

DATA PRIVACY ROUNDUP FOR 2025 Q3

1. OVERVIEW

In this issue of our Data Privacy Roundup, we discuss what is happening in South Africa and abroad to bring you the latest data privacy and protection news.



2. WHAT HAS BEEN HAPPENING AT HOME



2.1. The Information Regulator is moving

The Regulator's new address is Woodmead North Office Park, 54 Maxwell Drive, Woodmead, Johannesburg, effective 1 August 2025.

2.2. Enforcement notice against WhatsApp published

The Information Regulator finally published the [WhatsApp enforcement notice](#).

These are the important points:

- WhatsApp aimed to obtain consent from data subjects by requiring users to accept a revised privacy policy. If users failed to accept, they would not have access to the functionality of WhatsApp. The Regulator states that '(t)his cannot be deemed as voluntarily given consent because any level of pressure to agree or disadvantage arising from a decision not to agree vitiates true consent. Consequently, our considered view is that WhatsApp's approach to obtaining consent amounted to coercion and is deemed invalid in terms of POPIA and any processing conducted pursuant to it is in contravention of POPIA.'
- WhatsApp states in its privacy policy that it shares users' personal information with other companies in the Meta group and with third parties. The Regulator indicated that this amounts to further processing and WhatsApp must comply with the requirements of section 15 of POPIA (with which they do not currently comply).
- WhatsApp does not comply with section 17 of POPIA because they have not published a PAIA manual.
- WhatsApp failed to demonstrate that they have documented enterprise information security policies in place as required by section 19 of POPIA.

3. WHAT HAS BEEN HAPPENING ABROAD



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3.1. US court finds training AI on copyrighted materials 'fair use'

In a landmark ruling, a U.S. federal court held that AI companies like Anthropic do not infringe copyright laws when they train generative AI systems on unlicensed written works, citing the 'fair use' doctrine. This is a blow to authors and copyright holders, who may now have no claim to compensation for such usage. However, the court's decision focused solely on training data, not on whether AI outputs that closely mimic original works could still be infringing. The judgment raises important uncertainties: how far this precedent extends to other media types and tech companies, and how future appeals may reshape the legal landscape.

That said, this legal saga is far from over. The ruling will likely be appealed, and additional lawsuits may yield different outcomes. Notably, while the court accepted the fair use defence for training data, it denied Anthropic's request to dismiss piracy-related claims, meaning the company could still face massive liability for allegedly using pirated books. If the case proceeds as a class action representing authors of over 7 million books, potential damages could soar into the hundreds of billions or even trillions of dollars. The decision is a major flashpoint in the evolving debate on data usage, copyright, and AI governance, with global implications for how generative AI will be regulated in future.

3.2. Rwanda unveils a National Data Sharing Policy

Rwanda has unveiled a robust National Data Sharing Policy aimed at transforming intergovernmental data exchange. Backed by seven annexes and anchored in Rwanda's Data Protection and Privacy Law, the policy provides a structured, secure framework for sharing sensitive government data across agencies. It outlines clear governance mechanisms, including a dedicated Data Governance Unit and a phased implementation plan from 2025 to 2029, with a focus on building strong internal data governance, cybersecurity, and privacy programs. The policy is distinct from open data initiatives, as it focuses on internal government data sharing while still aligning with principles of transparency and accountability.

This initiative places Rwanda among a growing group of African nations, such as Kenya, Nigeria, and South Africa, formalising data-sharing frameworks to boost efficiency and policy outcomes. With clear compliance standards and tools such as the 'Five Safes' risk framework, the policy aims to improve public service delivery, reduce costs, and fuel innovation. The long-term vision ties into Rwanda's broader national development strategies, including its Vision 2050 and the goal of becoming a knowledge-based economy. While implementation will require capacity-building and culture change within government entities, Rwanda's dedicated budget and governance structures suggest it is ready to lead by example on the continent.



3.3. Italy's DPA reaffirms ban of Replika, citing ongoing risks to minors and vulnerable users

Italy's data protection authority, the Garante, has reaffirmed its ban on the generative AI chatbot Replika, citing persistent violations of the EU's GDPR and ongoing risks to minors and vulnerable users. Replika, an AI 'companion' created by U.S.-based Luka Inc., was found lacking in effective age verification, transparency, and lawful data processing, especially concerning its young users. Despite earlier enforcement actions in 2023, Luka failed to correct key issues, including vague privacy policies, insufficient

legal justification for data use, and easily bypassed age-gating mechanisms. The Garante's April 2025 decision fined Luka €5 million and gave the company 30 days to comply.

This case underscores growing global concerns over AI chatbots designed for emotionally intimate interactions, particularly when minors can access them. Alongside the Italian enforcement, Replika faces a U.S. FTC complaint alleging deceptive marketing, manipulation, and emotional exploitation of users. The wider companion-AI industry is coming under increased scrutiny for its ethical design flaws and psychological risks, as evidenced by a tragic U.S. case involving a teen and another chatbot. These developments highlight the urgent need for enforceable AI governance, ethical safeguards, and strict age-verification requirements, especially where emotionally immersive technologies intersect with vulnerable populations.

4. WHAT'S NEXT?

Our roundups will continue to give you local and international data privacy updates. If you are interested in reading more about the topics covered in this article, refer to these chapters in the 'Understand the Law' tab on the POPIA Portal:

- [Chapter 5](#) – Information Security Management
- [Chapter 6](#) – Processing must be for a lawful purpose
- [Chapter 11](#) – Notification to data subjects
- [Chapter 12](#) – Further processing of personal information

WHAT'S
NEXT?

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