

LEGAL PROTECTION OF DATA

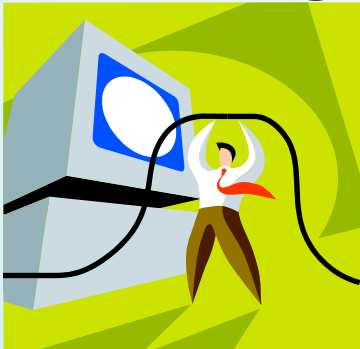
A man in a dark suit is seen from behind, looking towards a large, glowing blue globe. The globe is surrounded by various digital and data-related icons, including a world map, a globe with data points, a hand holding a globe, a globe with water droplets, and a globe with a grid pattern. The background is a light blue gradient with a grid pattern.

Nicole Foga
Foga Daley
Attorneys-at-law
November 21, 2014

DATA PROTECTION



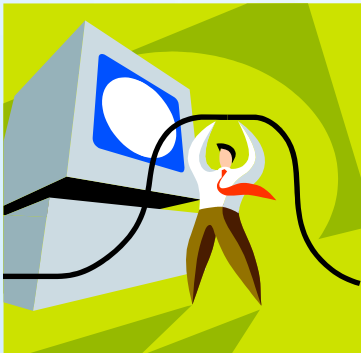
This is **CRITICAL** Recognizing that **IN TODAY'S SOCIETY EVERY BUSINESS** whether manufacturer, retailer, or service provider is collecting data - **PERSONAL INFORMATION**



DATA PROTECTION



The passage of Data Protection and Privacy legislation is an increasingly urgent and now long outstanding response to ensuring cyber security and stimulating economic growth.



DATA PROTECTION



Our Constitution provides in the Charter of fundamental Rights and freedoms that everyone is entitled to –protection of private and family life, and privacy of home ; and protection of privacy of other property and communication. Yet, Still no Data Protection Act.



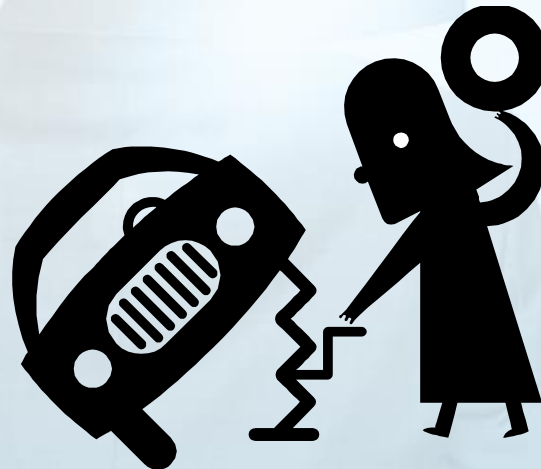
DATA PROTECTION

In the absence of legislation we rely on:

- *Contractual Provisions;*
- *Confidentiality agreements;*
- *Intellectual Property Rights.*



**QUITE
INADEQUATE**



DATA PROTECTION

Data Protection Legislation Governs the:

- **Storage;**
- **Processing; &**
- **Movement of Personal Data.**

This includes the *gathering, disclosing, amending, and deletion of personal data*



DATA PROTECTION

AROUND THE WORLD



Differing Models:

- EU
- US
- Canada



DATA PROTECTION

- **GOOD NEWS**

- We know which model we will be adopting based on the **CARIFORUM-EU Economic Partnership Agreement**.

- **Legally binding on Jamaica**

- **BAD NEWS**

- **Legislation still outstanding** –



DATA PROTECTION



EPA: Part II Trade and Trade Related Matters – Title 4 Trade Related Issues Chapter 6

- **PERSONAL DATA PROTECTION**

The principles and general rules established under these provisions are intended to establish a legal regime which allows for the personal data of CARIFORUM and EC citizens and residents to be protected during data processing operations.

DATA PROTECTION



- **EPA - PERSONAL DATA PROTECTION**

Commitment was made to establish regulatory and legal regimes which are designed to facilitate the collection and processing of personal data especially with regard to services based on data transfer whilst ensuring the protection of privacy of customers and transparency.

DATA PROTECTION



- **EPA – ARTICLE 199 sets out the principles that must guide the establishment of data protection regimes**

DATA PROTECTION



EPA- Data Protection Principles

- 1. Purpose**—data should only be processed for a specific purpose i.e used for the purpose stated and not for any other purposes;

DATA PROTECTION

EPA Data Protection Principles



- 2. Quality and Proportionality** —data should be accurate and where necessary kept up to date; Data should be adequate and relevant and not excessive.

DATA PROTECTION

EPA – Data Protection Principles



- 3. Transparency** —data subjects should be informed as to who is collecting their data;
- 4. Security**—technical and organizational security measures to be implemented by Data Controller appropriate to the risk presented by the processing

DATA PROTECTION

EPA – Data Protection Principles



- 5. Rights of Access, Rectification and Opposition**—data subjects should have access to the data, and have mechanisms to deal with inaccuracies and in certain circumstances oppose the collection of data

DATA PROTECTION

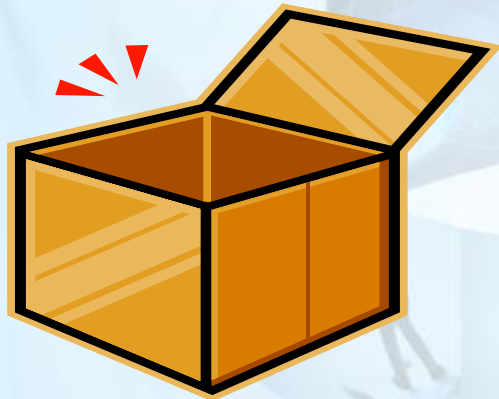
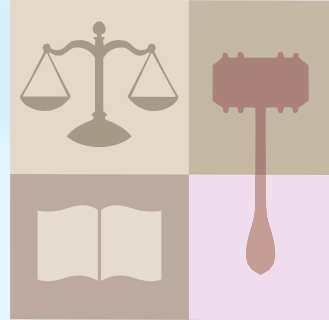
EPA – Data Protection Principles



- 6. Restriction on Onward Transfer to other parties – Includes Cross Border Data Flows**
- 7. Sensitive Data – safeguards for racial or ethnic identity, religious or philosophical beliefs, data concerning health or sex life and data related to offences and criminal convictions etc.**



DATA PROTECTION LEGISLATION



JAMAICA

