



STATE OF PRIVACY LAWS IN CARICOM/CARIFORUM

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BACKGROUND

- The immediate concern is online data privacy, what is known about you by purveyors of online assets, web sites you visit, services you consume online, your online browsing history and, how that data is used.
- Online activity leaves a trail of evidence of passage; lots of user data tracked, some of it described as **Personally Identifiable Information** (PII).

DEFINITIONS

- In the United States, the definition of PII (NIST): “any information about an individual maintained by an agent or agency, including (1) any information that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and (2) any other information that is **linked** or **linkable** to an individual, such as medical, educational, financial, and employment information”
- **Linked**: “any piece of personal information that can be used to identify an individual and includes, but is not limited to, the following:
 - *Full name; Home address; Email address; Social security number; Passport number; Driver’s license number; Credit card numbers; Date of birth; Telephone number; Log in details*

DEFINITIONS

- Under the General Data Protection Regulation (GDPR) in Article 4(1):
- *“personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;”*
- What is the issue generated by these duelling definitions?
- See NY Times Article: <https://nyti.ms/2GAxKgH>

THE BOUNDING PRINCIPLE

- The right to privacy, in some places a constitutional right, other places legislated and conferred by national laws and/or international treaty.

DATA PROTECTION PRINCIPLES

- **Collection Limitation**
- **Data Quality**
- **Purpose Specification**
- **Use Limitation**
- **Openness**
- **Individual Participation**
- **Security Safeguards**
- **Accountability**
- **Non-discrimination**
- **Limitation of Transborder Data Flows**
- **Supervision and Sanctions**
- **Power to Make Exceptions**

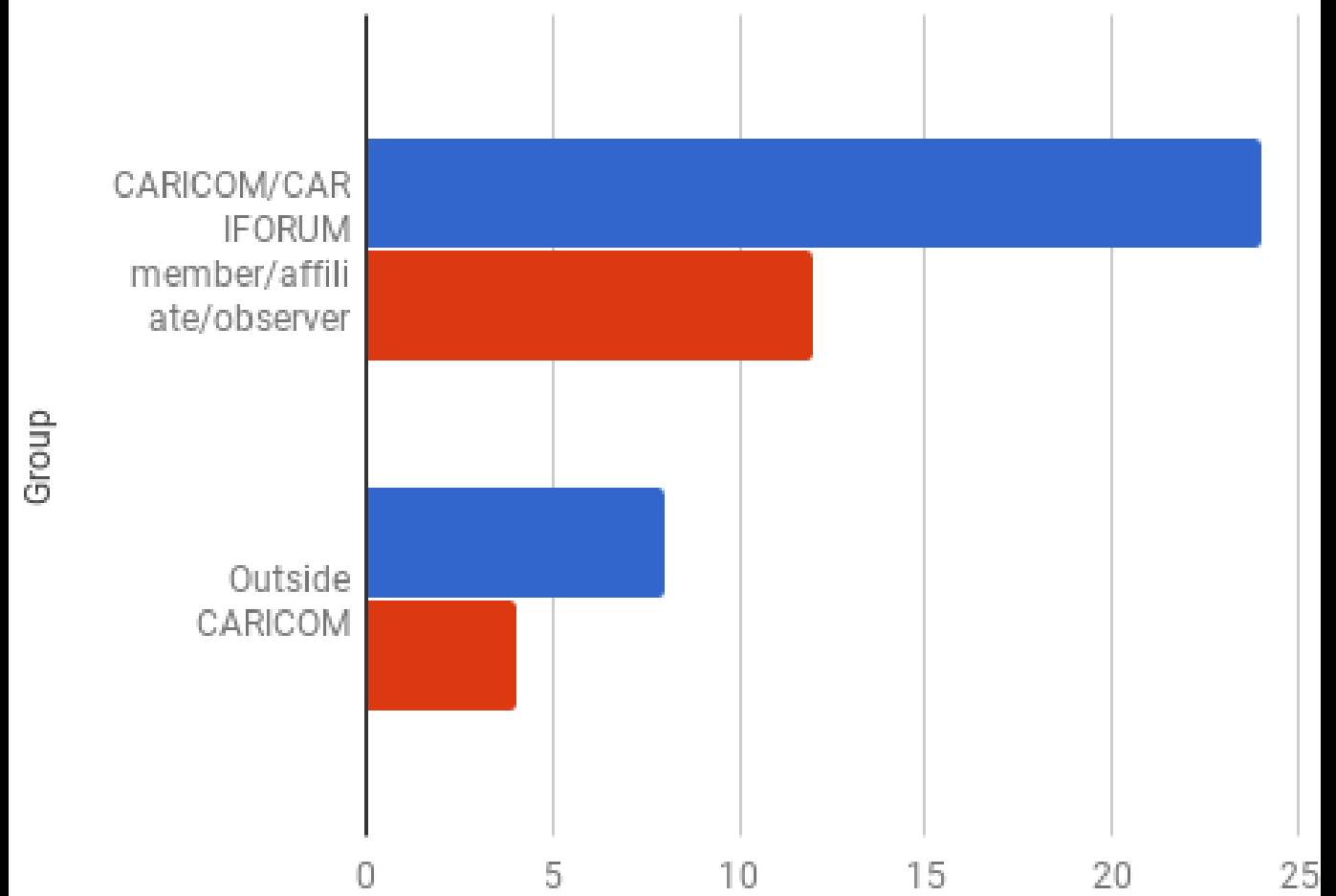
PRINCIPLES FOR PROCESSING PERSONAL DATA

- The individual has given consent;
- It is part of a contract;
- It is a legal obligation;
- It is necessary to protect the individual; and
- It is in the legitimate interests of the data controller

PANORAMIC VIEW

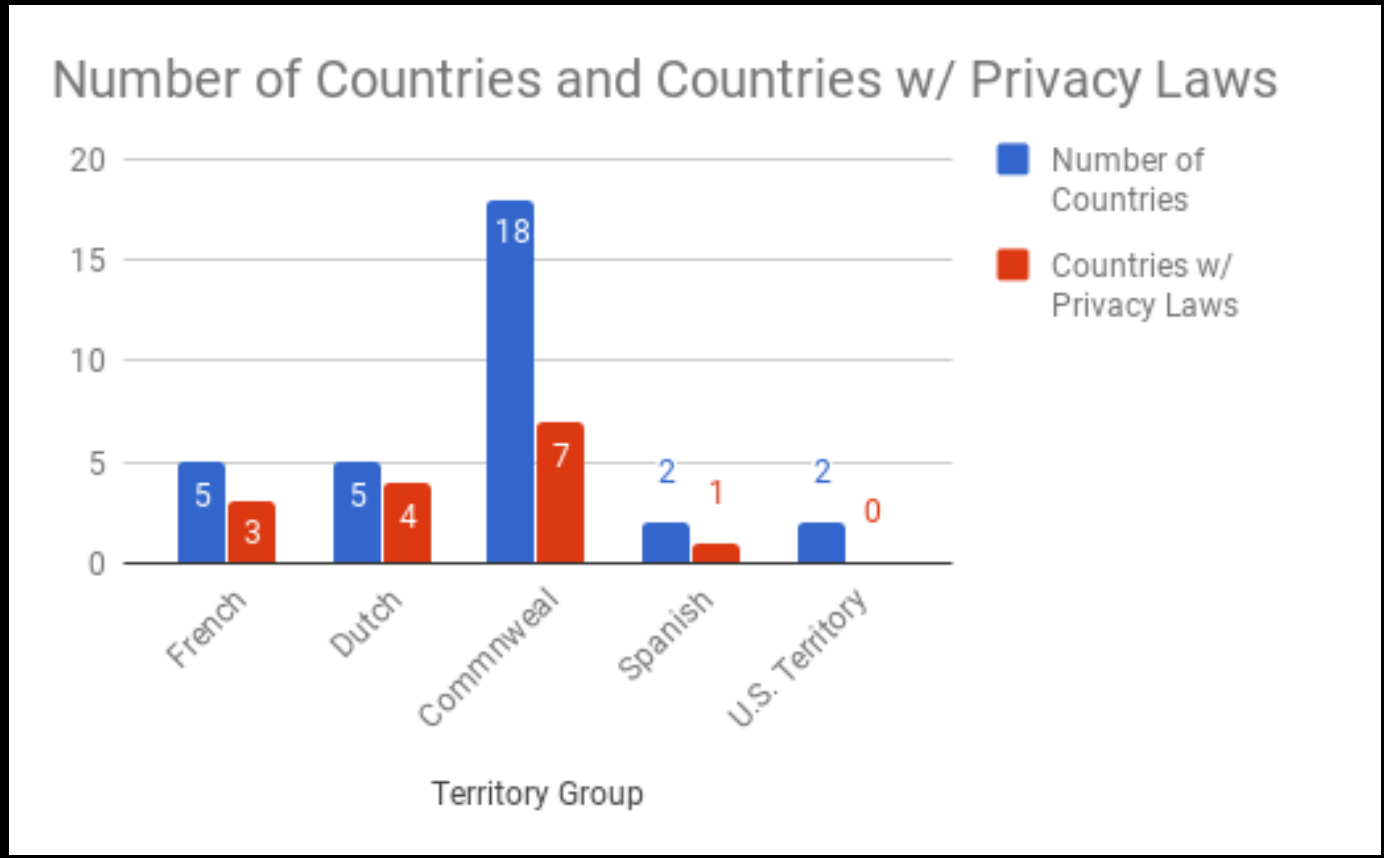
- 24 territories associated with CARICOM/CARIFORUM
- 1/2 have substantive privacy laws
- 12 Caribbean territories outside CARICOM
- 1/2 have substantive privacy laws

No. of Countries and W/ Privacy Laws



PANORAMIC VIEW OF DATA PROTECTION IN THE REGION

- 32 Territories surveyed:
- 16 with privacy legislation
- 16 without

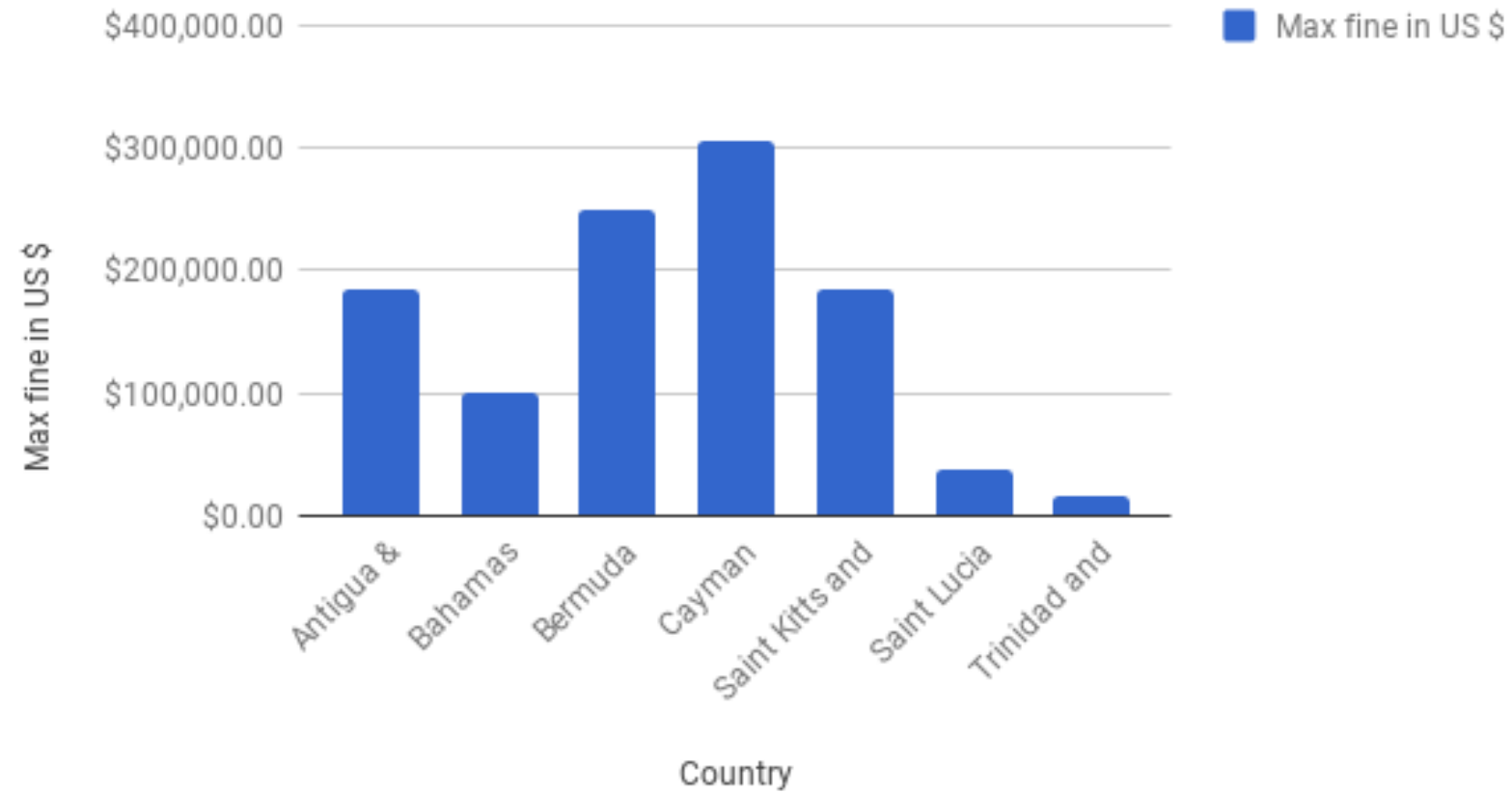


Country	Personal Data defined	Appointment of Data Authority	Provisions for Fines	Cross-border Limitations	Breach Notification
Antigua & Barbuda	YES	YES	YES	NO	NO
Bahamas	YES	YES	YES	NO	NO
Bermuda	YES	YES	YES	YES	YES
Cayman Islands	YES	YES	YES	YES	YES
Saint Kitts and Nevis	YES	YES	YES	NO	NO
Saint Lucia	YES	YES	YES	YES	NO
Trinidad and Tobago	YES*	YES	YES	YES	NO

COVERAGE OF SELECT PRINCIPLES IN CARICOM/CARIFORUM

FINES

Max fine in US\$



ISSUES WITH DATA PROTECTION LEGISLATION

- Socio-cultural antecedents of laws
- Dependencies of other laws
- Political considerations



THANK YOU
Q&A