

Speech of the Data Protection Commissioner

Data Protection Office

Conference on “Data Protection Today – Breaking the Iceberg”

Date: 16 January 2020

Time: 9h10

Venue: Intercontinental Hotel, Balaclava Fort, Balaclava

Honourable Minister of Technology, Communication and Innovation, Mr. Deepak Balgobin,

- **The Permanent Secretary, Mr Bhugun**
- **The Executive Director of World Privacy Forum, Mrs Dixon,**
- **Heads of departments, parastatals, ministries and private organisations,**
- **Distinguished Guests,**
- **Members of the Press,**
- **All Protocols Observed,**

Ladies and Gentlemen,

Good Morning.

I welcome you all to this event themed “**Data Protection Today – Breaking the Iceberg**”. Poet Rabindranath Tagore wrote once: - “Faith is the bird that feels the light, and sings when the dawn is still dark.”

Your presence today and in such a large number is a symbolic moment

as we recognise the importance that both privacy and protection of individuals' information have in our daily lives and operations.

Ladies and Gentlemen,

This second conference comes two years after the Data Protection Act 2017 was proclaimed in Mauritius on the 15th of January 2018 and also marks the occasion of the Data Protection Day which will be celebrated on the 28th of January 2020 worldwide.

Whilst we all agree that the introduction of the DPA 2017 was necessary to align our data protection framework with the principles of the European Union General Data Protection Regulation, the initial reaction experienced by most of us towards the introduction of this new legislation was a mixed one, with a tinge of apprehension on 'How do we implement the DPA 2017 and how do we comply with its provisions?' Indeed, an iceberg which did not seem to be melting at all with the seismic shift in compliance named the GDPR.

For sure, the DPA 2017 has revolutionised the whole data protection landscape of Mauritius. Many new data subjects' rights were

introduced such as the right to object to automated individual decision-making, amongst others.

Additionally, new obligations increased the accountability of controllers. Some of them include:

- The notification of personal data breaches to the Data Protection Office and data subjects,
- The designation of a Data Protection Officer within an organisation,
- The evaluation of high-risk processing operations and the execution of data protection impact assessments,
- Prior authorisation and consultation and
- The record of processing operations.

The enactment of the DPA 2017 was certainly the tip of the iceberg. Yet, the foundational work for establishing and implementing the provisions of the Act was much more complex, be it on the controller's side or on the regulator's side.

Ladies and Gentlemen,

This transformational journey, at a glance now, when looking backward has been very positive and successful. Organisations now can claim to better understand their responsibilities and continuously endeavor to improve their mode of operations by putting privacy and protection of individuals' information at the forefront of their business activities. Organisations have had the opportunity to assess and review their processes and also perform a greater scrutiny on the information they collect, use it for, share it with and to question themselves on whether they actually need all the data that they collect and process. Our office has also observed this important shift in mindset through the abundant requests for legal opinion received from various organisations. Controllers have also adopted proactive measures to comply with the provisions of the DPA 2017 such as the designation of a Data Protection Officer and the implementation of adequate security and organisational measures to address personal data breaches.

Ladies and Gentlemen,

The signal is clear: privacy is no longer a comfort today but a necessity. It is thus primordial that all organisations embark on this journey to reach a level of protection of personal data that matches the rapidly evolving changes in technology occurring around us. Biometrics, digital identity management systems, robotics, blockchain and artificial intelligence solutions are capturing our attention today. It is vital that technology is applied with due consideration to privacy. An ethical approach must therefore be adopted to safeguard the values and rights which are at stake for individuals. The concept of 'privacy by design' is no longer a myth today but a prerequisite for business continuity.

Ladies and Gentlemen,

We must also not forget that the spirit underlying the data protection legislation is ultimately to protect people. A number of new rights have been conferred to individuals under the Data Protection Act 2017 so that individuals are in better control over their data.

Moreover, children below the age of 16 now enjoy protection against the misuse of their personal data. Although the right to privacy is not absolute, it is nevertheless a fundamental right for each and everyone, and the Data Protection Office ensures that the right to privacy and data protection is respected and no undue harm or prejudice is caused to the rights and freedoms of individuals.

With the advent of the Data Protection Act 2017, the Data Protection Office has had a very rocky path with its challenges to overcome, despite the handful of human resources available, to design all the required templates and provide the necessary guidance on compliance to organisations operating from diverse sectors in Mauritius and the public at large. The office has been functioning fast-forward and has pioneered an inhouse training initiative to sensitise Data Protection Officers. Our annual report for 2018 depicts all the activities and initiatives undertaken by this office to ensure compliance and enforcement of the Data Protection Act in Mauritius.

Ladies and Gentlemen,

But there is certainly a long way to go, but in every challenge lies an opportunity to get better. The office is currently drafting a code of practice for the operation of the Safe City Project in compliance with the DPA. The Data Protection Office has also initiated procedures for seeking European Union adequacy to make Mauritius recognised as a safe and adequate country in data protection. But it is important to note that obtaining EU adequacy is a lengthy process but Mauritius will certainly reap all its benefits when the time comes.

Ladies and Gentlemen,

To be honest, it is not and has never been easy for this office to operate with limited human resources but I am proud that the accomplishments of the office stand out against all difficulties. Baseball player Mark McGwire said:- “If you want to maximise your total potential, you have to know yourself first.”

On this note, allow me to mention two main accomplishments of the office which are:

1. Firstly, the training toolkit on the Data Protection Act 2017 conceptually designed by this office which is going to act as a savior for the Data Protection Officer in an organisation who will use it to train staff on data protection. The Commissioner explains the concepts of the DPA in a very simplified language with numerous practical examples.
2. Secondly, the guide on Data Protection and the Media, which explains how media professionals must comply with the DPA whilst still maintaining a free and independent role, given the recent upheavals we have seen in the press as regards data protection and privacy.

Ladies and Gentlemen,

Another guide on data protection and national security is currently under preparation and will be published during the course of this year.

In addition, an information sheet on privacy and virtual currency will be issued. As far as our annual report for 2019 is concerned, it is a legal

requirement and must be laid before the National Assembly. This is currently being compiled and will soon be published.

Moreover, a prosecution unit is very soon going to be set up in this office to ensure effective justice being provided to our citizens for offences committed under the DPA.

Ladies and Gentlemen,

Let me conclude with these few lines...

Protection of personal data is vital and it is imperative that we all join hands together to promote a society where privacy of all individuals are respected. I am confident that today's conference will be fruitful and that, together, we will achieve a giant step towards sharing our knowledge on data protection.

Marlon Brando once said "Privacy is not something that I'm merely entitled to, it's an absolute prerequisite" and with these words, Ladies and Gentlemen, let us work together towards safeguarding our privacy as well as the privacy of others.

Thank You for your attention.