which request shall be reported to the
27 concerned individual.

28 (9) Every private entity in Nigeria holding citizen data - personal
29 details of private individuals - shall publish in publicly accessible legacy and

1 digital media platforms detailing the nature and frequency of government
2 requests.

3 (9) All entities that collect, store and/or process personal data in the
4 course of their activities shall have data privacy policies that are readily and
5 easily accessible to the public.

6 (10) Under certain exceptional situations where the State may limit
7 the right to privacy for the purposes of administration of criminal justice or
8 prevention of crime, such measures shall be in compliance with provisions
9 of the Constitution of the Federal Republic of Nigeria and this Law with
10 adequate safeguards against abuse.

11 (11) Measures referred to in sub-clause (10) include ensuring that
12 any measure to limit the right to privacy is taken on the basis of a specific
13 decision by a government agency expressly empowered by law to do so, and
14 shall respect the principles of necessity and proportionality.

15 4.-(1) Every person may access the internet and communicate
16 electronically using instruments, including technical systems, which protect
17 their anonymity and prevent the collection of personal data, in particular
18 with a view to exercising civil and political freedoms without being subject
19 to discrimination or censorship.

Anonymity

20 (2) Restriction may be imposed only when they are based on the
21 need to safeguard a major public interest and are necessary, proportional and
22 grounded in law and in accordance with the basic features of a democratic
23 society.

24 (3) In the event of violations of the dignity and fundamental rights
25 of any person, as well as in other cases provided for by the law, the courts
26 may require the identification of the author of a communication with a
27 reasoned order.

28 5.-(1) The right to opinion and expression on the Internet shall not
29 be subject to any restrictions, save as provided for under the 1999
30 Constitution of the Federal Republic of Nigeria (as amended), the Freedom

Freedom of
expression online

Freedom of
expression of
opinion online

1 of Information Act, 2011, and other relevant legislations.

2 6.-(1) Every person shall have the right to freely express opinion
3 online without interference, this right includes the freedom to seek, receive and
4 impart information and ideas, regardless of digital frontiers.

5 (2) Under this Bill, freedom of expression further includes the
6 freedom to express and impart information and ideas of all kinds that can be
7 transmitted to others, in whatever form, and regardless of media. Information
8 or ideas that may be regarded as critical or controversial by the government, its
9 agencies or by a majority of the population, including ideas or views that may
10 "shock, offend or disturb" are also covered by the right to impart information
11 and ideas of all kinds through any media and regardless of frontiers.

12 (3) Means of expression shall include books, newspapers, pamphlets,
13 posters and banners in digital format or online, as well as all forms of audio-
14 visual, electronic and internet-based modes of expression.

15 (4) The right to freedom of expression includes the right to seek and
16 receive information through the use of the Internet.

17 (5) The government shall not use or compel intermediaries to
18 undertake censorship on its behalf and intermediaries shall not be required to
19 prevent, hide or block content or disclose information about Internet users, or
20 to remove access to user generated content, including those that infringe
21 copyright laws, without the leave of court.

22 (6) The decision of intermediaries which has the tendency to affect the
23 interest of a user shall be made taking into account the need to protect
24 expression that is legitimate.

25 (7) Professional journalists, bloggers as well as citizen journalists and
26 others who contribute to shaping public debate and public opinion on the
27 Internet shall be recognized as agents of the larger society who enable the
28 formation of opinions, ideas, decision-making and democracy.

29 (8) Inconsistent and abusive application of legislation shall not be
30 used to censor criticism and debate concerning public issues and to foster a

1 climate of fear and self-censorship among media actors and the public at
2 large.

3 (9) The abuse of the freedom of expression under the guise of
4 protection of national security is prohibited. Consequently the state shall
5 balance the need by ensuring that anti-terrorism laws, treason laws or
6 similar provisions relating to national security conform with the
7 Constitution of the Federal Republic of Nigeria and the rule of law.

8 (10) The right to freedom of expression on the Internet shall not be
9 subject to any restrictions, except those which are provided by law, for a
10 legitimate purpose and necessary and proportionate in a democratic society

11 (11) Any restriction on freedom of expression must be provided by
12 law, and shall only be imposed for the grounds set out in the Constitution of
13 the Federal Republic of Nigeria, and shall be, as a matter of obligation, in
14 conformity to the strict tests of necessity and proportionality.

15 (12) No restriction on freedom of expression on the ground of
16 protection of the rights of others, including copyright, may be imposed
17 unless the State can demonstrate that the restriction is prescribed by law and
18 is necessary in a democratic society to protect those interests. The burden of
19 demonstrating the validity of the restriction rests with the State or the
20 copyright holder.

21 Provided that-

22 (a) "prescribed by law" means that the law must be accessible,
23 unambiguous, drawn narrowly and with sufficient precision so as to enable
24 individuals to foresee whether a particular action is unlawful;

25 (b) this Bill is premised on the rule of law and thus provides for
26 prompt, full and effective scrutiny of the validity of the restriction by an
27 independent court, tribunal or other independent adjudicatory body;

28 (c) any restriction on freedom of expression that the State seeks to
29 justify on grounds of protection of copyright interests must have the genuine
30 purpose and demonstrable effect, on the basis of independent evidence, of

1 protecting the ends that copyright seeks to achieve;

2 (d) disconnection from access to the Internet on grounds of copyright
3 is always a disproportionate restriction on the right to freedom of expression;

4 (e) filtering, blocking, removal and other technical or legal limits on
5 access to content are serious restrictions on freedom of expression and can only
6 be justified if they strictly comply with the Constitution of the Federal
7 Republic of Nigeria, the Rule of Law, and other human rights instruments
8 which Nigeria is party to, relating to limitations and due process;

9 (f) website blocking on grounds of copyright protection shall be
10 considered a disproportionate restriction on freedom of expression because of
11 associated risks of over-blocking and the general lack of effectiveness of this
12 measure;

13 (g) Insofar as website blocking may already be permitted by law, this
14 measure shall only be imposed by courts or other independent adjudicatory
15 bodies. In determining the scope of any blocking order, the courts or
16 adjudicatory bodies shall address themselves to the following-

17 (i) any blocking order shall be as targeted as possible;

18 (ii) no blocking order should be granted unless the rights holder
19 seeking the order has established copyright in the works which are said to be
20 unlawfully accessed;

21 (iii) no blocking injunction should be granted beyond the works in
22 which copyright has been established by the rights holders;

23 (iv) whether the blocking order is the least restrictive means available
24 to bring an end to individual acts of infringement including an assessment of
25 any adverse impact on the right to freedom of expression;

26 (v) whether access to other non-infringing material will be impeded
27 and if so to what extent, bearing in mind that in principle, non-infringing
28 content should never be blocked;

29 (vi) the overall effectiveness of the measure and the risks of over-
30 blocking;

1 (vii) whether the blocking order should be of limited duration;

2 (viii) website blocking orders to prevent future copyright
3 infringements are a form of prior censorship and as such are a
4 disproportionate restriction on freedom of expression.

5 (h) a restriction on freedom of expression is proportionate in a
6 democratic Nigeria only if-

7 (i) it is the least restrictive means available for protecting that
8 interest; and

9 (ii) the restriction is compatible with democratic principles.

10 (i) protection of national security or countering
11 terrorism/insurgency cannot be used to justify restricting the right to
12 expression unless it can be demonstrated that-

13 (i) the expression is intended to incite imminent violence;

14 (ii) it is likely to incite such violence; and

15 (iii) there is a direct and immediate connection between the
16 expression and the likelihood or occurrence of such violence.

17 (j) knowingly submitting a court application for blocking of
18 content without copyright should be penalized and those harmed by such
19 applications shall be compensated, the amount of which shall be determined
20 by the court. The same applies to over broad and negligent blocking
21 applications;

22 (k) any restriction that prevents the flow of information online
23 shall be in line with permissible limitations as set out in the Constitution of
24 the Federal Republic of Nigeria and other human rights instruments which
25 Nigeria is signatory to;

26 (l) independence for both public and private media, fair and
27 independent media markets shall be held as essential for exercising the right
28 to free expression.

29 (13) Any speech, gesture or conduct, writing, or display capable of
30 inciting violence or prejudicial action against or by a protected individual or

1 group, by disparaging or intimidating a protected individual or group on the
2 basis of attributes such as gender, ethnic origin, religion, race, disability, or
3 sexual orientation, amounts to hate speech and is forbidden.

4 (14) Hate Speech on social media or other online platforms which
5 incites violence, hatred or discrimination against individuals or groups
6 identified by a specific set of characteristics are prohibited.

7 (15) Government concerns about hate speech shall not be abused to
8 discourage citizens from engaging in legitimate democratic debate on matters
9 of general interest.

10 (16) It shall be the duty of the courts to make a distinction between, on
11 the one hand, genuine and serious incitement to extremism and, on the other
12 hand, the right of individuals (including journalists and politicians) to express
13 their views freely and to "offend, shock or disturb" as a way of combating
14 certain forms and expressions of hate speech.

15 (17) Censorship on the Internet, which usually takes the form of laws
16 or measures allowing for the total or partial banning of certain web pages and in
17 certain extreme circumstances, where the State resorts to the complete
18 disconnection of the Internet network, thus isolating a whole region from the
19 rest of the country and the world at large, is a violation of the freedom of
20 expression.

21 (18) The jamming of wireless signals, another means of censorship
22 which deprives individuals of their right to freedom of opinion and expression,
23 is prohibited.

24 (19) The state shall not unduly restrict, control, manipulate and censor
25 content disseminated via the Internet without any legal basis, or on the basis of
26 broad and ambiguous laws, without justifying the purpose of such actions;
27 and/or in a manner that is clearly unnecessary and/or disproportionate to
28 achieving the intended aim.

29 (20) All provisions in legislations, regulations, guidelines and all
30 forms of subsidiary legislations which seek to limit the right to freedom of

1 expression of citizens shall be:

2 (a) clear, precise, accessible and foreseeable;

3 (b) applied by an independent body in a manner that is not arbitrary
4 or discriminatory; and

5 (c) effectively safeguards against abuse including through the
6 provision of a right of appeal to the Courts.

7 (21) Any individual or institution who believes an expression or
8 series of expression online or on any digital platform constitute defamation
9 of the character of the individual or institution shall seek remedy under civil
10 law and shall not use state authority, resources or systems to intimidate,
11 harass or oppress the alleged defamer

12 (22) Where a conflict arises between the principles contained in
13 this Bill and any domestic, regional or international human rights standards,
14 the most favourable provision for the full exercise of the right to freedom of
15 expression and the right of access to information shall take precedence.

16 7.-(1) The use and re-use of government held data and information
17 shall be available free of charge wherever practical, and if not, charging shall
18 be transparent, reasonable, the same for all users, and not designed as a
19 barrier to the use or reuse of the data.

20 (2) The existing obligation on public bodies to share all
21 information produced with the support of public funds in terms of sub-
22 clause (1), subject only to clearly defined rules set out in law, as established
23 by the Declaration of Principles on Freedom of Expression in Africa, shall
24 extend to the proactive release of such information on the World Wide Web
25 in openly licensed, freely re-useable formats.

26 (3) Copyrighted materials held by public bodies shall be licensed
27 for re-use in accordance with relevant access to information laws and
28 licensing frameworks.

29 (4) The right of citizens to access the Internet for the purposes of
30 information gathering or sharing, conducting business and/or expressing

1 personal opinion is hereby guaranteed; it shall be illegal for government or any
2 entity to deny or censor access to the Internet without providing adequate and
3 acceptable reasons.

4 (5) The duty in terms of sub-clause (2) presupposes providing access
5 to particularly rural areas and the urban poor where Internet penetration is low
6 or nonexistent, lack of technological availability, slower Internet connection,
7 and/or higher costs.

8 (6) Priority shall be accorded to persons with disabilities and persons
9 belonging to minority groups, who often face barriers to accessing the Internet
10 in a way that is meaningful, relevant and useful to them in their daily lives.

11 (7) Where the infrastructure for Internet access is present, the
12 government shall support initiatives to ensure that online information can be
13 accessed in a meaningful way by all sectors of the population, including
14 persons with disabilities and persons belonging to linguistic minorities.

15 (8) Interference which may arise out of abusive, opportunistic or
16 discriminatory (variable geometry) application of various laws, interference
17 with privately operated Internet based platforms or applications, are
18 prohibited.

19 (9) Blocking, which refers to measures taken to prevent certain
20 content from reaching an end-user, or extensive filtering systems that block
21 access to websites containing key terms includes preventing users from
22 accessing specific websites, Internet Protocol (IP) addresses, domain name
23 extensions, the taking down of websites from the web server where they are
24 hosted, or using filtering technologies to exclude pages containing keywords
25 or other specific content from appearing. The arbitrary act of blocking access to
26 certain digital media such as the social network is prohibited.

27 (10) Unlawful, unauthorised and undue restriction on media freedom
28 and pluralism which hinders the freedom to receive and impart information,
29 diminishes media's ability to act as a public watchdog holding power to
30 account, and which in turn undermines both public trust in the media and the

1 exercise of democracy itself, is prohibited.

2 (11) Illegitimate types of information which may be restricted
3 include child pornography (to protect the rights of children), hate speech (to
4 protect the rights of affected communities), defamation (to protect the rights
5 and reputation of others against unwarranted attacks), direct and public
6 incitement to commit genocide (to protect the rights of others), and
7 advocacy of national, racial or religious hatred that constitutes incitement to
8 discrimination, hostility or violence (to protect the rights of others, such as
9 the right to life).

10 (12) Notwithstanding these provisions, the relevant laws shall
11 apply in cases where the content infringes on the rights of another citizen.

12 8.-(1) Everyone shall have the right to peaceful assembly and
13 association online, including through social networks and platforms.

Right to peaceful
assembly and
association online

14 (2) Organisers and participants of peaceful assemblies have the
15 right to access the Internet and other new technologies at all times, without
16 interference except those which are provided by law, for a legitimate
17 purpose and necessary and proportionate in a democratic society, as
18 consistent with the Constitution of the Federal Republic of Nigeria and
19 human rights instruments which Nigeria is a signatory to.

20 (3) The freedom of assembly and association as guaranteed by
21 section 40 of the 1999 constitution of the Federal Republic of Nigeria (as
22 amended) shall apply to every Internet activity.

23 (4) Social and economic openness, to support innovation and guard
24 against monopolies, is hereby protected.

25 (5) All data on the Internet shall be treated in an equal and non-
26 discriminatory manner, and shall not be charged differentially, according to
27 user, content, site, platform, application, type of attached equipment, and
28 modes of communication or any other consideration whatsoever.

29 (6) There shall be no special privileges for, or obstacles against, the
30 exchange of information online or any party or content on economic, social,

1 cultural, or political grounds.

2 (7) Nothing in this clause may be interpreted as preventing
3 affirmative action aimed at ensuring substantive equality for marginalised
4 peoples or groups.

Freedom to learn

5 9.-(1) Every person shall have the right to learn: traditional students,
6 non-traditional students, adults, children, and teachers, independent of age,
7 gender, race, social status, sexual orientation, economic status, state of origin,
8 religion, bodily ability, and environment anywhere and everywhere in Nigeria.

9 (2) It shall be the fundamental principle and practice of government
10 agencies responsible for educational policymaking to include compulsory
11 Internet literacy skills in school curricula, and support similar learning
12 modules outside of schools.

13 (3) In addition to basic skills training, modules shall clarify the
14 benefits of accessing information online, and of responsibly contributing
15 information.

16 (4) The education in terms of sub-clause (2) shall also be directed
17 towards helping individuals learn how to protect themselves against harmful
18 content, and explain the potential consequences of revealing private
19 information on the Internet.

20 (5) Online learning, which has the potential to ensure that the right to
21 education is a reality for a greater percentage of the nation's population, shall be
22 promoted to give universal access to learning.

23 (6) To ensure the right to access, learning shall be affordable and
24 available, offered in myriad formats, to students located in a specific place and
25 students working remotely, adapting itself to Freedom of Assembly and
26 Association Online Net Neutrality people's different lifestyles, mobility needs,
27 and schedules.

28 (7) Media and information literacy shall be promoted to enable all
29 people to access, interpret and make informed judgments as users of
30 information, as well as to create information.

1 (8) Accordingly, flowing from sub-clause 7, media and
2 information literacy programmes shall be instituted in schools and in other
3 public institutions, wherein practical school children, and other learners,
4 shall have access to Internet enabled devices.

5 (9) It shall be the duty of Government at all levels to ensure that
6 people with disabilities have equal access to knowledge.

7 (10) The lack of copyright exceptions benefiting people with
8 sensory impairments constitute a breach of their rights to freedom of
9 expression, private life and their right to participate in cultural life. Equal
10 access to knowledge by people of all languages and levels of literacy shall be
11 promoted.

12 (11) The lack of copyright exceptions benefiting minority
13 language speakers and persons with low literacy levels undermines their
14 rights to freedom of expression, private life and their right to participate in
15 cultural life.

16 **10.-** (1) Student privacy shall be protected as an inalienable right
17 regardless of where learning takes place.

Protection of
privacy of students
and learners

18 (2) Students and other learners have a right to know how data
19 collected about their participation in the online system will be used by the
20 organization and made available to others.

21 (3) The provider shall offer clear explanations of the privacy
22 implications of students' choices.

23 (4) Learners within a global, digital commons shall have the right
24 to work, network, and contribute to knowledge in public; to share their ideas
25 and their learning in visible and connected ways if they so choose.

26 (5) Courses offered shall encourage open participation and
27 meaningful engagement with real audiences where possible, including
28 peers and the broader public.

29 (6) Online students also have the right to create and own

1 intellectual property and data associated with their participation in online
2 courses.

3 (7) Online programs shall encourage openness and sharing, while
4 working to educate students about the various ways they can protect and
5 license their data and creative work.

6 (8) Any changes in terms of service shall be clearly communicated by
7 the provider, and they shall never erode the original terms of privacy or the
8 intellectual property rights to which the student agreed.

9 (9) Students shall have the right to know how their participation
10 supports the financial health of the online system in which they are
11 participating.

12 (10) They shall have the right to fairness, honesty, and transparent
13 financial accounting. This is also true of courses that are "free".

14 *Right to Education Online*

15 (11) The provider shall offer clear explanations of the financial
16 implications of students' choices.

17 (12) Students shall have the right to understand the intended
18 outcomes-educational, vocational, even philosophical of an online program or
19 initiative.

Right to create
public knowledge

20 **11.**-(1) If a credential or badge or certification is promised by the
21 provider, its authenticity, meaning, and intended or historical recognition by
22 others - such as employers or academic institutions) shall be clearly established
23 and explained.

24 (2) Research capacity and appropriate human resource development
25 in the field of ICT skills shall be promoted with a view to-

26 (a) introduce and extend e-Learning in institutions of learning;

27 (b) promote development of specialist/expert capacity in ICT;

28 (c) promote Digital Literacy;

29 (d) promote ICT for Education;

30 (e) accelerate Knowledge Development and Management;

1 (f) encourage the utilization of ICT across all socio-economic
2 sectors in Nigeria;

3 (g) increase research and development capacity in ICT sectors; and

4 (h) harness skills and expertise of Nigerians in Diaspora in ICT
5 development.

6 (3) Education and innovation are interrelated drivers of
7 development, which shall be facilitated by ICTs, access to knowledge and
8 education.

9 (4) Teacher professional development, digital learning resources,
10 affordable technologies, education management information systems and
11 National Research and Education Networks shall be accorded priority.

12 (5) Teachers' capacity in ICT shall be enhanced, as effective
13 integration of technology into teaching and learning requires well qualified
14 educators, a clear focus on equipping teachers with ICT literacy skills and
15 support for teachers to use skills and technology in teaching and learning
16 online.

17 (6) Educators and students shall access learning materials and
18 collaboration platforms at affordable rates as more functional, low-cost
19 devices become available.

20 (7) Broadband access shall be made commonly available as
21 connectivity is crucial for accessing resources, and requires continued focus
22 on competitive broadband access using suitable technologies - wired and
23 wireless, and national collaborative networks.

24 (8) Access to content shall be improved by open educational
25 resources, which can be copied and adapted without licence fees.

26 12.-(1) An open, modernised e-governance system enabled by
27 free-flow and access to information and the manner which citizens and
28 businesses interact with government representatives and other agents of the
29 state shall be pursued vigorously.

E-governance
and financial
transparency

30 (2) Governments shall recognised the power of social media and

1 use it to democratic advantage, in particular to reinforce democratic processes,
2 drive efficiency, foster innovation, empower public sector workers and expose
3 corruption.

4 (3) An effective e-governance service delivery system shall be
5 pursued by the establishment of accurate, effective and efficient national
6 identification systems, incorporating technology that reduces fraud and
7 identity theft.

8 PART III - OFFENCES AND PENALTIES

9 *General Offences and Penalties*

Pedagogical
transparency

10 13.-(1) Any person, who, intentionally and without authorisation or in
11 excess of authority, commits an offence contrary to the provisions of clause 3
12 (1) of this Bill, shall upon conviction be liable to five years imprisonment with
13 an option of a fine not less than the sum of one million naira or to both. In the
14 case of a body corporate, upon conviction, a fine of not less than five million
15 naira shall apply.

16 (2) Any person who intentionally and without authorisation or in
17 excess of authority, publishes online any form of hate speech, such as the
18 advocacy of regional, racial or religious hatred that constitutes incitement to
19 discrimination, hostility or violence, shall upon conviction be sentenced to a
20 term of not less than one year or to a fine of not less than one million naira.

21 (3) In the event that such publication in sub-clause (2) results in loss of
22 lives and destruction of property, such a person is liable on conviction to
23 imprisonment for a term of not less than seven years, or to a fine not less than
24 five million naira or to both fine and imprisonment including compensation to
25 the victims. In the case of a body corporate, upon conviction, a fine of not less
26 than ten million naira shall apply in addition to compensating the victim where
27 necessary, in a sum to be determined by the court.

Defences

28 14.-(1) In proceedings against a person for offences under this clause,
29 it is a defence for that person to prove-

30 (a) that at the time the alleged offence took place he was under the age

1 of eighteen;

2 (b) the person was prevented from complying with the relevant
3 provisions by a natural disaster, an act of god or other reasonable cause;

4 (c) that the action was necessary to save or protect life or health of
5 some person(s), to protect serious damage to property, or to avoid adverse
6 effect on the environment;

7 (d) the commission of the offence was due to a mistake, accident
8 beyond control or due to reliance on information supplied by the default of
9 another person;

10 (2) It is also a defence if-

11 (a) force majeure occurs;;

12 (b) consent of the Plaintiff;

13 (c) fault on the part of the Plaintiff;

14 (d) compliance was not reasonably practicable in the
15 circumstances of the particular case;

16 (e) the National Human Rights Commission has granted
17 exemption in the Federal Government Gazette to the responsible party on
18 the basis of national interest or for the data subject's benefit.

19 PART IV - JURISDICTION AND INTERNATIONAL CO-OPERATION

20 15. The Federal and State High Courts shall have original Jurisdiction
21 jurisdiction to the application of this Bill.

22 PART V - ENFORCEMENT OF VICTIMS' RIGHTS

23 16.-(1) Any individual or legal entity can go to court to enforce the Enforcement
24 provisions of this Bill.

25 (2) A court hearing proceedings in terms of subclause (1) may
26 award an amount that is just and equitable, including-

27 (a) payment of damages as compensation for patrimonial or non-
28 patrimonial loss suffered by a citizen as a result of breach of the provisions
29 of this Section;

30 (b) aggravated damages, in a sum to be determined at the discretion

1 of the court;

2 (c) interest; and

3 (d) cost of suit on such scale as may be determined by the court.

4 PART VI - MISCELLANEOUS

Regulations

5 17. The National Human Rights Commission may make such
6 regulations as in its opinion are necessary or expedient for giving full effect to
7 the provisions of the Act and for the due administration of its provision.

Interpretation

8 18. In this Bill, unless the context otherwise requires-

9 "An anonym" means an authenticated attribute that is not linked to an
10 identifier;

11 "Cloud storage" a service model in which data is maintained, managed and
12 backed up remotely and made available to users over a network (typically the
13 Internet);

14 "Data Subject" means an identifiable person; one who can be identified
15 directly or indirectly, in particular by reference to an identification number or
16 to one or more factors specific to his physical, physiological, mental,
17 economic, cultural or social identity;

18 "Digital Media Platforms" means platforms developed in the information age
19 that can be created, viewed, distributed, modified and preserved on digital
20 electronic devices; platforms such as websites, blogs, and social media;

21 "Expression" means any commentary on a person's own or on public affairs.
22 Canvassing, discussion on human rights, journalism, scientific research,
23 expression of ethnic, cultural, linguistic and religious identity and artistic
24 expression, advertising, teaching are all examples of expressions that are
25 covered by the freedom of expression. It also includes political discourse;

26 "Government Agency" means a permanent or semi-permanent organization in
27 the machinery of government that is empowered by law for the oversight and
28 administration of specific functions,

29 "Internet" means a publicly accessible system of networks that connects
30 computers around the world via the TCP/IP protocol;

1 "Internet protocol address" or "IP address" means the code assigned to a
2 terminal from a network to enable their identification, defined according to
3 international standards;

4 "Internet application" means a set of functionalities that can be accessed
5 through a device connected to the Internet;

6 "Internet connection" means the enabling of a device for sending and
7 receiving data packets over the Internet;

8 "Legacy media platforms" means the mass media institutions that
9 predominated prior to the Information Age; particularly print media, film
10 studios, advertising agencies, radio broadcasting, and television.

11 "Necessary and Proportionate" within the context of limitation as used in
12 this Bill means that such limitations must:

13 (a) originate from a pressing and substantial need that is relevant
14 and sufficient;

15 (b) have a direct and immediate connection to the expression such
16 that it is the least restrictive means of achieving the stated aim; and

17 (c) be such that the benefit of protecting the stated interest
18 outweighs the harm to the expression, including with respect to the
19 sanctions authorised.

20 "Owner" means anyone who created or can assert creative rights to a product
21 or service;

22 "Personal data" means any information relating to an identified or
23 identifiable natural person ("data subject"); information relating to an
24 individual, whether it relates to his or her private, professional or public life;

25 "Personal data" includes but is not limited to anything from a name, address,
26 a photo, an email address, bank details, posts on social networking websites,
27 medical information, or a computer's IP address;

28 "Personal data filing system" means any structured set of personal data
29 which are accessible according to specific criteria, whether centralised,
30 decentralised or dispersed;

1 "Personal information" means information about an identifiable individual,
2 but does not include the name, title or business address or telephone number of
3 an employee of an organization;

4 "Platforms" refer to the entirety of software and/or hardware that make(s) a
5 service available to users;

6 "Processing of personal data" means any operation or set of operations which is
7 performed upon personal data, whether or not by automatic means, such as
8 collection, recording, organisation, storage, adaptation or alteration, retrieval,
9 consultation, use, disclosure by transmission, dissemination or otherwise
10 making available, alignment or combination, blocking, erasure or destruction;

11 "Protected speech" means the form of speech protected under this Bill. It shall
12 extend to novel forms of conversation introduced by digital mediums which
13 include but are not restricted to;

14 "retweets", "likes", "favourites", "shares", online comments, joining groups on
15 social networking sites and similar forms of speeches;

16 "Rule of Confidentiality" means the principle that personal information about
17 citizens, should not be revealed to persons not authorized to receive such
18 information;

19 "Service Provider" means an entity engaged in the provision of services on
20 digital platforms including Internet Access Service providers, irrespective of
21 the network technology or terminal equipment used, or the license held.

Citation

22 19. This Bill may be cited as the Digital Rights and Freedom Bill,
23 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to protect Internet users in Nigeria from infringement of their fundamental freedoms and to guarantee application of human rights for users of digital platforms and/or Digital media.