

Part One

Acts

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Nigerian Communications Act, 2003

Objectives, Application and Scope

The primary object of this Act is to create and provide a regulatory framework for the Nigerian communications industry and all matters related thereto and for that purpose and without detracting from the generality of the foregoing, specifically to:

- (a) promote the implementation of the national communications or, telecommunications policy as may from time to time be modified and amended ;
- (b) establish a regulatory framework for the Nigerian communications industry and for this purpose to create an effective, impartial and independent regulatory authority ;
- (c) promote the, provision of modem, universal, efficient, reliable, affordable and easily accessible

communications services and the widest range thereof throughout Nigeria ;

- (d) encourage local and foreign investments in the Nigerian communications industry and the introduction of innovative services and practices in the industry in accordance with international best practices and trends;
- (e) ensure fair competition in all sectors of the Nigerian communications industry and also encourage participation of Nigerians in the ownership, control and management of communications companies and organisations ;
- (f) encourage the development of a communications manufacturing and supply sector within the Nigerian economy and also encourage effective research and development efforts by all communications industry practitioners ;
- (g) protect the rights and interest of service providers and consumers within Nigeria ;
- (h) ensure that the needs of the disabled and elderly persons are taken into consideration in the provision of communications services ; and
- (i) ensure an efficient management including planning, coordination, allocation, assignment, registration, monitoring and use of scarce national resources in the communications sub-sector, including but not limited to frequency spectrum, numbers and electronic addresses, and also promote and safeguard national interests, safety and security in the use of the said scarce national resources.

This Act applies to the provision and use of all communications services and networks, in whole or in part within Nigeria or on a ship or aircraft registered in Nigeria.

Establishment and Functions of Commission

1. There is established a Commission to be known as the Nigerian Communications Commission with responsibility for the regulation of the communications sector in Nigeria.
2. The Commission shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and shall have the power to do the following –
 - (a) enter into contracts and incur obligations ;
 - (b) acquire, hold, mortgage, purchase and deal howsoever with property, whether movable or immovable, real or personal ; and
 - (c) do all such things as are necessary for or incidental to the carrying out of its functions and duties under this Act.
3. The Commission shall be structured into departments as the Board may from time to time deem appropriate for the effective discharge of its functions.
4. The Commission shall have the following functions:
 - (a) the facilitation of investments in and entry into the Nigerian market for provision and supply of communications services, equipment and facilities ;
 - (b) the protection and promotion of the interests of consumers against unfair practices including but not limited to matters relating to tariffs and charges for and the availability and quality of communications services, equipment and facilities ;
 - (c) ensuring that licensees implement and operate at all times the most efficient and accurate billing system ;
 - (d) the promotion of fair competition in the communications industry and protection of communications services and facilities providers

- from misuse of market power or anti-competitive and unfair practices by other service or facilities providers or equipment suppliers
- (e) granting and renewing communications licences whether or not the licences themselves provide for renewal in accordance with the provisions of this Act and monitoring and enforcing compliance with licence terms and conditions by licensees ;
 - (f) proposing and effecting amendments to licence conditions in accordance with the objectives and provisions of this Act ;
 - (g) fixing and collecting fees for grant of communications licences and other regulatory services provided by the Commission;
 - (h) the development and monitoring of performance standards and indices relating to the quality of telephone and other communications services and facilities supplied to consumers in Nigeria having regard to the best international performance indicators ;
 - (i) making and enforcement of such regulations as may be necessary under this Act to give full force and effect to the provisions of this Act ;
 - (j) management and administration of frequency spectrum for the communications sector and assisting the National Frequency Management (NFM) Council in developing a national frequency plan ;
 - (k) development, management and administration of a national numbering plan and electronic addresses plan and the assignment of numbers and electronic addresses therefrom to licensees;
 - (l) proposing, adopting, publishing and enforcing technical specifications and standards for the importation and use of communications equipment in Nigeria and for connecting or

interconnecting communications equipment and systems ;

- (m) the formulation and management of Nigeria's inputs into the setting of international technical standards for communications services and equipment ;
- (n) carrying out type approval tests on communications equipment and issuing certificates therefor on the basis of technical specifications and standards prescribed from time to time by the Commission ;
- (o) encouraging and promoting infrastructure sharing amongst licensees and providing regulatory guidelines thereon ;
- (p) examining and resolving complaints and objections filed by and disputes between licensed operators, subscribers or any other person involved in the communications industry, using such dispute-resolution methods as the Commission may determine from time to time including mediation and arbitration ;
- (q) preparation and implementation of programmes and plans that promote and ensure the development of the communications industry and the provision of communications services in Nigeria ;
- (r) designing, managing and implementing Universal Access Strategy and programme in accordance with Federal Government's general policy and objectives thereon ;
- (s) advising the Minister on the formulation of the general policies for the communications industry and generally on matters relating to the communications industry in the exercise of the Minister's functions and responsibilities under this Act ;

- (t) implementation of the Government's general policies on communications industry and the execution of all such other functions and responsibilities as are given to the Commission under this Act or are incidental or related thereto;
- (u) generally advising and assisting communications industry stakeholders and practitioners with a view to the development of the industry and attaining the objectives of this Act and its subsidiary legislation ;
- (v) representation of Nigeria at proceedings of international organisations and fora on matters relating to regulation of communications and matters ancillary and connected thereto ; and
- (w) general responsibility for economic and technical regulation of the communications industry.

The Commission shall at all times carry out its functions and duties and exercise its powers hereunder efficiently, effectively and in a non-discriminatory and transparent manner and in a way that is best calculated to ensure that there are provided throughout Nigeria, subject to the regulatory controls specified in this Act, all forms of communications services, facilities and equipment on such terms and subject to such conditions as the Commission may from time to time specify.

Establishment of the Governing Board, and its Membership

1. There is established for the Commission a Governing Board (in this Act referred to as "the Board") charged with the administration of the affairs of the Commission.
2. The Board consists of 9 Commissioners made up of:
 - (a) a chairman,
 - (b) a chief executive who shall also be the Executive Vice-Chairman,
 - (c) 2 Executive Commissioners, and

- (d) 5 non-executive Commissioners, who shall be appointed by the President of the Federal Republic of Nigeria.
- 3. Notwithstanding any other provision of this Act, the President shall ensure at all times that there is a duly constituted Board of Commissioners and that there are a minimum of 6 serving Commissioners on the Board at any and all times, made up of:
 - (a) the Chief Executive ;
 - (b) 2 Executive Commissioners ; and
 - (c) 3 non-executive Commissioners.
- 4. The supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters contained therein.
- 5. Subject to Subsection (4) of this section, the Board shall have capacity to make standing orders for the regulation of its proceedings and meetings howsoever and acts of the Board shall be deemed to be acts of the Commission.
- 6. The remunerations and allowances, payable to the Commissioners, including the Chief Executive and Executive Commissioners, shall at the instance of the Board be determined and reviewed from time to time by the National Salaries, Incomes and Wages Commission.
- 7. Commissioners shall be persons of recognised standing, qualification and experience in one or more of the following fields:
 - (a) finance or accounting ;
 - (b) law ;
 - (c) consumer affairs ;
 - (d) telecommunications engineering ;
 - (e) information technology ;
 - (f) engineering generally ;
 - (g) economics ; and
 - (h) public Administration.

A person shall not be appointed or remain in office as a Commissioner if:

- (a) he is not a Nigerian citizen ;
- (b) he is not ordinarily resident in Nigeria;
- (c) he is a serving member of the National Assembly, State House of Assembly or any Local Government Council ;
- (d) he is incapacitated by any physical illness ;
- (e) he has been certified to be of unsound mind ;
- (f) he is an undischarged bankrupt ;
- (g) he has been convicted in Nigeria or elsewhere of a criminal offence, being a misdemeanour or felony ; or
- (h) he has at any time been removed from an office of trust on account of misconduct.

The conflict of interest provisions contained in the Second Schedule to this Act shall apply to all Commissioners.

- 8.1. Subject to Subsection (2) of this section, all Commissioners to be appointed after the coming into force of this Act shall be appointed by the President in accordance with section 7 of this Act, from the 6 geo-political zones of Nigeria subject to the confirmation by the Senate.
2. The Board shall make recommendations to the President on suitably qualified persons for appointment as the Commission's Chief Executive and Executive Commissioners and the President shall take the Commission's recommendations into consideration for the appointment.
3. All Commissioners, except the Chief Executive and the Executive Commissioners, shall hold office on part-time basis.

4. Subject to sections 11(3) and 11(4) of this Act, each Commissioner shall serve for a term of 5 (five) years from the date of his appointment at the expiration of which the President may renew his term for a further period of 5 years and no more.
5. Subject to sections 11(3) and 11(4) of this Act, all Commissioners who were appointed prior to and are still serving as at the commencement date of this Act shall be deemed upon the commencement of this Act to be serving their initial term of 5 (five) years, calculated from the irrespective dates of appointments and shall, subject to subsection (4) of this section, be eligible thereafter for renewal of their respective tenures.
9. A Commissioner may resign his office by giving 3 months written notice thereof addressed to the President through the Minister.
10. 1. Subject to subsections (2), (3) and (4) of this section, a Commissioner may be suspended, or removed from office by the President if he:
 - (a) is found to have been unqualified for appointment as a Commissioner pursuant to section 7 of this Act or is in breach of section 7(2) hereof after his appointment ;
 - (b) has demonstrated inability to effectively perform the duties of his office ;
 - (c) has been absent from 5 (five) consecutive meetings of the Board without the consent of the Chairman except he shows good reason for such absence ;
 - (d) is guilty of a serious misconduct in relation to his duties as a Commissioner ;
 - (e) in the case of a person possessed of professional qualifications, he is disqualified or suspended from practising his profession in any part of the world by an order of a competent authority ; or

- (f) is in a breach of the conflict of Interest Rules set out in the Second Schedule to this Act.
 - 2. Prior to the suspension or removal of a Commissioner under subsection (1) of this section, the President shall inform the Commissioner by written notice, as soon as practicable, of his intention to suspend or remove the Commissioner from office and the reasons therefor.
 - 3. The affected Commissioner under subsection (1) of this section shall be given a reasonable opportunity to make written submissions to the President within a time period specified in the notice and such time period shall not be less than 14 days from the date of the notice.
 - 4. The affected Commissioner may, within the time period specified in the notice, submit a written submission and the President shall consider the submission in making his final decision on the Commissioner's suspension or removal from office.
- 11. 1.** There is a vacancy in the Board if a Commissioner:
- (a) dies ;
 - (b) is removed from office in accordance with sections 7 or 10 of this Act ; or
 - (c) resigns from office; or
 - (d) upon the completion of his tenure of office.
- 2. A vacancy in the Board shall be filled by the appointment of another person to the vacant office by the President in accordance with section 8 of this Act, as soon as is reasonably practicable after the occurrence of such vacancy.
 - 3. Subject to subsection (4) of this section, in the instance of a vacancy on the Board that are created consequent upon death, removal or resignation of a Commissioner, any person so appointed shall hold office for the unexpired period of the term of office of his predecessor.
 - 4. The provisions of subsection (3) of this section shall not

apply to the filling of vacancies in respect of Executive Commissioners howsoever and whenever created.

Management and Staffing of the Commission

12. 1. The Chief Executive shall be primarily responsible for the execution of the policies and decisions of the Board and for the day-to-day management and supervision of the activities of the Commission.
2. The Chief Executive shall be a person possessing sound knowledge sound ability in the organisation and management of communications matters and subject to sections 8(3) and 8(4) of this Act, he shall hold office for a term of 5 years and may be renewed for another term and no more.
13. The Executive Commissioners shall be persons possessing sound knowledge of and ability in the organisation and management of communications regulatory matters and subject to section 8(4) of this Act, they shall hold office for a term of 5 years and may be renewed for another term and no more.
14. 1. There shall be appointed by the Board, for the Commission a secretary who shall not be a Commissioner but shall possess relevant and adequate professional qualifications, with not less than 10 years post-qualification experience.
2. The Secretary shall keep the corporate records of the Commission and perform such other duties and functions as the Chairman or the Chief Executive may from time to time direct.
15. 1. The Commission shall have powers to appoint such number of other persons as it deems necessary as staff of the Commission.
2. The employment of the Commission's staff, including the Secretary, shall be subject to such terms and conditions as may from time to time be stipulated by the Board and contained in the respective staff's employment contracts.

16. 1. The Commission shall develop and implement appropriate staff conditions of service for its staff with particular regard to the issues of remuneration, pensions scheme and other fringe service benefits, sufficient for the Commission to attract and retain quality and high calibre manpower.
2. The Board shall consider and, in consultation with the National Salaries, Incomes and Wages Commission determine and review from time to time, the remunerations and allowances, payable to the Commission's staff.
3. The conflict of interest provisions contained in the Second Schedule to this Act shall apply to all employees of the Commission.
4. Notwithstanding the provisions of the Pensions Act, service in the Commission shall be approved service for the purposes of that Act and accordingly, officers and other persons employed in the Commission shall in respect of their services in the Commission, be entitled to pensions, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grades in the Civil Service of the Federation, so however that nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.
5. For the purposes of the application of the Pensions Act, any power exercisable thereunder by a Minister or other Authority of the Federal Government, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.

Financial Provisions

17. 1. The Commission shall establish and maintain a fund from which all expenditures incurred by the Commission shall be defrayed.
 2. The Fund shall comprise funds derived from but not limited to the following sources:
 - (a) such monies as may be appropriated to the Commission from time to time by the National Assembly ;
 - (b) subject to subsection (3) of this section, fees charged by the Commission under this Act or its subsidiary legislation or under any licence issued pursuant to this Act ;
 - (c) gifts, loans, grants, aids, etc. ; and
 - (d) all other assets that may from time to time accrue to the Commission.
 3. The Commission shall pay all monies accruing from the sale of spectrum under Part 1 of Chapter VIII into the Consolidated Revenue Fund.
18. 1. The Commission may, with the consent of, or in accordance with the general authority given by the Minister of Finance, borrow such sums of money as the Commission may require in the exercise of its functions under this Act or its subsidiary legislation.
 2. The Commission may accept gifts or grants of money or aids or other property from national, bilateral and multi-lateral organisations and upon such terms and conditions, if any, as may be agreed upon between the donor and the Commission provided that such gifts are not inconsistent with the objectives and functions of the Commission under this Act.
19. 1. The Commission shall not later than 30th September in each financial year prepare and present to the National Assembly through the President for approval, a statement of estimated income and expenditure for the following financial year.

2. Notwithstanding the provisions of subsection (1), the Commission may also, in any financial year, submit supplementary or adjusted statements of estimated income and expenditure to the National Assembly through the President for approval.
 3. Subject to subsections (1) and (2) of this section, the Commission shall apply the proceeds of the Commission's Fund:
 - (a) to meet the administrative and operating costs of the Commission ;
 - (b) for the payment of salaries, wages, fees and other allowances, retiring benefits such as pensions and gratuities and, any other remunerations payable to the Commissioners and staff of the Commission ;
 - (c) for the purchase or acquisition of property or other equipment and other capital expenditure and for maintenance of any property acquired or vested in the Commission ;
 - (d) for purposes of investment ; and
 - (e) for or in connection with all or any of the functions of the Commission under this Act or its subsidiary legislation.
- 20. 1.** The financial year of the Commission shall start on 1st January of each year and end on 31st December of the same year.
2. The Commission shall keep proper records of its accounts in respect of each year and shall cause its accounts to be audited within 6 months from the end of each financial year by auditors whose appointment shall be approved by the Board and shall be subject to reappointment on annual basis provided that such auditors are on the list of auditors approved from time to time by the AuditorGeneral for the Federation.
- 21. 1.** The Commission shall prepare and submit to the National Assembly annually, through the President, not

later than 6 months after the end of its financial year, a report on the activities of the Commission for the preceding financial year and shall include therein the Commission's audited accounts for the year under review together with the auditor's report thereon.

2. The Commission's report under subsection (1) of this section shall have as an attachment thereto the report specified in section 89 of this Act.
22. The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Commission.

Functions of the Minister

23. The Minister shall have the following responsibilities and functions pursuant to this Act:
 - (a) the formulation, determination and monitoring, of the general policy for the communications sector in Nigeria with a view to ensuring, amongst others, the utilisation of the sector as a platform for the economic and social development of Nigeria ;
 - (b) the negotiation and execution of international communications treaties and agreements, on behalf of Nigeria, between sovereign countries and international organisations and bodies ; and
 - (c) the representation of Nigeria, in conjunction with the Commission, at proceedings of international organisations and for a on matters relating to communications.
24. 1. Prior to the formulation or review of the general policy for the Nigerian communications sector, the Minister shall cause the Commission on his behalf to first carry out a public consultative process on the proposed policy formulation or modification.
2. In formulating and determining the policy or

amendments thereto, the Minister and the Council shall take into consideration the findings of the consultative process under subsection (1) of this section.

25. 1. Subject to subsection (2) of this section, the Minister shall, in writing, from time to time notify the Commission or and express his views on the general policy direction of the Federal Government in respect of the communications sector.
2. In the execution of his functions and relationship with the Commission, the Minister shall at all times ensure that the independence of the Commission, in regard to the discharge of its functions and operations under this Act, is protected and not compromised in any manner whatsoever.

National Frequency Management Council

26. There is established in the Ministry a National Frequency Management Council (NFM) (in this Act referred to as "the Council") with membership and functions as set out in this Act.
27. 1. The membership of the Council shall be made up of—
 - (a) a chairman who shall be the Minister ;
 - (b) one representative of the Federal Ministry for the time being charged with the responsibility for communications ;
 - (c) one representative of the Federal Ministry of Aviation ;
 - (d) one representative of the Federal Ministry of Transport ;
 - (e) one representative of the Federal Ministry of Science and Technology ;
 - (f) two representatives of the Commission ;
 - (g) one representative of the National Broadcasting Commission ; and
 - (h) one representative from the security agencies of the Federal Republic of Nigeria.

2. The organisations that are represented on the Council may at any time, at their discretion or at the instance of the NFM Council, withdraw members who are representing their organisations and simultaneously replace them with some other persons.
28. The Council shall have and exercise the following functions:
 - (a) assist and advise the Minister on the representation of the Federal *Communications* **2003 No. 19 A 303** Republic of Nigeria and carrying out ancillary functions at international and regional spectrum allocation bodies including but not limited to International Telecommunications Union (ITU) ;
 - (b) assist and advise the Minister on the preparation and negotiation of bilateral and multi-lateral spectrum allocation treaties with other sovereign administrations ;
 - (c) assist and advise the Minister on the preparation, negotiation and adoption of spectrum coordination agreements that are applicable to cross-border spectrum uses involving the Federal Republic of Nigeria and other countries;
 - (d) in consultation and conjunction with the Commission, prepare, update and publish on a regular basis a national frequency allocation table and establish a data bank that would assist and facilitate the management of the national spectrum ;
 - (e) carry out bulk trans-sectoral allocation of spectrum to statutory bodies that are authorised by enabling laws to allocate spectrum to end-users ; and
 - (f) receive and collate returns and statistics on

spectrum allocation to endusers from the statutory bodies specified in paragraph (e) of this section and coordinate their respective activities.

29. 1. The Minister shall ensure that the Council meets at least four times in every calendar year to transact its businesses.
2. The Council may make standing orders for the regulation of its meetings and proceedings and may establish standing or *ad-hoc* committees to assist it in exercising its functions under this Act.
3. Membership of the Council Committees may be constituted beyond the members of the Council to include persons and representatives of organisations that are capable in the Council's estimation of assisting the Council in the discharge of its functions provided that such Council Committees shall at all times be headed by the Council Members.
4. Decisions of the Council Committees shall not be effective binding and valid until they are adopted and agreed upon by the NFM Council.
30. 1. The Council shall be funded from –
 - (a) subventions and budgetary allocations from the Federal Government ; and
 - (b) grants-in-aid from national, bilateral and multi-lateral agencies.
2. The Council Secretariat shall be serviced by officials of the Ministry.

Requirement for and Class of Licences, and Offence

31. 1. No person shall operate a communications system or facility nor provide a communications service in Nigeria unless authorised to do so under a communications licence or exempted under regulations made by the Commission under this Act.
2. Any person who acts in breach of sub-section (1) of this

section commits an offence and is liable on conviction to:

- (a) a fine not less than the initial fee for the relevant licence ;
- (b) a fine not exceeding 10 (ten) times the initial fee for the relevant licence ;
- (c) imprisonment for a term not exceeding 1 (one) year ; or
- (d) both such fine and imprisonment;

Provided that upon conviction, the person shall also forfeit to the Commission the property, facilities; installations and equipment used by him for the provision and operation of the unlicensed service.

32. 1. The Commission shall issue communications licences for the operation and provision of communications services or facilities by way of class or individual licences on such terms and conditions as the Commission may from time to time determine taking into consideration the objectives of this Act and the provisions of section 33(3) of this Act.
 2. Subject to subsection (3) of this section, the Commission shall from time to time determine and publish to the general public the communications services that qualify for class or individual licences or that are exempted from licensing.
 3. The Commission shall, in determining the services that qualify for class or individual licences, at all times ensure that previous holders of licences for such services as at the date of such determination do not suffer any disadvantage except as permitted under this Act and its subsidiary legislation.
33. 1 The Commission shall from time to time determine and cause to be published a regulation on its licensing processes specifying, amongst others, the persons or classes of persons who are eligible generally to apply for licences.

2. Subject to subsection (3) of this section, the Commission shall from time to time determine and publish its licensing procedures which may include but shall not be limited to auction, selection processes, public tender invitation or competitive bidding processes.
3. The Commission shall at all times be guided in the formulation of licensing procedures, issuance of communications licences and preparation of licence conditions and terms, by the principles of and consideration for:
 - (a) transparency, fairness and non-discrimination ;
 - (b) efficient use and management of radio frequencies
 - (c) available numbers under the National Numbering Plan ;
 - (d) the need to promote fair competition and investment in the communications' industry ;
 - (e) the need to provide modern, qualitative, affordable and readily available communications services in all parts of Nigeria ;
 - and
 - (f) such other principles and considerations as the Commission may from time to time consider necessary and in the national interest.

Licence Conditions

34. 1. The Commission may, from time to time, make written declarations that an individual licence, or a classification of individual licences, or a class licence is subject to such terms and conditions, or enjoys such benefits, as the Commission deems fit.
2. Any declaration on the conditions of licence shall be consistent with the objects and provisions of this Act which are relevant to the particular undertaking, matter or activity.

35. 1. The Commission shall, before making a declaration under section 34 of this Act, give the affected licensees written notice of its intention to do so together with a draft copy of the declaration, and the licensees may make written submissions to the Commission thereon within the time period specified by the Commission but not less than 30 (thirty) days from the date of the written notice.
2. The Commission shall, in deciding on the next course of action, take into consideration any submission made by the affected licensees and the principles specified in section 33(3) of this Act.
36. The Commission shall register every declaration as soon as practicable and shall further maintain a register of all such declarations in accordance with Part V of Chapter V.
37. 1. The Commission may at any time amend, modify, vary or revoke any licence condition or a declaration regarding a licence.
2. The procedures set out in sections 34, 35 and 36 of this Act shall apply *mutatis mutandis* in respect of any amendment, modification, variation or revocation of a licence condition or declaration.
38. 1. The grant of a licence shall be personal to the licensee and the licence shall not be operated by, assigned, sub-licensed or transferred to any other party unless the prior written approval of the Commission has been granted.
2. A licensee shall at all times comply with the terms and conditions of his licence and the provisions of this Act and its subsidiary legislation.

Individual Licences

39. 1. Subject to subsection (2) of this section, a person may apply to the Commission, in writing and in such form as the Commission may prescribe, for an individual licence in respect of any matter requiring an individual licence under this Act.

2. For the purposes of subsection (1) of this section and notwithstanding the provisions of section 33(1) of this Act, the Commission may from time to time specify additional criteria and qualifications that shall be met by persons wishing to apply for individual licences.
 3. The Commission may not grant an individual licence to a person if that person is operating under an existing class licence in respect of the same service or activity.
 4. All applications for individual licences shall be subject to payment of processing fees in such amount as the Commission may from time to time specify
 5. An application under this section may be withdrawn at any time before it is granted or refused.
40. 1. The Commission may at any time after the application for an individual licence is made, request the applicant to give to the Commission, within the period specified in the request, further information in support of the application.
2. If any additional information or document required under Subsection (1) of this section is not provided by the applicant within the time specified in the request or any extension of time granted by the Commission, the application shall be deemed to be withdrawn and shall not be further proceeded with, but without affecting the right of the applicant to make a fresh application.
41. 1. The Commission shall, within 90 days of receiving an application for an individual licence under this Chapter, that is not the subject of a competitive bid process, howsoever called or designed, inform the applicant by written notice.
- (a) whether or not the individual licence has been granted ;
 - (b) in the event of a grant, of any special or additional conditions that apply to the licence ;
- and

- (c) in the event that the application has been refused, the reasons for the refusal.
- 2. If the Commission neither grants nor refuses to grant an individual licence within 90 days from the receipt of an application, the Commission shall be deemed, at the end of the period, to have refused to grant the individual licence unless the applicant receives a written notice approving the application for the individual licence after the period.
- 42. 1. The grant of certain individual licences may be conditional on the registration of undertakings by a prospective licensee.
- 2. The Commission may, in granting individual licences, declare specified benefits only for licensees who have current registered undertakings under this section.
- 43. 1. The licensee may apply for the renewal of an individual licence not later than 6 months' before its expiry and the renewal fee to be determined by the Commission shall be payable upon approval of the application.
- 2. If the Commission has no intention of renewing the individual licence, the Commission shall:
 - (a) inform the licensee by written notice not later than 3 months from the date of receipt of the renewal application from the licensee, of its refusal to renew the individual licence ; and
 - (b) notify and publish, at least 30 days before the expiry of the individual licence such intention in at least one national daily newspaper.
- 3. The Commission may refuse an application for the renewal of an individual licence if the Commission determines that the licensee has:
 - (a) failed to comply with the terms and conditions of the individual licence ;
 - (b) failed to comply with the provisions of this Act or its subsidiary legislation ; or
 - (c) failed to comply with any instrument issued, made or given by the Commission.

4. The affected licensee shall be given a reasonable opportunity to make written submissions to the Commission within a time period specified in the notice and such time period shall not be less than 14 days from the date of the notice.
 5. The affected licensee may within the time period specified in the notice submit a written submission and the Commission shall consider the submission.
- 44. 1.** A licensee may, by written notice, surrender his individual licence to the Commission at any time or in accordance with the requirements set out in the individual licence.
2. The surrender shall take effect on the date the Commission receives the individual licence and the notice-under subsection (1) of this section, or where a latter date is specified in the notice, on that date.
 3. The surrender of an individual licence shall be irrevocable unless it is expressed to take effect on a later date and before that date the Commission by notice in writing to the licensee allows the surrender to be withdrawn.
- 45. 1.** The Commission may, by declaration suspend or revoke an individual licence granted under this Act in any of the following circumstances—
- (a) the licensee has failed to pay any amount or fine required by or imposed pursuant to this Act or the individual licence ;
 - (b) the licensee has failed to comply with the provisions of this Act or its subsidiary legislation or the terms and conditions of the individual licence ;
 - (c) the licensee has contravened the provisions of any other written law relevant to the communications industry ;
 - (d) the licensee has failed to comply with any instrument issued, made or given by the Commission ;

- (e) if the licensee—
 - (i) is unable to pay its debts within the meaning of that expression as defined in the Companies and Allied Matters Act,
 - (ii) enters into receivership or liquidation,
 - (iii) takes any action for its voluntary winding-up or dissolution or enters into any scheme of arrangement (other than in any such case for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Commission) or if any order is made by a competent court or tribunal for its compulsory winding-up or dissolution ; or
 - (f) the suspension or revocation is in the public interest.
2. Notwithstanding any contrary provision in this Act, an individual licence may be suspended or revoked under subsections (1)(a), (b), (c) or (d) of this section only after:
 - (a) the Commission shall by written notice have informed the licensee of its breach under the said subsection and demanded that the breach be rectified, (if it is capable of rectification), within 60 days from the date of the notice; and
 - (b) the licensee has failed to rectify the breach within the said time-frame.
 3. Prior to the suspension or revocation of an individual licence under subsection (1)(a), (b), (c) or (d) of this section, the Commission shall inform the licensee by written notice, as soon as practicable, of its intention to suspend or revoke the licence and the reasons therefor.
 4. The affected licensee shall be given a reasonable opportunity to make written submissions to the Commission within a time period specified in the notice

and such time period shall not be less than 14 days from the date of the notice.

5. The affected licensee may, within the time period specified in the notice, submit a written submission and the Commission shall consider the submission in making its final determination and declaration on the suspension or revocation of the individual licence.
 6. Subject to subsections (4) and (5) of this section, the suspension or revocation of an individual licence shall take effect on the expiration of 30 days from the date on which the notice of the Commission's declaration under subsection (3) of this section in respect of the suspension or revocation is served on the licensee.
 7. Where the suspension or revocation of an individual licence has taken effect, the Commission shall, as soon as practicable, cause the suspension or cancellation to be published in at least one national daily newspaper.
 8. Any delay or failure to publish the notice of suspension or revocation shall not in any manner affect the validity of the suspension or revocation.
46. 1. In the event of the suspension of a licence, the Commission shall determine and communicate to the licensee the duration of the suspension and the penalties that shall be attendant therefor which may include but shall not be limited to withdrawal of assigned spectrum allocation.
2. In determining the duration of and penalties consequent upon suspension of a licence, the Commission shall take into consideration, amongst other factors, the gravity of the breach that necessitated the suspension and any mitigating circumstances or conduct thereof.
47. 1. Where the revocation of an individual licence under section 45 of this Act or the surrender of an individual licence under section 44 hereof, has taken effect, or where the individual licence has expired, the licensee shall immediately lose the right to provide any service

in respect of which the individual licence was granted.

2. Notwithstanding the provisions of subsection (1) of this section and without prejudice to specific individual licence conditions, the Commission may authorise the licensee in writing to carry on providing any facility or service for such duration as the Commission may specify in the authorisation for the purpose of –
 - (a) winding up the licensee's affairs ;
 - (b) relocating the licensee's consumers to some other licensee as the Commission may determine and on such terms and conditions as the Commission may specify ;
 - (c) making or effecting such other arrangements as the Commission may specify for the continued provision of services to the licensee's customers ; and
 - (d) carrying out such other ancillary and related activities as the Commission may consider necessary.
3. Notwithstanding the provisions of subsection (1) of this section, the licensee whose individual licence has expired shall be entitled to carry on providing a service as if his individual licence had not expired upon proof being submitted to the Commission that the licensee has applied for the renewal of the individual licence in accordance with section 43 of this Act and that such application is pending determination by the Commission.
4. Subject to subsections (2) and (3) of this section, a person who continues to provide service after the coming into effect of the provisions of subsection (1) of this section in respect of his licence commits an offence and, on conviction, is liable to the punishment prescribed in section 31(2) of this Act.

48. 1. The Commission shall maintain a register of all individual licences that have been granted under this Act.
2. The Commission shall maintain a separate register containing—
 - (a) any special or additional conditions specified in the individual licence ;
 - (b) any written notice varying, revoking or imposing any special or additional conditions specified in the individual licence ;
 - (c) any written notice by the licensee surrendering his individual licence ;
 - (d) Any written notice by the Commission suspending or cancelling the individual licence ; and
 - (e) any written notice approving-the transfer of an individual licence.
3. The Commission shall maintain the registers in accordance with Part V of Chapter V of this Act.

Class Licence

49. 1. The Commission may grant a class licence in respect of any matter requiring a class licence under this Act.
2. A class licence granted under subsection (1) of this section shall contain such standard terms and conditions as the Commission may from time to time declare.
50. 1. A person who intends to operate under a class licence shall register with the Commission by submitting a registration notice to the Commission in such form and manner as the Commission may from time to time prescribe.
2. A registration fee, to be prescribed by the Commission, shall be payable by the person to the Commission as a condition precedent to the registration of that person.
3. Subject to the exceptions provided in this Act, no person shall operate under any class licence unless the Commission duly registers the person.

- 51.1. The Commission may de-register any person subject to a class licence under this Chapter in any of the following circumstances:
- (a) the person has failed to pay any amount required by this Act or the licence ;
 - (b) the person has failed to comply with the provisions of this Act or its subsidiary legislation or the terms and conditions of the licence ;
 - (c) the person has contravened the provisions of any written law relevant to the communications industry ;
 - (d) the person has failed to comply with any instrument issued, made or given by the Commission ; or
 - (e) the de-registration is in the public interest.
2. The person whose registration has been cancelled shall immediately lose the right to provide any service covered by the relevant class licence until such time as the Commission may decide to de-register the person.
52. The Commission shall in accordance with Part V of Chapter V of this Act maintain a register of –
- (a) all class licences ;
 - (b) all persons who are registered by the Commission to provide services under class licences ;
 - (c) all declarations by the Commission varying or revoking conditions or imposing other standard conditions as specified in the licence ; and
 - (d) all written notices by the Commission cancelling any registration.

Powers and Procedures of the Commission

Directions

- 53.1. The Commission may, from time to time, issue directions in writing to any person regarding the compliance or non-compliance of any licence conditions

or provisions of this Act or its subsidiary legislation, including but not limited to the remedy of a breach of any licence condition or the provisions of this Act or its subsidiary legislation.

2. The Commission shall, before issuing a direction under subsection (1) of this section, issue a notice in writing to the person specifying the nature of required compliance and the person shall be granted an opportunity to be heard or may submit a written submission within a reasonable time period specified in the notice on the reasons for his conduct or activity.
3. The Commission shall, after the expiry of the notice specified in Subsection (2) of this section, take into consideration any reasons provided by the person before making a decision in relation to the relevant conduct or activity of the person.
4. After due consideration of any reasons provided by the person, the Commission may issue a direction under subsection (1) of this section requiring the person to take specified action directed towards ensuring that the person does not contravene or continue to contravene any of the conditions of his licence or any of the provisions of this Act or its subsidiary legislation.
5. The Commission shall give the person written notice of its direction not later than 30 days from the date the decision was made on the direction and the person shall comply with the direction issued by the Commission.
54. The Commission may modify, vary or revoke a direction and the procedure set out in section 53 of this Act shall apply *mutatis mutandis* in respect of any modification, variation or revocation of a direction.
55. Without prejudice to any other provision of this Act or a licence condition, a person who fails to comply with a direction of the Commission shall be liable to the payment of fine to the Commission in such amount as the Commission may at its discretion impose.

56. The Commission shall maintain a register of all directions issued by the Commission, including any written instruments modifying, varying or revoking a direction, in accordance with Part V of this Chapter.

Inquiry

57. 1. The Commission may hold a public inquiry on any matter of a general nature that relates to the administration of this Act or its subsidiary legislation which will serve the objects of this Act.
2. Subject to subsection (3) of this section, the Commission may hold a public inquiry under subsection (1) of this section—
 - (a) in response to a written request from a person ;
or
 - (b) on its own initiative, only if it is satisfied that the matter is of significant interest to either the public or to current or prospective licensees under this Act.
3. The Commission shall hold a public inquiry in all instances that it is mandatorily required to hold an inquiry under this Act or its subsidiary legislation.
4. The Commission may combine two or more inquiries into a single inquiry and an inquiry under this Chapter shall be conducted as and when the Commission deems fit.
5. The Commission may, for the purposes of an inquiry, exercise any or all of its investigation and information-gathering powers under Parts III and IV of this Chapter.
58. 1. Subject to section 57 of this Act, if the Commission decides to hold a public inquiry, the Commission shall publish, in the manner that it deems appropriate, notice of:
 - (a) the fact that it is holding the inquiry ;
 - (b) the period during which the inquiry is to be held;
 - (c) the nature of the matter to which the inquiry relates ;

- (d) the period, of at least 21 days, within which, and the form in which, members of the public are invited to make submissions to the Commission about the subject matter of the inquiry ;
 - (e) the matters that the Commission would like the submissions to deal with ; and
 - (f) the address or addresses to which the submissions may be sent.
 - 2. the Commission does not need to publish at the same time or in the same manner the notice of all matters referred to in subsection (1) of this section.
 - 3. the Commission shall consider any submissions received within the time limit as specified in the notice and the submissions made by the members of the public shall be in the form and of the nature as specified in the notice.
59. 1. Notwithstanding the provisions of section 58 of this Act, an inquiry or a part of an inquiry may be conducted in private if the Commission is satisfied that—
- (a) the documents or information that may be given, or a matter that may arise during the inquiry or a part of the inquiry, is of a confidential nature ; or
 - (b) the inquiry or part of the inquiry or a matter, or part of a matter, in public would not be conducive to the due administration of this Act.
2. If an inquiry takes place in public and the Commission is of the opinion that:
- (a) the evidence or other material presented to the inquiry ; or
 - (b) the material in written submissions lodged with the Commission is of a confidential nature, the Commission may direct that:
 - (i) the evidence or material should not be published ; or
 - (ii) Its disclosure be restricted.

3. A person shall not without an excuse that is considered reasonable by the Commission fail to comply with a direction under subsection (2) of this section.
 4. If an inquiry or part of an inquiry takes place in private, the Commission:
 - (a) shall give a direction as to the persons who may be present at the inquiry or part of the inquiry ; and
 - (b) may give a direction restricting the disclosure of evidence or other material presented at the inquiry or part of the inquiry.
 5. Notwithstanding the provisions of section 55 of this Act, a person who without reasonable excuse fails to comply with a direction given under Subsection (4) of this section shall be liable to the payment of fine to the Commission in such amount as the Commission may at its discretion impose.
60. 1. The Commission shall publish a report setting out its findings as a result of any inquiry it conducts and the report shall be published within 45 days of the conclusion of the inquiry.
2. The Commission shall not include in the report any material:
 - (a) that is, in the Commission's opinion, of a confidential nature ; and
 - (b) the disclosure of which is likely to prejudice the fair trial of a person ; and
 - (c) which would involve the unreasonable disclosure of personal information about any individual (including a deceased individual).
 3. Civil proceedings shall not lie against a person in respect of any loss, damage or injury of any kind suffered by another person because of any of the following acts:
 - (a) the making of a request under section 57 of this Act ; or
 - (b) the making of a statement, or giving of a

document or information to the Commission in relation to an inquiry under this Chapter.

4. The Commission shall maintain a register of all reports made pursuant to an inquiry under this Part, in accordance with the provisions in Part V of this Chapter.

Investigation for Purposes of Administration, Inquiry, Etc.

61. Notwithstanding the provisions of any other written law, the Commission may investigate any matter pertaining to the administration of this Act or its subsidiary legislation if the Commission has grounds to believe that an infringement, civil or criminal, of the provisions of this Act or its subsidiary legislation was, is or will be committed.
62. 1. The Commission may conduct an investigation on a matter referred to in section 61 of this Act upon a written complaint by a person and the complaint shall specify the person against whom the complaint is made.
 2. If a complaint has been made to the Commission under this section, the Commission may make inquiries of the respondent for the purpose of deciding whether the Commission should, in its discretion, investigate the matter.
 3. If the Commission decides not to investigate, or not to investigate further, a matter to which a complaint relates, it shall not later than 60 days from the date of receipt of the complaint and in such manner as it thinks fit, inform the complainant and the respondent of the decision and the reasons for the decision.
63. 1. The Commission shall before beginning an investigation of a matter to which the complaint relates, inform the respondent that the matter is to be investigated.
 2. An investigation under this Part shall be conducted as the Commission thinks fit and the Commission may,

for the purposes of an investigation, obtain information from such persons as it thinks fit.

3. Subject to subsection (4) of this section, a complainant or respondent may, at the Commission's discretion, be given an opportunity to appear before the Commission in connection with an investigation.
4. The Commission shall not, as a result of the investigation, make a finding that is adverse to a complainant or a respondent unless it has given the complainant or respondent an opportunity to make written submissions about a matter to which the investigation relates within a time period of not less than 21 days.
5. The Commission shall consider the submissions made by the complainant or the respondent under subsection (4) of this section before making its decision.
6. The Commission may, after concluding an investigation, prepare and publish a report which shall cover —
 - (a) the conduct of the investigation concerned ;
 - (b) any findings that the Commission has made as a result of the investigation ;
 - (c) the evidence and other material on which those findings were based ; and
 - (d) such other matters relating to, or arising out of, the investigation as the Commission thinks fit.

Information-gathering Powers

64. 1. This section applies to any person who is subject to this Act and who the Commission has reason to believe:
 - (a) has any information including but not limited to accounts and records or any document that is relevant to the exercise of the Commission's powers and functions under this Act or its subsidiary legislation ; or
 - (b) is capable of giving any evidence which the Commission has reason to believe is relevant to the exercise of the Commission's powers and

functions under this Act or its subsidiary legislation.

2. The Commission may, by a written notice, direct any person who is subject to this Act to :
 - (a) give the Commission; within the period and in the manner and form specified in the notice, any such information ;
 - (b) produce to the Commission, within the period and in the manner specified in the notice, any such documents, whether in a physical form or in an electronic media ; or
 - (c) make copies of any such documents and to produce those copies to the Commission within the period and in the manner specified in the notice.
3. The Commission shall allow the person so directed under subsection (2) of this section a reasonable time to give and to produce any information or documents specified in the notice.
4. Any person who is subject to this Act and who is required to provide information under subsection (2) of this section shall ensure that the information provided is true, accurate and complete and such person shall provide a representation to that effect, including a representation that he is not aware of any other information which would make the information provided untrue or misleading.
65. 1. Notwithstanding the provisions of section 55 of this Act, a person who is subject to this Act and who fails to comply with a direction of the Commission under this Part shall be liable to the payment of fine to the Commission in such amount as the Commission may at its discretion impose.
2. Notwithstanding the provisions of sections 55 of this Act and subsection (1) of this section, a person who is subject to this Act and who fails to disclose or omits to

give any relevant information or evidence or document, or provides information or evidence or document that he knows or has reason to believe is false or misleading, in response to a direction issued by the Commission commits an offence and on conviction is liable to a fine not exceeding N100,000.00 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

66. 1. A person who is subject to this Act shall, if at any time called upon in writing by the Commission to do so, produce to the Commission all such evidence and provide all such information as the person may have relating to his compliance with any of the provisions of this Act or its subsidiary legislation, as the Commission may generally, or in relation to any particular case, require.
2. The Commission may take, and retain for as long as is necessary, possession of a document produced under this Chapter and the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Commission to be a true copy.
3. Notwithstanding the provisions of any other written law, all courts and tribunals shall receive the certified copy as evidence as if it were the original.
4. Until a certified copy is supplied, the Commission shall, at such times and places as the Commission thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from the document.
67. 1. The Commission shall maintain a record of all information, evidence or documents received pursuant to the directions given under section 64 (2) of this Act.
2. The Commission may publish information received in the course of exercising its powers and functions under this Chapter if it is satisfied, that the publication is

consistent with the objects of this Act Provided that the Commission shall consider the commercial interests of the parties to whom the information relates before publishing the information.

Register

68. 1. The Commission shall maintain a register, in both physical form and electronic media, of all matters that are required to be registered under this Act and its subsidiary legislation.
2. The Commission may, at its discretion, summarise the contents of a material for inclusion in the register and exclude therefrom aspects of the material if it considers such exclusion necessary and justified on grounds of public interest or safety, amongst others.
69. 1. A person may, on payment of the charge, if any, to be decided by the Commission ;
 - (a) inspect the register ; and
 - (b) make a copy of, or take extracts from the Register.
2. If a person requests that a copy be provided in an electronic media, the Commission may provide the relevant information.
 - (a) on a data processing device ; or
 - (b) by way of electronic transmission.
3. The Commission shall from time to time publish guidelines in regard to its various registers giving details of the registers and indicating, amongst others, access processes and procedures for members of the public.

Regulations, Guidelines, Etc.

70. 1 The Commission may make and publish regulations for all or any of the following issues :
 - (a) written authorisations, permits, assignments and licences granted or issued under this Act ;
 - (b) assignment of rights to the spectrum or numbers under Chapter VIII, including mechanisms for rate-based assignment ;

- (c) any fees, charges, rates or fines to be imposed pursuant to or under this Act or its subsidiary legislation ;
 - (d) a system of universal service provision under Chapter VII, including but not limited to the quality of service standards ;
 - (e) communications and related offences and penalties ;
 - (f) any matter for which this Act makes express provision ; and
 - (g) such other matters as are necessary for giving full effect to the provisions of this Act and for their due administration.
2. The Commission may also make and publish guidelines on any matter for which this Act makes express provision and such other matters as are necessary for giving full effect to the provisions of this Act and for their due administration.
- 71. 1.** The Commission shall, prior to making any regulation under this Act, conduct an inquiry in the manner specified in Part II of this Chapter on the subject matter of the proposed regulation.
2. The Commission shall, in making the regulation, take into consideration the findings of the inquiry under subsection (1) of this section.
 3. The Commission may prior to making any guideline, at its discretion, conduct an inquiry in the manner specified in Part II of this Chapter on the subject matter of the proposed guideline and if the Commission considers it necessary to hold such an inquiry, it shall in making the guideline take into consideration the findings of the inquiry.
- 72. 1.** Subject to subsection (2) of this section, the Commission may review, as at when it deems necessary, any rules, guidelines and regulations made under this Act that are in effect at the time of the review and may in the

process modify or vary, or repeal any such rules or regulations :

- (a) which are no longer necessary in the national interest ;
 - (b) which are no longer necessary to ensure the objects of this Act or its subsidiary legislation ;
 - or
 - (c) for any other reason that the Commission thinks is relevant.
2. The procedures set out in section 71 of this Act shall apply *mutatis mutandis* in respect of any modification, variation or revocation of a regulation or guideline.

Notification and Resolution of Disputes

73. The Commission shall have powers to resolve disputes between persons who are subject to this Act ("the parties") regarding any matter under this Act or its subsidiary legislation.
74. 1. An attempt shall first be made by the parties to resolve any dispute between them through negotiation before the involvement of the Commission.
2. If one of the parties to the dispute has provided an undertaking that is relevant to the subject matter of the dispute and the Commission in accordance with Part IX of this Chapter has registered the undertaking, the parties may adopt the conditions of the undertaking for the purposes of resolving the dispute.
75. 1. A party to a dispute may, in writing, notify the Commission of the dispute and the Commission may only resolve a dispute under this Part if it is notified in writing of the dispute and requested by either or both parties to intervene thereon.
2. The Commission may publish guidelines setting out the principles and procedures that it may take into account in resolving disputes or a class of disputes under this Part.

- (3) The Commission shall, upon receipt of the notification of the dispute referred to in Subsection (1) of this section, as soon as practicable, convene to decide the dispute.
 - (4) The Commission shall convene to decide a dispute if it is satisfied that :
 - (a) an agreement shall not be reached, or will not be reached within a reasonable time ;
 - (b) the notification of the dispute is not trivial, frivolous or vexatious ; and
 - (c) the resolution of the dispute would promote the objects of this Act or its subsidiary legislation.
76. 1. Subject to the objects of this Act and any guidelines issued by the Commission under this Part, the Commission may resolve the dispute in such manner including but not limited to Alternative Dispute Resolution processes and upon such terms and conditions as it may deem fit.
2. The Commission, in carrying out its functions under Subsection (1) of this section, shall always be guided by the objective of establishing a sustained dispute resolution process that is fair, just, economical and effective and that shall not be bound by technicalities, legal form or rules of evidence and that shall at all times act according to the ethics of justice and the merits of each case.
3. The terms and conditions of any resolution of a dispute by the Commission under this Part shall be accompanied with reasons and be in writing and the Commission shall provide the parties to the dispute with a copy of its decision as soon as practicable.
77. 1. The Commission shall register all decisions it makes under this Part, in accordance with Part V of this Chapter.
2. The register shall contain :
 - (a) the names of the parties to the dispute ;
 - (b) a general description of the matter pertaining to the decision ; and

- (c) the date of the decision, but not the terms and conditions of the decision.

78. 1. The decision of the Commission shall be binding on the parties and the Commission may direct a party to a dispute to abide by the decision of the Commission in that dispute.
2. A decision made by the Commission under this Part may be enforced by the Court as if the decision is a judgment of such Court provided that the Commission has issued a certificate to the complainant for leave to proceed to the Court for the enforcement of the decision.
3. No certificate under subsection (2) of this section is required if an action is taken by the Commission under this section.

Registration of Agreements

79. 1. A party to a written agreement who is subject to this Act shall apply to the Commission for the registration of the Agreement, if this Act or its subsidiary legislation requires such registration.
2. The Commission shall register the written agreement if the Commission is satisfied that the agreement is consistent with :
 - (a) the objects of this Act ;
 - (b) any relevant instrument under this Act ; and
 - (c) any relevant provisions of this Act or its subsidiary legislation.
80. 1. The Commission shall maintain a register of all agreements required to be registered under this Act, in accordance with Part V of this Chapter.
2. the register shall contain ;
 - (a) the names of the parties to the agreement,
 - (b) a general description of the matter pertaining to the agreement, and
 - (c) the date of the agreement, but not the terms and conditions of the agreement.

Undertakings

81. 1. A person may provide an undertaking to the Commission regarding any matter for which this Act makes express provision.
2. An undertaking provided by a person under subsection (1) shall set out the terms and conditions of the undertaking and may include the effective date of the undertaking or the date of its expiry.
82. 1. Subject to section 84 of this Act, all undertakings given by any person to the Commission in any circumstance whatsoever shall be deemed as duly registered and shall remain valid and enforceable at all times.
2. The Commission shall maintain a register of all existing undertakings, in accordance with Part V of this Chapter.
83. 1. The Commission may make and publish rules in respect of undertakings and the rules shall bind the party making the undertakings and all other persons relying on such undertakings as if they were respectively signed by each person and contained agreements on the part of each person for himself and for his successors to observe all the provisions of the rules.
2. The Commission may direct a person referred to in subsection (1) of this Section to comply with the rules made under subsection (1) of this section and any registered undertakings issued under this Part.
84. A person providing an undertaking may apply to withdraw the undertaking at any time by notifying the Commission in writing and the undertaking shall only be withdrawn upon such terms and subject to such conditions as the Commission may specify.
85. The Commission or a directly affected person may apply to a court for the enforcement of an undertaking against the person providing the undertaking if an undertaking has not been complied with.

Review of Decisions

86. 1. A person who is aggrieved or whose interest is adversely affected by any decision of the Commission made pursuant to the exercise of the powers and functions under this Act or its subsidiary legislation ("aggrieved person") may request in writing to the Commission for a statement of the reasons for the decision.
2. The Commission shall, upon such written request by an aggrieved person, provide a copy of a statement of reasons for the decision and any relevant information taken into account in making the decision.
3. The Commission is not required to publish, or to disclose to the aggrieved person, a statement of reasons or a part of a statement of reasons if the publication or disclosure would:
 - (a) disclose a matter that is, in the opinion of the Commission, of a confidential character ;
 - (b) be likely to prejudice the fair trial of a person ; or Undertakings.
 - (c) involve the unreasonable disclosure of personal information about any individual (including a deceased person).
4. In this Chapter, "decision" includes any action, order, report, direction.
87. 1. An aggrieved person may at any time within but not later than 30 days after the date of receipt of the Commission's statement of reasons specified in section 86(2) of this Act request the Commission in writing for a review of the Commission's decision and specify therein the reasons and basis for his request.
2. Subject to subsection (4) of this section, upon receipt of the aggrieved person's written submissions the Commission shall meet to review its decision taking into consideration the submissions of the aggrieved person under subsection (1) of this section.

3. The Commission may, in carrying out the review of its decision under this Part, use and exercise any of its powers under this Chapter.
 4. The Commission shall not later than 60 days from the date of receipt of the aggrieved person's written submissions, conclude its review of the decision and inform the aggrieved person in writing of its final decision thereon and the reasons therefor.
88. 1. Subject to section 87 of this Act and subsections (2) and (3) of this section, an aggrieved person may appeal to the Court for a judicial review of the Commission's decision or other action.
2. The decision or direction of the Commission that is the subject matter of an application for judicial review shall subsist and remain binding and valid until it is expressly reversed in a final judgement or order of the Court.
 3. A person shall not apply to the Court for a judicial review unless that person has first exhausted all other remedies provided under this Act.

Monitoring and Reporting

89. 1. The Commission shall monitor all significant matters relating to the performance of all licensees and publish annual reports thereon at the end of each financial year of the Commission.
2. In performing its functions under subsection (1) of this section, the Commission shall:
 - (a) use any of its powers under this Chapter and in particular but without limitation, its powers of investigation and information-gathering pursuant to Parts III and IV of this Chapter ; and
 - (b) have regard to such industry performance indicators as the Commission considers appropriate.

3. Matters upon which the Commission shall monitor and report include but are not limited to the following:
 - (a) the operation and administration of this Act and its subsidiary legislation ;
 - (b) the efficiency in which licensees provide facilities and services ;
 - (c) the quality of services ;
 - (d) industry statistics generally including but not limited to service provisioning, traffic patterns, industry operators, etc. ;
 - (e) the tariff rates and charges paid by consumers for services ;
 - (f) the development of industry self-regulation ;
 - (g) the adequacy and availability of services in all parts of Nigeria ;
 - (h) any deficiencies in the scope or operation of this Act and its subsidiary legislation ; and
 - (i) other matters that the Commission is satisfied are relevant.
4. The Commission shall publish the report, in the manner it deems appropriate, provided that it is made publicly available.

Economic Regulation

General Competition Practices

90. Notwithstanding the provisions of any other written law, the Commission shall have exclusive competence to determine, pronounce upon, administer, monitor and enforce compliance of all persons with competition laws and regulations, whether of a general or specific nature, as it relates to the Nigerian communications market.
91. 1. A licensee shall not engage in any conduct which has the purpose or effect of substantially lessening competition in any aspect of the Nigerian communications market.
2. The Commission may from time to time publish guidelines or regulations which clarify the meaning of

“substantial lessening of competition” in the Nigerian communications market and such guidelines or regulations may include references to:

- (a) the relevant economic market ;
 - (b) global trends in the relevant market;
 - (c) the impact of the conduct on the number of competitors in a market and their market shares ;
 - (d) the impact of the conduct on barriers to entry into the market ;
 - (e) the impact of the conduct on the range of services in the market ;
 - (f) the impact of the conduct on the cost and profit structures in the market ; and
 - (g) any other matters which the Commission is satisfied are relevant.
3. A licensee shall not enter into any understanding, agreement or arrangement, whether legally enforceable or not, which provides for :
- (a) rate fixing ;
 - (b) market sharing ;
 - (c) boycott of another competitor ;
 - (d) boycott of a supplier of apparatus or equipment; or
 - (e) boycott of any other licensee.
4. A licensee shall not, at any time or in any circumstance, make it a condition for the provision or supply of a product or service in a communications market that the person acquiring such product or service in the communications market is also required to acquire or not to acquire any other product or service either from himself or from another person.
92. 1. The Commission may determine that a licensee is in a dominant position in any aspect of the Nigerian communications market.

2. The Commission may publish guidelines and regulations which clarify how it shall apply the test of “dominant position” to licensees.
 3. The guidelines and regulations in subsection (2) of this section may specify the matters which the Commission may take into account, including –
 - (a) the relevant economic market ;
 - (b) global technology and commercial trends affecting market power ;
 - (c) the market share of the licensee ;
 - (d) the licensee’s power to make independent rate setting decisions ;
 - (e) the degree of product or service differentiation and sales promotion in the market ; and
 - (f) any other matters which the Commission is satisfied are relevant.
 4. The Commission may direct a licensee in a dominant position in the communications market to cease a conduct in that market which has or may have the effect of substantially lessening competition in any communications market and to implement appropriate remedies.
93. 1. A licensee may apply to the Commission prior to engaging into any conduct which may be construed to have the purpose or effect of substantially lessening competition in any aspect of the Nigerian communications industry, for authorisation for the conduct.
2. Notwithstanding the provisions of this Chapter, the Commission may authorise the conduct if the Commission is satisfied that the authorisation is in the national interest.
 3. The Commission may, before authorising the conduct, require the licensee to submit an undertaking regarding his conduct in any matter relevant to the authorisation.
 4. A licensee may withdraw an application made under

subsection (1) of this section at any time prior to authorisation by the Commission.

5. Subject to section 84 of this Act, an authorisation granted by the Commission under subsections (2) or (3) of this section may only be withdrawn upon such terms and subject to such conditions as the Commission may specify.
6. The Commission shall maintain a register of current authorisations of conducts under this Part in accordance with Part V of Chapter V.
94. 1. The Commission or a person may seek an interim or interlocutory injunction against any conduct prohibited in this Part.
2. A person shall obtain a certificate from the Commission for leave to proceed to the court for enforcement of the provisions of this Part except in the case of an injunction.
95. 1. Subject to subsection (2) of this section, the Commission may make regulations or rules in respect of agreements between licensees under this Act and foreign network facilities providers or network service providers.
2. The Commission shall only make the rules under subsection (1) of this section which are intended to prevent or mitigate :
 - (a) any conduct by foreign network facilities providers or network service providers that shall or is likely to lead to a substantial lessening of competition in any aspect of the Nigerian Communications market; or
 - (b) the misuse of market power in any aspect of the Nigerian communications market.

Interconnection

96. If a network services or facilities provider receives a request for interconnection from another licensee, then the service or facilities provider shall have an obligation to interconnect its communications system with the other licensee's network at technically feasible locations,

in accordance with the principles specified in section 97 of this Act and pursuant to terms and conditions negotiated between the parties in good faith.

97. 1. All interconnection agreements between licensees shall be in writing and shall comply with :
 - (a) this Act, the regulations and guidelines published from time to time by the Commission pursuant to this Act ; and
 - (b) the principles of neutrality, transparency, non-discrimination, fair competition, universal coverage, access to information, equality of access and equal terms and conditions.
2. The terms and conditions of interconnection agreements shall primarily be agreed upon between the parties thereto and the Commission may intervene and make binding rulings at its instance or at the instance of either or both parties to the agreement :
 - (a) if the Commission determines that the agreement or any provision thereof is inconsistent with the provisions of this Act or its subsidiary legislation ; or
 - (b) in the event of a failure of consensus between the parties on specific issues or a delay in reaching such consensus ; or
 - (c) if the Commission considers it in the public interest for it to so intervene at its own instance and without any invitation from either or both parties to the agreement.
98. 1. All interconnection agreements shall be registered with the Commission, by either or both parties thereto, within 30 (thirty) days from the date of execution thereof in accordance with Part VIII of Chapter V.
2. The parties shall furnish the Commission with any additional information that the Commission may require in respect of such interconnection agreement.
3. The Commission may, upon evaluating the terms and

conditions and the charges set out in the interconnection agreement, require the parties thereto to revise the agreement if, in the Commission's opinion, the agreement is inconsistent with this Act, the regulation or the interconnection guidelines or the integrity of the public network.

99. 1. The Commission shall make interconnection regulations which may specify but shall not be limited to model terms and conditions for interconnection agreements between service providers.
2. Matters which the interconnection regulations shall address include but are not limited to :
 - (a) the time frame and procedures for negotiations and the concluding of interconnection agreements ;
 - (b) quality and levels of service ;
 - (c) rate methodologies ;
 - (d) protection of intellectual property ;
 - (e) protection of commercial information ;
 - (f) provisioning of facilities ; and
 - (g) sharing of technical information.
100. Notwithstanding the terms and conditions of any interconnection, a party thereto shall not at any time and in any circumstance disconnect or discontinue interconnection to any interconnecting party without the prior written approval of the Commission.

Access

101. 1. Subject to such exemptions as may be determined by the Commission and duly published, a network facilities provider and a network service provider shall provide access to their network facilities or network services listed in the access list to any other :
 - (a) network facilities provider,
 - (b) network services provider,
 - (c) applications service provider, or
 - (d) content applications service provider, who makes

a written request for access to such network facilities provider or network service provider on reasonable terms and conditions.

2. The access provided by one provider ("the first provider") to another provider under subsection (1) of this section shall be of at least the same or more favourable technical standard and quality as the technical standard and quality provided on the first provider's network facilities or network services.
102. 1. The list of facilities and services which may be included in the access list, as determined by the Commission under this Chapter, are :
- (a) network facilities ;
 - (b) network services ; and
 - (c) other facilities and services that facilitate the provision of network services or applications services, including content applications services.
2. The Commission shall maintain a register of :
- (a) network facilities,
 - (b) network services, and
 - (c) other facilities and services which facilitate the supply of network services or applications services, including content applications services, included in the access list.
103. The provisions of sections 97, 98, 99 and 100 of this Act, including but without limitation, the powers of the Commission thereunder shall apply *mutatis mutandis* and extend to access provision and issues ancillary thereto pursuant to this Part.

Consumer Affairs

Consumer Protection and Quality of Service

104. All service providers shall, in respect of their specific services:
- (a) meet such minimum standards of quality of service as the Commission may from time to time specify and publish ;

- (b) deal reasonably with consumers ; and
 - (c) adequately address consumer complaints.
- 105. 1. The Commission may use any of its powers under this Act in the resolution of complaints received from consumers in relation to matters of customer service and consumer protection including but not limited to quality of service or the failure by a licensee to comply with a consumer code prepared under this Chapter.
- 2. The Commission shall establish procedures or guidelines for the making, receipt and handling of complaints of consumers regarding the conduct or operation of licensees and may, at its discretion, institute alternative dispute resolution processes for the resolution of the complaints or disputes provided that the licensee's dispute resolution procedures shall first have been exhausted by the consumer without resolution of the complaint before presentation of the complaint to the Commission.
- 106. 1. Subject to the provisions of subsection (2) of this section, the Commission may designate an industry body to be a consumer forum and to prepare a consumer code for the purposes of this Chapter and the consumer code prepared by such industry body shall be subject to the prior approval of and ratification by the Commission.
- 2. Without prejudice to the provisions of subsection (1) of this section, the Commission may require licensees to prepare individual consumer code for their respective customers and such consumer code shall be subject to the prior approval of and ratification by the Commission.
- 3. A consumer code prepared by a consumer forum, the Commission or licensees shall include model procedures for :
 - (a) reasonably meeting consumer requirements ;
 - (b) the handling of customer complaints and disputes including an inexpensive arbitration process other than a court, and procedures for

- the compensation of customers in case of a breach of a consumer code ; and
- (c) the protection of consumer information.
4. Other matters which the consumer code shall address include but are not limited to :
- (a) further recourse available to a consumer who is dissatisfied with the licensee's complaints-handling procedures together with specific details of compensation and refund schemes offered by licensee to its customers ;
 - (b) the provision of information to customers regarding services, rates and performance ;
 - (c) the provisioning and fault repair of services ;
 - (d) the advertising or representation of services ;
 - (e) customer charging, billing, collection and credit practices ; and
 - (f) any other matter which, in the opinion of the Commission, may be of concern to consumers.
5. After the preparation of a consumer code and subsequent ratification by the Commission, the consumer code shall be published by the licensee and the Commission and notice of it shall be advertised in at least one national daily newspaper.
6. A consumer code prepared pursuant to this Chapter shall be subject to annual review and ratification by the Commission prior to publication by the licensee and the Commission.

Required Applications Services

107. 1. For the purposes of this Chapter, the Commission may determine a list of required applications services.
2. The list referred to in subsection (1) of this section may include but is not limited to :
- (a) emergency services (including access to controlled network facilities and network services for the purposes of providing emergency services) ;

- (b) directory assistance services (including access to controlled network facilities, network services and relevant databases) ;
 - (c) operator assistance services ; and
 - (d) services for disabled consumers.
3. The Commission shall, in specific regard to emergency services, take immediate steps upon the commencement of this Act to :
- (a) promote and enhance public safety through the use of a particular number which shall be designated as the universal safety and emergency assistance number for telephone services generally ; and
 - (b) encourage and facilitate the prompt deployment throughout Nigeria of a seamless, ubiquitous and reliable end-to-end infrastructure for emergency communications needs.
4. The Commission may determine the classes of network service providers who shall provide any or all of the applications services on the list of required applications services and shall direct them to provide the required applications services.
5. Notwithstanding any provision to the contrary in this Act or any instrument made, issued or given under this Act, a direction by the Commission issued under subsection (3) of this section may provide for or specify operational details relating to a required applications service.

Tariff Rate Regulation

108. 1. Holders of individual licences shall not impose any tariff or charges for the provision of any service until the Commission has approved such tariff rates and charges except as otherwise provided in this Part.
2. The licensees specified in subsection (1) of this section shall provide services at the tariff rates and charges so

approved by the Commission and shall not depart therefrom without prior written approval by the Commission of such proposed changes in tariff rates and charges.

3. All licensees mentioned in subsection (1) of this section shall publish the tariff rates charged to customers for their respective services and the modifications thereto as may be approved from time to time by the Commission.
4. The tariff rates established by a licensee mentioned in subsection (1) of this section shall be on the basis of such principles as the Commission may from time to time stipulate in its guidelines or regulation including the following:
 - (a) tariff rates shall be fair and, for similarly situated persons not discriminatory ;
 - (b) tariff rates shall be cost-oriented and, in general, cross-subsidies shall be eliminated ;
 - (c) tariff rates shall not contain discounts that unreasonably prejudice the competitive opportunities of other providers ;
 - (d) tariff rates shall be structured and levels set to attract investments into the communications industry ; and
 - (e) tariff rates shall take account of the regulations and recommendations of the international organisations of which Nigeria is a member.
109. Notwithstanding the provisions of Section 108 of this Act, the Commission may intervene in such manner as it deems appropriate in determining and setting the tariff rates for any non-competitive services provided by a provider mentioned in Section 108 (1) of this Act for good cause or as the public interest may require.
110. 1. The Commission may from time to time make rules or regulations on determination and publication of tariff rates for respective services by the licensees specified in section 108 (1) of this Act.

2. The regulations and rules which may be made by the Commission under subsection (1) of this section may include but are not limited to :
 - (a) rules about the tariff rates and charges and variation of rates for specified or classes of services ;
 - (b) rules about the publication or disclosure of tariff rates for specified or classes of services ; or
 - (c) tariff rate models that may be applicable to specified licensees or classes of licensees or specified or classes of services.
111. Notwithstanding any other provision of this Act, the Commission shall prescribe and enforce appropriate financial penalties upon any holder of an individual licence who exceeds the tariff rates duly approved by the Commission for the provision of any of its services.

Universal Service Provision

112. 1. Subject to subsection (2) of this section, the Commission shall consider, design and determine a system which shall promote the widespread availability and usage of network services and applications services throughout Nigeria by encouraging the installation of network facilities and the provision for network services and applications services to institutions and in unserved, underserved areas or for underserved groups within the community ("Universal Service Provision" (USP)).
2. No universal service provision organ that is created under this Part or pursuant to this Act or its subsidiary legislation shall be or constitute itself howsoever into a communications service provider.
3. The Commission may make regulations under Part VI of Chapter V for the implementation of subsection (1) of this section.
- 113.1. A determination by the Commission under section 112 (1) of this Act shall include definitions of "institutions",

“unserved”, “underserved areas” and “underserved groups within a community”.

2. In determining the definition of “unserved” and “underserved areas”, the Commission may have regard to:
 - (a) the availability of services in particular areas or places ;
 - (b) the level of competition in particular areas or places ; and
 - (c) the commercial viability of installing network facilities or providing network services or applications services in particular areas or places.
 3. The Commission may, in determining the definition of “underserved groups within a community”, have regard to:
 - (a) the availability of services to such groups ; and
 - (b) any barriers to the use of available services.
 - (4) The Commission shall, in determining the definition of “institutions”, have regard to the educational, health and other socio-infrastructure needs of Nigerians.
- 114.** 1. For the purposes of this Act, a fund to be known as the “Universal Service Provision Fund” (“USP Fund”) is established and it shall be controlled and operated in the manner specified in this Chapter.
2. The USP Fund shall comprise funds derived from but not limited to the following sources:
 - (a) such monies as may be specifically appropriated to the USP Fund from time to time by the National Assembly;
 - (b) contributions from the Commission based on a portion of the annual levies paid to the Commission by licensees; and
 - (c) gifts, loans, aids, and such other assets that may from time to time specifically accrue to the USP Fund.

3. The administrative and operational expenses for USP shall be funded directly from the USP Fund and such expenses shall include:
 - (a) salaries, emoluments, remunerative packages, howsoever called, and allowances for :
 - (i) Universal Service Provision Board Members ;
 - (ii) the Commission staff who are assigned on full-time basis to the USP Secretariat or such other staff of the USP Secretariat howsoever engaged ; and
 - (iii) USP Fund Manager ;
 - (b) Operational expenses for the activities of the USP Board, USP Secretariat and USP Fund Managers.
 4. The Commission shall ensure that the USP Fund is at all times totally separated from the Commission's Fund under Part IV of Chapter II and transparently maintained and operated as such.
 5. Independent auditors appointed for that purpose by the Board shall audit the USP Fund annually and the auditor's report shall be presented to the National Assembly and published to the public provided that such auditors are on the list of auditors approved from time to time by the Federal Accountant General for the Federation.
- 115.**
1. Subject to subsections (2) and (3) of this section, there is hereby established a Board ("USP Board") that shall supervise and provide broad policy directions for the management of the USP Fund.
 2. The USP Secretariat that is established pursuant to section 118 of this Act shall serve as the Secretariat.
 3. The USP Board shall be constituted by the President based on the recommendations of the Minister and the USP Board shall, in carrying out its functions and duties pursuant to this Act, collaborate and consult at all times with the Commission and be subject to the provisions of this Act.

116. 1. Membership of the USP Board shall be constituted as follows:

- (a) the Minister shall be the USP Board Chairman ;
 - (b) the Board Chairman of the Commission shall be the USP Board ViceChairman;
 - (c) 2 Commissioners ;
 - (d) 1 representative of the Ministry ;
 - (e) 1 representative of the Minister of Finance ;
 - (f) 1 representative of the Chairman, National Planning Commission ; and
 - (g) 4 private sector representatives.
2. The President, acting on the recommendations of the Minister, shall ensure that the USP Board members in subsection (1)(g) of this section are persons of integrity and professional standing who shall be appointed as USP Board Members either on their own self-recognition or as representatives of organisations who, in the President's judgement, are stakeholders in and can contribute meaningfully towards the attainment of the USP objectives.
 3. The appointment of the USP Board members in subsection (1)(g) of this section shall be subject to confirmation by the Senate
 4. Subject to subsections (5) and (6) of this section, the organisations that are represented on the USP Board may at any time, at their discretion or at the instance of the USP Board, withdraw members who are representing their organisations and simultaneously replace them with some other persons.
 5. USP Board Members who are appointed pursuant to subsection (1)(g) of this section shall serve on such terms and for such periods as shall be indicated in their respective letters of appointment.
 6. In the event of the determination of the appointment of a USP Board member who was appointed under subsection (1)(g) of this section and who was

representing an organisation, the Minister may, on the recommendation of the USP Board, request the organisation to immediately send a replacement therefor.

117. 1. The USP Board shall make standing orders for the regulation of its meetings and proceedings and may establish Standing or *ad-hoc* committees to assist it in exercising its functions under this Act.
2. Membership of the USP Board Committees may be constituted beyond the members of the USP Board to include persons and representatives of organisations that are capable in the USP Board's estimation of assisting the Commission and the USP Board in the discharge of its USP functions provided that, such USP Board Committees shall at all times be headed by USP Board Members.
3. Decisions of the USP Board Committees shall not be binding and valid until they are adopted and agreed upon by the USP Board.
118. 1. The USP Secretariat shall reside in the Commission and shall be responsible for the day-to-day administration of the Universal Service Provision pursuant to section 112 of this Act.
2. The functions of the USP Secretariat shall include the following :
 - (a) receiving applications for loans and grants from eligible persons such as community-based communications operators;
 - (b) reviewing the applications in paragraph (a) of this sub-section and making recommendations to the USP Board as to which applications should be funded ;
 - (c) liaising with other departments of the Commission in processing licences for funded applications ;
 - (d) providing loan recipients and grantees with technical and managerial assistance, such as

resolution of equipment vendor issues and setting up of billing systems ;

- (e) evaluation of project performance and effecting such actions as may be necessary to ensure that loan recipients and grantees meet objectives for network expansion and provision of service ;
- (j) enforcing standards for quality of service in rural and underserved areas set by the USP Board ;
- (g) collecting USP assessments and loan repayments and paying such loan repayments into the USP Fund ;
- (h) evaluating the effectiveness of the USP in meeting policy goals as set by Government and USP Board ;
- (i) facilitating collaboration between activities that are funded by the USP Fund and other infrastructure and development efforts ; and
- (j) liaising between USP Board and USP Fund Managers that will be appointed pursuant to section 119 of this Act.

3. The Commission shall ensure that the USP Secretariat is staffed with suitably qualified and experienced personnel who may be seconded from the Commission's staff but shall in any case have employment terms, conditions and contracts that are similar to that which obtains for the Commission's staff.

119.1. The USP Board shall, in consultation with the Commission, appoint an independent and competent investment management firm as USP Fund Managers with responsibilities ; amongst others, for :

- (a) maintaining USP Funds financial accounts and records;
- (b) collaborating with USP Secretariat in the collection of USP assessments and loan repayments ;
- (c) estimating the amount needed annually to sustain the rate of network expansion

determined by the Commission as appropriate to meet USP policy objectives;

- (d) determining the amount of annual revenue required to ensure that the USP Fund remains fiscally sound, and calculation of the corresponding rate of assessment ;
 - (e) disbursing funds to eligible entities based upon approvals by the USP Board ;
 - (f) prudently investing USP Funds cash reserves under directions from the USP Board and establishing cash management procedures to ensure maximum return on investments while meeting short-term cash requirements for disbursements ;
 - (g) regularly reporting on financial performance of the USP Fund to the USP Board ; and
 - (h) assisting USP Secretariat in evaluating the effectiveness of the USP in meeting policy goals as set by Government and USP Board.
2. The USP Board shall, in collaboration with the Commission, determine the terms of engagement and the remuneration package for the USP Fund Managers.
- 120.** The Commission may make regulations regarding contributions by licensees, under this Act, to the USP Fund and any other matters related to or incidental to Universal Service Provision and the establishment and operation of the USP Fund.

Technical Regulation

Spectrum Assignment

- 121.** 1. Notwithstanding the provisions of any other written law but subject to the provisions of this Act, the Commission shall have the sole and exclusive power to manage and administer the frequency spectrum for the communications sector and in that regard to grant licences for and regulate the use of the said frequency spectrum

- 2 The powers of the Minister under the Wireless Telegraphy Act so far as they relate to communications are hereby vested in the Commission.
 - 3 The Wireless Telegraphy Act is hereby amended by substituting:
 - (a) for the word "Minister" or "Minister's" wherever it occurs, other than in Sections 9,11(3),13(1),19(1),28 and 29, the word "Commission" or "Commission's" as the case may be ; and
 - (b) for the word "he", "his" or "him" wherever it occurs in relation to the Minister, the word "it", "its" or "it", as the case may be.
- 122.** 1. Subject to such exemptions as are contained in this Act or as may be determined by the Commission, no person shall intentionally transmit in any part of the spectrum to provide a service unless the person holds a frequency licence issued under this Part.
2. Subject to subsection (3) of this section, a person who contravenes any prohibition under this Chapter commits an offence and on conviction is liable to—
 - (a) a fine not less than the initial fee for the relevant licence ;
 - (b) a fine not exceeding 10 times the initial fee for the relevant licence ;
 - (c) imprisonment for a term not exceeding 1 year ;
 - or
 - (d) both such fine and imprisonment ;
 Provided that upon conviction, the person shall also forfeit to the Commission the property, facilities, installations and equipment used by him for the provision of the service.
 3. Notwithstanding the provisions of subsection (2) of this section, a person who contravenes any prohibition under this Part in consequence whereof he causes the death or any physical harm to a person shall also be

subject to prosecution under the criminal laws applicable in the relevant part of Nigeria.

123. 1. The Commission may make regulations in relation to any matter under this Chapter.
2. The regulations may include procedures for the assignment of spectrum such as but is not limited to the following:
 - (a) auction ;
 - (b) tender ; and
 - (c) fixed price to be determined by the Commission.
124. 1. Subject to subsection (2) of this section, the Commission in consultation with and on behalf of the NFM Council shall develop a national frequency plan in respect of any part or all of the spectrum.
2. The Commission shall, in developing the national frequency plan, work and liaise with the different users of spectrum in Nigeria including the military, law enforcement and security agencies, maritime and civil aviation authorities.
3. A national frequency plan shall define how the spectrum shall be used and define the methodology for assignment and reassignment of the spectrum.
4. The Commission, in exercising the functions under subsections (1), (2) and (3) of this section shall take into account:
 - (a) the objects of this Act ;
 - (b) the impact of the national frequency plan on existing spectrum users ; and
 - (c) any applicable international standards, conventions and agreements including but not limited to the International Telecommunications Union and its radio regulations as agreed to and adopted by Nigeria.
5. Subject to the payment of such fees as the Commission may from time to time prescribe, the Commission shall, upon application, provide to persons with a need to

know, copies of the national frequency plan or such parts of it as do not compromise or prejudice national security.

125. 1. Subject to the payment of such fees as the Commission may from time to time prescribe, the Commission may issue or renew a frequency licence upon such conditions as the Commission may impose, which confers rights on a person:
 - (a) to use one or more specified frequency bands for any purpose consistent with the assignment conditions ; or
 - (b) to use the spectrum to operate a network facility of a specified kind at a specified frequency or in any specified frequency band or bands.
 2. A frequency licence may be issued under this section only:
 - (a) if it is consistent with the National Frequency Plan ; and
 - (b) when the Commission has determined under section 124 of this Act the relevant frequency bands for spectrum assignment.
 3. The re-issuance of a spectrum assignment to an existing or new licence holder shall at all times conform to the provisions of subsection (2) of this section.
- 126.1. The Commission may compulsorily acquire assignments in a determined spectrum:
 - (a) in accordance with a reassignment of spectrum policy consistent with the national frequency plan ; or
 - (b) in the national interest.
 2. The Commission may pay a reasonable amount of compensation to the holder of an assignment whose assignment has been acquired by a direction made under this section, prior to its expiry.

127. 1. A person who fails to:
- (a) utilise his assigned spectrum as at such deadline as the Commission may specify in his frequency licence or assignment document ; or
 - (b) renew his frequency licence as at when due ; may, at the Commission's discretion, forfeit his spectrum assignment and in the event of a forfeiture, the same shall revert to the Commission and become available for reassignment.
2. No compensation shall be paid to a licensee who has forfeited his spectrum assignment under Subsection (1) of this section.

Numbering and Electronic Addressing

128. 1. The Commission shall solely and exclusively be vested with the control, planning, administration, management and assignment of the numbering and electronic addressing of network services .and applications services.
2. The Commission shall develop a numbering and electronic addressing plan for the numbering and electronic addressing of network services and applications services taking into account the subsisting numbering plan prior to the commencement date of this Act.
3. The numbering and electronic addressing plan may set out rules which include:
- (a) the use of different numbers and electronic addresses for different kinds of services ;
 - (b) the assignment of numbers and electronic addresses ;
 - (c) the transfer of assigned numbers and addresses;
 - (d) the use of assigned numbers and electronic addresses ;
 - (e) the portability of assigned numbers and electronic addresses ;

- (f) the requirements for network service providers and applications service providers to maintain a plan for assigning and reassigning numbers and electronic addresses ; and
 - (g) the fees for the assignment and transfer of numbers and electronic addresses which may be determined by the Commission.
4. The Commission shall make the numbering and electronic addressing plan available to the public for a fee to be decided by the Commission.
- 129.** 1. The Commission may delegate any or all of its functions under this Chapter to a person it wishes.
2. Without prejudice to the generality of subsection (1) of this section, the Commission may appoint a specified person or organisation to manage or maintain an integrated public number database or an integrated electronic address database.
 3. The Commission or a person or organisation specified under subsection (2) shall provide non-discriminatory commercial access to the database on the same terms and conditions which it offers to itself.
 4. The Commission may direct a person specified under subsection (2) of this section regarding the manner in which he shall discharge his obligation under subsection (3) of this section.

Technical Standards

- 130.** 1. Subject to subsection (2) of this section, the Commission shall specify and publish to the general public, technical code and specifications in respect of communications equipment and facilities that may be used in Nigeria.
2. The technical code and specifications prepared by the Commission under this section shall include:
 - (a) requirements for network interoperability, including the provision of certain network capabilities such as calling line identification capability and pre-selection capability ;

- (b) the promotion of safety of network facilities ;
 - (c) the provision of network facilities or services, including requirements for qualified providers and installers ;
 - (d) the provision of customer equipment and cabling, including requirements for qualified installers ;
 - (e) the approval of customer equipment and other access devices ; and
 - (f) the adoption of technical standards promulgated by international bodies.
3. Prior to specifying and publishing any technical code and specifications under this Act, the Commission shall first conduct an inquiry in the manner specified in Part II of Chapter V on the proposed code or specification provided that such prior inquiry may not be required in regard to technical code or specifications that are mandatorily prescribed by international organisations to which Nigeria belongs such as the International Telecommunications Union (ITU).
 4. In making the technical code and specifications, the Commission shall take into consideration the findings of the inquiry under subsection (3) of this section.
- 131. 1.** A person who uses any technical equipment or systems which hinder network interoperability, commits an offence and on conviction, is liable to a fine not exceeding N100,000.00 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.
2. A person who uses any technical equipment or systems which compromise public safety as defined from time to time by the Commission commits an offence and on conviction, be liable to a fine not exceeding N100,000.00 or to imprisonment for a term not exceeding 1 (one) year or to both such fine and imprisonment.

- 132.** 1. The Commission shall, at the instance of licensed service providers, equipment manufacturers or suppliers, conduct type approval tests and issue certificates therefor in respect of communications equipment and facilities to be used in Nigeria.
2. Licensed service or facilities providers, equipment manufacturers or suppliers shall obtain type approval certificates from the Commission in respect of their communications equipment or facilities prior to installation or sale in Nigeria.
3. The Commission shall, in conducting type approval of equipment or facilities, be guided by the technical code and specifications formulated by the Commission under section 130 of this Act.
- 133.** 1. A person who sells or installs any communications equipment or facilities without first obtaining the Commission's type approval test certificate therefor commits an offence and on conviction, is liable to a fine not exceeding N100,000.00 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.
2. Notwithstanding the provisions of subsection (4) of this section, a licensee who installs or sells any communications equipment or facilities without first obtaining the Commission's type approval test certificate therefor is liable to pay fine to the Commission in such amount as the Commission may determine.
- 134.** The Commission may make regulations in regard to the provisions of this Part pursuant to Part VI of Chapter V and may charge such fees as it deems reasonable for carrying out its type-approval functions.

General

Installation of Network Facilities, Access to Network Facilities

- 135.** Licensees under this Act may require approvals of the State Government, Local Government or other relevant authority for installation, placing, laying or maintenance of any network facilities on, through, under or across any land and it shall be the responsibility of such licensees to obtain such approvals.
- 136.** 1. A licensee shall, in installing its network facilities, take all reasonable steps to ensure that he causes as little detriment and inconvenience, and does as little damage, as is practicable.
2. If a licensee engages in an activity under this Part in relation to any land, the provider shall take all reasonable steps to restore the land to a condition that is similar to its condition before the activity began.
3. All licensees shall, in connection with the installation of their respective network facilities, take all reasonable steps to:
- (a) act in accordance with good engineering practice;
 - (b) protect the safety of persons and property ;
 - (c) ensure that the activity interferes as little as practicable with:
 - (i) the operations of a public utility ;
 - (ii) public roads and paths ;
 - (iii) the movement of traffic ; and
 - (iv) the use of land ; and
 - (d) protect the environment.
4. All licensees shall take all reasonable efforts to enter into respective agreements with public utilities that make provision for the manner in which the licensees will engage in activities that are:
- (a) covered by this Part ; and
 - (b) likely to affect the operations of the utility.

137. 1. Notwithstanding the provisions of any other written law, a licensee shall provide another licensee with non-discriminatory access to any post, network facilities or right-of-way owned or controlled by him.
2. Notwithstanding the provisions of subsection (1) of this section, a licensee may deny any other licensee access to his post network facilities or right-of-way on a non-discriminatory basis where there is insufficient capacity, or for reasons of safety, security, reliability, or difficulty of a technical or engineering nature.
3. The Commission shall, in the event of a dispute between licensees in respect of the provisions of subsections (1) and (2) of this section, at the instance of any or all of the parties, intervene and make a binding ruling thereon.
4. The Commission may regulate the rates, terms and conditions for access to any post, network facilities or right-of-way and provide that such rates, terms and conditions are just and reasonable and may adopt procedures necessary and appropriate to hear and resolve disputes in accordance with Part VII of Chapter V.
5. Nothing in this section shall be construed to apply to or to give the Commission jurisdiction with respect to access to any posts, network facilities or right-of-way where a State Authority, local authority or other authority regulates such matters.

Jurisdiction, Offences, Powers of Entry, Etc.

138. The Federal High Court shall have exclusive jurisdiction over all matters, suits and cases howsoever arising out of or pursuant to or consequent upon this Act or its subsidiary legislation and all references to "Court" or "Judge" in this Act shall be understood and deemed to refer to the Federal High Court or a Judge of the said Court.

- 139.** If a body corporate commits an offence under this Act or its subsidiary legislation a person who at the time of the commission of the offence was a director, chief executive officer, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management:
- (a) may be charged severally or jointly in the same proceedings with the body corporate ; and
 - (b) if the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves:
 - (i) that the offence was committed without his knowledge, consent or connivance, and
 - (ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.
- 140.** Where no specific penalty is prescribed in this Act or its subsidiary legislation for any offence, a person found guilty of such offence shall:
- (a) as a first offender, be liable to a fine not exceeding N100,000.00 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; and
 - (b) for a subsequent conviction, to a fine not exceeding N500,000.00 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.
- 141. 1.** The Commission may in writing authorise any of its officials or appoint external-inspectors on its behalf to exercise the powers of monitoring and enforcement vested in the Commission under this Act.

- (2) The Commission may direct its authorised officials or appointed inspectors to investigate the activities of a licensee or other person material to his compliance with this Act or its subsidiary legislation pursuant to its information-gathering, monitoring, enforcement and other related powers under this Act.
- (3) In exercising any of the powers specified in subsection (2) of this section and notwithstanding any other provision of this Act, an authorised official of the Commission or its appointed inspector –
 - (a) shall on demand produce to the person against whom he is acting, the authority issued to him by the Commission ; and
 - (b) may at any reasonable time and without prior notice, enter any affected person or licensee's premises ; and
 - (i) inspect and make copies of or extracts from books, records, documents or other information storage systems,
 - (ii) demand the production of and inspect the relevant licence, permit, certificate or authority ; and
 - (iii) inspect any radio communications station or apparatus or other communications equipment or facilities on the premises. Provided that the official or appointed inspector shall have in his possession for the purposes of entering any affected person's premises who is not a licensee, a warrant for that purpose obtained from a Magistrate or Judge prior to the entry into such premises.

Actions Against Commission, Etc.

- 142.** 1. Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against an official or employee of the Commission.
2. Notwithstanding anything contained in any other law or enactment, no suit shall lie against a Commissioner, the Secretary or any other official or employee of the Commission for any act done in pursuance or execution of this Act or any other law or enactment, or of any public duty or authority in respect of any alleged neglect or default in the execution of this Act or any other law or enactment, duty or authority, or be instituted in any court unless it is commenced—
- (a) within 3 months next after the act, neglect or default complained of ; or
 - (b) in the case of a continuation of damage or injury, within 6 months next after the ceasing thereof.
3. No Suit shall be commenced against a Commissioner, the Secretary or any official or employee of the Commission before the expiration of a period of 1 month after written notice of the intention to commence the Suit shall have been served on the Commission by the intending plaintiff or his agent.
4. The notice referred to in subsection (3) of this section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.
- 143.** A notice, summons or other document required or authorised to be served on the Commission under the provisions of this Act or any other law or enactment may be served by delivering it to the Commission or by sending it by registered post addressed to the Chief Executive or Commission Secretary at the principal office of the Commission.

- 144.** 1. In any action or suit against the Commission, no execution or attachment of process in any nature thereof shall be issued against the Commission unless not less than 3 months notice of the intention to execute or attach has been given to the Commission.
2. Any sum of money which may by the judgement of any court be awarded against the Commission shall, subject to any direction given by the court where notice of appeal against the judgement has been given, be paid from the Commission's Fund.
- 145.** A Commissioner, the Secretary or any official or employee of the Commission shall be indemnified out of the assets of the Commission against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his capacity as a Commissioner, Secretary, officer or employee of the Commission.

National Interest Matters

- 146.** 1. A licensee shall use his best endeavour to prevent the network facilities that he owns or provides or the network service, applications service or content application service that he provides from being used in, or in relation to, the commission of any offence under any law in operation in Nigeria.
2. A licensee shall, upon written request by the Commission or any other authority, assist the Commission or other authority as far as reasonably necessary in preventing the commission or attempted commission of an offence under any written law in operation in Nigeria or otherwise in enforcing the laws of Nigeria, including the protection of the public revenue and preservation of national security.
3. Any licensee, shall not be liable in any criminal proceedings of any nature for any damage (including punitive damages), loss, cost or expenditure suffered or to be suffered (whether directly or indirectly) for any

act or omission done in good faith in the performance of the duty imposed under subsections (1) and (2).

- 147.** The Commission may determine that a licensee or class of licensee shall implement the capability to allow authorised interception of communications and such determination may specify the technical requirements for authorised interception capability.
- 148.** 1. On the occurrence of any public emergency or in the interest of public safety, the Commission may:
- (a) suspend the licence of any licensee, take temporary control of any service or network facilities owned or provided by a licensee in any manner as the Commission deems fit ;
 - (b) withdraw either totally or partially the use of any service or network facilities from any licensee, person or the general public ;
 - (c) order that any communication or class of communications to or from any licensee, person or the general public, relating to any specified subject shall not be communicated or shall be intercepted or detained; or that any such communication or its records shall be disclosed to an authorised officer mentioned in the order; or
 - (d) order the taking of possession of any customer equipment.
2. If the Commission takes possession of any network facilities, service, or customer equipment under subsection (1) of this section, the person licensed under this Act with regard to the facilities, service or equipment shall be paid reasonable compensation which shall be determined by the Commission after giving an opportunity to the licensee to be heard on the matter.
- 149.** The Commission may direct a licensee or class of licensees to develop, in consultation with the authorities specified by the Commission, a disaster plan

for the survivability and recovery of any services or network facilities in case of a disaster, crisis or civil emergency.

Repeal And Transitional Provisions

Repeal And Savings

150. 1. The following Acts ("the repealed Acts") are hereby repealed:

- (a) the Nigerian Communications Commission Act;
- (b) the Nigerian Communications Commission (Amendment) Act ; and
- (c) the Telecommunications and Postal Offences Decree No. 21 of 1995 and all subsequent amendments thereto.

2. Any subsidiary legislation made under the repealed Acts shall, in so far as it is not inconsistent with this Act, remain in operation until revoked or replaced by subsidiary legislation made under this Act, and shall be deemed for all purposes to have been made under this Act.

151. 1. The rights, interests, obligations and liabilities of the Commission, existing before the commencement of this Act under any contract or instrument, or in law or in equity shall by virtue of this Act be deemed to have been preserved, assigned to and vested in the Commission established by this Act to the extent that they are not inconsistent howsoever with any of the provisions of this Act.

2. Any such contract or instrument as is mentioned in subsection (1) of this section shall be of the same force and effect against or in favour of the Commission established by this Act and shall be enforceable as fully and effectively as if instead of the Commission existing before the commencement of this Act the Commission established by this Act had been named therein or had been a party thereto provided that such contract or

instrument is not inconsistent with any of the provisions of this Act.

152. The Commission established by this Act shall be subject to all the obligations and liabilities to which the Commission existing before the commencement of this Act was subject to immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Commission established by this Act as they had against the Commission existing before the commencement of this Act provided that such obligations, liabilities, rights, powers and remedies are not inconsistent with any of the provisions of this Act.
153. Any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the Commission in respect of any right, interest, obligation or liability of the Commission pursuant to the repealed Acts may be continued or, as the case may be, commenced and any determination of the court of law, tribunal or other authority or person may be enforced by or against the Commission established by this Act as if such proceeding or cause of action or determination was continued, commenced or enforced by or against the Commission under this Act provided that such proceeding or cause of action or determination is not inconsistent with any of the provisions of this Act.
154. All assets, funds, resources and other movable or immovable property which immediately before the commencement of this Act were vested in the Commission pursuant to the repealed Acts shall by virtue of this Act and without further assurance, be vested in the Commission established by this Act.
155. Any person who immediately before the coming into force of this Act is the holder of any office in the Commission pursuant to the repealed Acts shall on the commencement of this Act continue in office and be

deemed to have been appointed to his office pursuant to this Act, unless the authority by which the person was appointed terminates the appointment in accordance with the provisions of this Act.

Transitional Provisions for Licences, Definitions and Short Title

156. 1. Subject to Subsection (2) of this section, licences issued under the repealed Act ("old licences") shall continue to have effect under this Act.

2. The Commission shall, upon the commencement of this Act, have the powers to modify old licences to conform to the provisions and objectives of this Act.

157. In this Act—"Access" means the making available of communications facilities and communications services one licensee to another for the purpose of providing services, and includes the connection of equipment by wire or wireless means, access to physical infrastructure including but not limited to buildings, ducts and masts, access to mobile networks, in particular for roaming, and access to number translation or systems offering equivalent functionality ;

"Access list" means the list of facilities or services established under Part III of Chapter VI ;

"Agreement" means an agreement, whether formal or informal, oral or written, express or implied;

"Applications service" means a service provided by means of, but not solely by means of one, or more network services ;

"Applications service provider" means a person who provides an application service ;

"Assignment" means the assignment by the Commission of rights to use the spectrum, numbers or electronic addresses and may include conditions to which the exercise of those rights shall be subject ;

"Authorised interception" means interception by the licensee of any network facilities, network service

or applications service permitted under section 148 of this Act ; “Board” means the Board of Commissioners established under section 5 of this Act ;

“Class licence” means a licence for any or all persons to conduct a specified activity and may include conditions to which the conduct of that activity shall be subject ;

“Commission” means the Nigerian Communications Commission established under section 3 of this Act ;

“Communications licence” or “licence” means either an individual licence or a class licence issued by the Commission under Chapter IV;

“Communications” means any communication, whether between persons and persons, things and things, or persons and things, in the form of sound, data, text, visual images, signals or any other form or any combination of those forms;

“Communications sector” or “market” means an economic sector or market for a network service, or an applications service, or for goods or services used in conjunction with a network service or an applications service, or for access to facilities used in conjunction with either a network service or an applications service;

“Consolidated Revenue Fund” means the Fund established by section 80 of the Constitution of the Federal Republic of Nigeria 1999 ;

“Consumer”, “customer”, or “subscriber” means any person who subscribes to and uses a communication service;

“Content” means any sound; text, still picture, moving picture or other audiovisual representation, tactile representation or any combination of the preceding which is capable of being created, manipulated, stored, retrieved or communicated electronically;

“Content applications service” means an applications service which provides content ;

“Council” means the Federal Executive Council of the Federal Republic of Nigeria ;

“Court” means a court of law of competent jurisdiction ;

“Customer equipment” means any equipment, whether hardware or software, or device, used on the customer side of the network boundary;

“Direction” means a direction issued by the Commission under Part I of Chapter V ;

“Equipment” means any equipment or apparatus used or intended to be used for communications and that is part of or connected to or comprises a communications system;

“Federal Government” means the Federal Government of the Federal Republic of Nigeria;

“Individual licence” means a licence for a specified person to conduct a specified activity and may include conditions to which the conduct of that activity shall be subject;

“Instrument” includes a direction, determination or declaration;

“Intercept” means the aural or other acquisition of the contents of any communications through the use of any electronic, mechanical or other equipment, device or apparatus;

“Interception capability” means the capability of any network facilities or network service or applications service to intercept communications under section 147 of this Act;

“Interconnection” means the physical and logical linking and connection of communications systems used or operated by the same or different licensees in order to convey messages to and from the respective systems for the provision of services ;

“ITU” means International Telecommunications Union ;

“Licensee” means a person who either holds an individual licence or undertakes activities which are subject to a class licence granted under this Act ;

“Minister” means the Minister for the time being charged with the responsibility for Communications ;

“Minister of Finance” means the Federal Minister for the time being charged with the responsibility for Finance ;

“Ministry” means the Federal Ministry for the time being charged with the responsibility for Communications ;

“National Frequency Plan” means the frequency plan prepared under Part II of Chapter III and Part I of Chapter VIII for the management of any part or all of the national spectrum ;

“Network facilities” means any element or combination of elements of physical infrastructure used principally for or in connection with the provision of services but does not include customer equipment ;

“Network facilities provider” means a person who is an owner of any network facilities ;

“Network service” means a service “for carrying communications by means of guided or unguided electromagnetic radiation;

“Network service provider” means a person who provides network services ;

“NFM Council” means National Frequency Management Council;

“Number” means a number, letter or symbol;

“Numbering and electronic addressing plan” means the numbering and electronic addressing plan developed under Part II of Chapter VIII ;

“Owner” means the legal or beneficial owner ;

“Person” includes a corporate body or partnership and where an individual is required to represent a

corporate body or partnership in any circumstance pursuant to this Act or its subsidiary legislation it shall be sufficient if in the case of a:

- (a) corporate body, it is represented by its competent officer ; and
- (b) partnership, it is represented by a partner in the partnership or a competent employee of the partnership;

“President” means the President of the Federal Republic of Nigeria ;

“Publication” of any information by the Commission pursuant to this Act or its subsidiary legislation, except otherwise specified in any particular section of this Act, shall be deemed as sufficiently effected if it is posted at the Commission’s website and published in at least two widely circulating national newspapers ;

“Publication” of any information by a licensee pursuant to this Act or its subsidiary legislation, except otherwise specified in any particular section of this Act, shall be deemed as sufficiently effected if it is –

- (a) officially sent to the Commission ;
- (b) published at the licensee’s website ;
- (c) made publicly and readily available to any member of the public at the licensee’s offices that deal with or relate howsoever with its consumers ; and
- (d) if the Commission so directs, published in at least one national newspaper;

“Register” means anyone of the registers established or maintained by the Commission for the purposes of this Act ;

“Service”, except where the context otherwise requires, means applications, content, network or facilities services or any combination of these services ;

“Spectrum” means the continuous range of electromagnetic wave frequencies up to and including a frequency of 420 terahertz ;

“Spectrum assignment” means the assignment issued under Part I of Chapter VIII;

“Telecommunication” means any transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, visual or other electro-magnetic systems ;

“Transmit” or “transmission” means to cause any emission of unguided electromagnetic energy in any part of the spectrum ;

158. This Act may be cited as the Nigerian Communications Act 2003.

First Schedule

Supplementary Provisions Relating to the Board of Commissioners

Proceedings of the Board

1. Subject to the provisions of this Act and section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or that of any of its Committees.
2. The Chairman shall preside at every meeting of the Board and in his absence, the Executive Vice-Chairman shall preside at the meeting and in the absence of the Chairman and Executive Vice-Chairman, the members present at that meeting shall appoint one of their numbers to preside at the meeting.
3. The quorum for any meeting of the Board shall be a simple majority of the Members for the meantime constituting the Board provided that, such simple majority shall include a minimum of 2 Executive Commissioners.
4. The Board shall meet to transact its business pursuant to this Act whenever it is summoned by the Chairman

and if so required by notice given to him by not less than 4 other members of the Board specifying, amongst others, an agenda for the meeting, the Chairman shall summon a meeting of the Board that shall be held within 14 days from the date on which the notice is served on him to discuss the items specified in the notice ; Provided that the Board shall for the purposes of this Act meet not less than 4 times in each calendar year.

5. A member of the Board who directly or indirectly has an interest of a personal nature (including but not limited to financial interests) in any matter being deliberated Short title. upon by the Board, or is personally interested in any contract made or proposed to be made by the Commission, Council or the Access Fund shall, so soon after the facts of the matter of his interests have come to his knowledge disclose his interest and the nature thereof at a meeting of the Board.
6. A disclosure under paragraph 5 of this Schedule shall be recorded in the minutes of meetings of the Board and the member concerned:
 - (a) shall not, after the disclosure, take part in any deliberation or decision of the board or vote on the matter ; and
 - (b) shall be excluded for the purpose of constituting a quorum of any meeting of the Board for any deliberation or decision, with regard to the subject matter in respect of which his interest is so disclosed.

Committees

- 7.1. Subject to its standing orders, the Board may appoint such number of standing or ad hoc committees as it thinks fit to consider and report on any matter with which the Commission is concerned.
2. A committee appointed under this paragraph shall –
 - (a) consist of such number of persons who may not necessarily be members of the Board as may be

determined by the Board, provided that the appointment of a non-Board member as a Committee member shall be subject to such terms as would be indicated in his letter of appointment ; and

(b) be presided over by a member of the Board.

3. The quorum of any Committee set up by the Board shall be as may be determined from time to time by the Board.
4. A decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

8. The fixing of the seal of the Commission shall be authenticated by the signature of the Secretary and that of the Chairman or any other Board Member generally or specifically authorised by the Board to act for that purpose.
9. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Commission, Councilor Access Fund by any person generally' or specially authorised by the Board to act for that purpose.
10. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Commission shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.
11. Subject to the provisions of this Act, the validity of any proceedings of the Board or of any of its Committees shall not be affected by:
 - (a) any vacancy in the membership of the Board, or Committee
 - (b) any defect in the appointment of a member of the Board or Committee ; or

(c) reason that any person not entitled to do so took part in the proceedings of the Board or Committee.

12. No member of the Board or the Board's Committee shall be personally liable for any act or omission done or made in good faith while engaged on the business of the Commission.

Second Schedule

Conflict of Interest

1. Subject to the provisions of this Schedule, no Commissioner or staff of the Commission shall have a direct or indirect financial interest or investment in any Nigerian communications company throughout the tenure of his office or employment with the Commission.
2. Subject to paragraphs 3 and 4 hereof, each Commissioner or staff of the Commission shall on an annual basis present a written declaration affirming the nonexistence of any such interest as is specified in paragraph 1 and shall pledge to disclose and inform the Commission of any such relationship or interest that arises or is likely to arise during his tenure or employment with the Commission.
3. Serving Commissioners and staff of the Commission as at the commencement date of this Act shall be entitled to a maximum of 6 months from the said commencement date within which to divest themselves of their direct or indirect financial interests or investment in any Nigerian communications company, if any.
4. All newly appointed Commissioners and staff of the Commission after the commencement of this Act shall be entitled to a maximum of 6 months from their respective dates of appointments within which to divest themselves of their direct or indirect financial interests

or investments in any Nigerian communications company, if any.

5. Each Commissioner or staff of the Commission shall declare on appointment or at the commencement of employment and annually thereafter, for as long as he serves the Commission, any interest or investment that he:
 - (a) knowingly has ; or
 - (b) knows any member of his immediate family to have in any aspect of the Nigerian communications industry.
6. If a Commissioner or staff of the Commission contravenes the provisions of paragraphs 1 and 2 of this Schedule, or gives false information under paragraph 5 of this Schedule, he shall be liable, on conviction, to the payment of a fine not exceeding N100,000.00 or imprisonment of a term not exceeding 1 year or to both.
7. Subject to paragraph 8 of this Schedule, the Board may from time to time waive the application of the prohibitions specified in paragraph 1 and 2 of this Schedule to any Commissioner or staff of the Commission if the Board determines that the financial interest of the relevant person is not of a material nature or is minimal.
8. The Commission in determining whether or not the interest of a Commissioner or staff of the Commission is minimal or not of a material nature shall consider factors including but not limited to the following:
 - (a) the revenues, investments, profits and managerial efforts of the relevant company or other entity in regard to its communications activities compared with other aspects of the company's or such entity's businesses;
 - (b) the extent to which the Commission regulates and oversees the activity of such company or entity;

- (c) the degree to which the economic interests of such company or other entity may be affected by an action of the Commission ; and
 - (d) the perceptions held or likely to be held by the public regarding the relevant person's financial interest or investment in that company or other entity.
9. The Board may at any time review and reverse its determination under paragraph 7 of this Schedule and direct the application of the prohibitions contained in this Schedule to the affected Commissioner or staff of the Commission and the Board shall not be under an obligation to disclose the reason or basis for its review to the affected Commissioner or staff member.
10. In any case in which the Commission exercises the waiver authority or the review thereof as specified in paragraphs 7 and 9 of this Schedule, the Commission shall so soon thereafter publish the details thereof and such publication shall include information regarding the identity of the person who has been granted the waiver or whose waiver grant has been reviewed, the position held by such person and, the nature of the financial interests which are the subject of the waiver or the review thereof.
11. For the purposes of this Schedule:
- (a) "company" includes partnerships and undertakings ;
 - (b) "immediate family" means a person's spouse and children who are under the age of 18 years.

I certify, in accordance with section 2(1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the bill passed by both Houses of the National Assembly.

IBRAHIM SALIM, CON
Clerk to the National Assembly
 30th day of June, 2003

Explanatory Memorandum

This Act provides, amongst other things, for the:

- (a) repeal of the Nigerian Communications Commission Act 1992 as amended ;
- (b) reform of the Nigerian Communications Commission as an independent regulatory body for the Communications Sub-sector ;
- (c) establishment of the National Frequency Management Council ; and
- (d) establishment of the Universal Service Fund.

Part Two

Regulations

2

Annual Operating Levy Regulations, 2014

Application and Objectives

- 1 – (1) These Regulations shall subject to the provisions of the Act, apply for the administration by the Commission of Annual Operating Levy regime.
- (2) The Annual Operating Levy shall except as stipulated in these Regulations, be payable by all holders of Individual Licences issued by the Commission from time to time.
- (3) The Commission may at any time, upon due and prior publication, expand the scope of application to include holders of Class Licences upon such terms and conditions as the Commission shall specify.
- (4) Where the provisions of these Regulations are inconsistent with the conditions of any licence, with respect to the payment of the Annual Operating Levy

and other applicable levies, the provisions of these Regulations shall prevail and subsist to the extent of the inconsistency.

2. The objectives of these Regulations are to—
 - (a) create and provide a regulatory framework for the effective and efficient administration by the Commission of the Annual Operating Levy regime and all matters related thereto ;
 - (b) stipulate the mode and methods of assessment of Annual Operating Levy and the payment modes thereof ; and
 - (c) specify guiding standards and principles for the administration by the Commission of the Annual Operating Levy regime.

Assessments and Payments for Annual Operating Levy

3. (1) Every Licensee that is a Network Operator shall pay to the Commission an Annual Operating Levy assessed at two and a half percent of the Licensee's Net Revenue for the relevant period being its Gross Revenue less its Roaming, Interconnect and Bandwidth Costs for the period.
- (2) Every Licensee that is a Non-Network Operator shall pay annually to the Commission an Annual Operating Levy assessed at one percent of the Licensee's Net Revenue for the relevant period being its Gross Revenue less its Roaming, Interconnect and Bandwidth Costs for the period.
- (3) The portion of revenue generated from the value added services payable to Value Added Service providers shall be considered as an allowable deduction from the gross revenue of the network operators.
- (4) The portion of revenue referred to in sub regulation (3) of this regulation shall be fully disclosed in the network operator's audited accounts.

- (5) Where a Licensee defaults in the commencement of its commercial services as specified in its Licence, the Commission shall, without prejudice to any sanctions as may be provided in the Act, Licence, the Enforcement Regulations or these Regulations, demand the payment of an Annual Operating Levy from the Licensee.
 - (6) The Annual Operating Levy of the Licensee referred to in sub-regulation (5) of this regulation shall be payable and assessed each year at ten percent of the Licence fees calculated from the Commercial Launch Date as stipulated in the applicable Licence until provision of commercial services is commenced by the Licensee.
 - (7) The Commission may, from time to time, review, change or modify the assessment rates of the Annual Operating Levy stipulated in subregulations (1), (2) and (3) of this regulation.
 - (8) A review or modification of the assessment rates of the Annual Operating Levy shall be in accordance with the provisions of the Act and Licences and shall be published by the Commission prior to the commencement date of the revised rates.
4. – (1) The Annual Operating Levy shall be paid by –
- (a) holders of Licences listed in Part A of the Second Schedule to these Regulations –
 - (i) in respect of the first year of the Licence tenure, not later than ninety days after the end of that year ; and
 - (ii) after the first year of the Licence tenure, quarterly in arrears and not later than thirty days after the end of each quarter of the year.
 - (b) holders of Licences listed in Part B of the Second Schedule to these Regulations annually within thirty days of the submission of the Licensee's annual audited accounts to the Commission.
- (2) The payment of Annual Operating Levy by Licensees specified in sub regulation 1 (a) and (b) of this regulation

shall be based on the selfassessment procedures stipulated in regulation 5 of these Regulations.

- (3) Where the Commission demands the payment of Annual Operating Levy from a Licensee in accordance with regulation 3(5) of these Regulations, the Licensee shall make payment of the assessed Annual Operating Levy within thirty days from the date of receipt of an invoice from the Commission.
- (4) The invoice referred to in sub regulation (3) of this regulation shall be issued annually by the Commission at or soon after each anniversary date of the applicable Licence.
- (5) The assessment of the Annual Operating Levy payable –
 - (a) by holders of the Licences listed in Part A of the Second Schedule to these Regulations –
 - (i) in respect of the first year of the Licence shall be based on the audited Financial Statement of the Licensee, where available and where not available, on the Management Accounts of the Licensee for the relevant period ; and
 - (ii) shall be carried out quarterly after the first year of the Licence tenure and based on the Licensee's quarterly Management Accounts for the relevant quarter ;
 - (b) by holders of the Licences listed in Part B of the Second Schedule to these Regulations shall be based on the audited Financial Statements of the Licensees ; and
 - (c) by the Network Operators pursuant to Regulation 3(5) of these Regulations shall be based on ten percent of the Licence Fee paid by the Licensee to the Commission upon the issuance of its Licence; and this fee shall be payable annually for as long as the Licensee remains non-operational.

- (6) Assessment based on Management Accounts shall be relied upon by the Commission for a period of six months only within which the Licensee shall submit its audited Financial Statement.
 - (7) Without prejudice to the provisions of these Regulations, the Commission may from time to time specify and publish such additional accounting records, details and documentation on which basis the Annual Operating Levy may be assessed by Licensees.
 - (8) A holder of a Licence not listed in the Second Schedule to these Regulations shall except otherwise stated in the conditions of the licence be required by the Commission to pay the Annual Operating levy in accordance with regulation 4(1)(a) and (b) of these Regulations.
5. —
- (1) Based on the Licensee's financial records and documentation stipulated in regulation 4 of these Regulations, every eligible Licensee that is subject to regulation 3(1) of these Regulations shall carry out a self-assessment of the Annual Operating Levy payable by it using the standard self-assessment documentation contained in the First Schedule to these Regulations as may be modified and published by the Commission from time to time.
 - (2) Based on the self-assessment specified in sub-regulation (1) of this regulation but subject to the provisions of regulation 9 of these Regulations, every eligible Licensee shall pay its Annual Operating Levy within the timelines stipulated in regulation 4 of these Regulations.
 - (3) The Annual Operating Levy self-assessment and payment documentation of each eligible Licensee for each payment period, including the accounting records, the standard self-assessment documentation and the evidence of payment shall be compiled and forwarded to the Commission by the Licensee not later than seven working days after each payment date.

Accounting Returns and Standards

- 6.—(1) A Licensee shall without derogating from specific relevant Licence Conditions, maintain accounting records of its business.
- (2) The accounting records shall be with such detail and in such format that the —
 - a) activities of its licensed undertakings generally and the revenue generated from such undertakings are separately identifiable and attributable in its book and distinguishable from the revenue generated from or related to any other business or other activities that the Licensee may be engaged in ; and
 - (b) deductions made in compliance with sanctions as may be imposed on it by the Commission are expressly stated in full detail and separately identifiable.
- (3) A Licensee's accounting records must be sufficiently explicit and detailed to explain, identify and relate each transaction therein contained to each of the Licensee's licensed undertakings.
- 7.—(1) Every Licensee must within one hundred and eighty days from its Financial Year end, submit annually, to the Commission its audited accounts for the elapsed Financial Year including all such financial records and documentation as the Commission may specify from time to time.
- (2) A Licensee's audited accounts must contain the Licensee's accounting policies and a detailed breakdown of the Licensee's cost of sales and revenue.
8. The audited Financial Statements of every Licensee shall conform to the International Financial Reporting Standard and Statement of Accounting Standards or such other Accounting Standards as may from time to time be prescribed and published by the relevant international or national accounting body authorised to do so.

- 9.—(1) Upon receipt of the audited Financial Statement or Management Account of a Licensee, the Commission—
- (a) may exercise any of its powers under Chapter V of the Act for the purposes of verifying the accuracy of the Financial Statements of Licensees or obtaining clarifications or additional information with regard thereto ; and
 - (b) shall in the case of audited Financial Statements, compare the information and details contained in the statement with the Licensee's unaudited Management Accounts for the relevant period in order to determine the accuracy of the Annual Operating Levy assessments paidby the Licensee for the period.
- (2) Where in the opinion of the Commission, the audited Financial Statement of a Licensee indicates that the Licensee has underpaid its Annual Operating Levy for the period covered by the Financial Statement—
- (a) the Commission shall notify the Licensee in writing of the incorrect assessment detailing the specific errors contained in the Licensee's selfassessment; and
 - (b) the Licensee shall within seven days from the date of receipt of the notification referred to in paragraph (a) of this sub-regulation—
 - (i) notify the Commission of its objection to the re-assessed levy ; and
 - (ii) present the parameters used in assessing the initial Annual Operating Levy paid to the Commission for reconciliation.
- (3) The Commission shall upon receipt of the parameters used in assessment of the Annual Operating Levy by the Licensee, re-assess the computed levy for the Licensee.
- (4) In reconciling or re-assessing the levy payable, the Commission may invite the Licensee to a meeting to provide further clarification on any issue arising from

- the parameters used by the Licensee for self-assessment.
- (5) The Commission shall within fourteen days from the date of receiving the Licensee's objection in sub regulation (2) (b) of this regulation communicate in writing the result of such re-assessment and this shall be final and conclusive upon the Licensee.
 - (6) The Licensee shall within fourteen days of the re-assessment by the Commission pay the outstanding levy based on the re-assessed Annual Operating Levy to the Commission.
 - (7) Where the Licensee has no objection to the re-assessment by the Commission, it shall within seven days from the date of the receipt of the notification pay the re-assessed levy to the Commission.
 - (8) Where there is an over-assessment of a Licensee's Annual Operating Levy by the Commission, the excess amount shall be deducted from the next applicable Annual Operating Levy payable by the Licensee.

Sanctions and Penalties

- 10.— (1) Non-compliance with the requirements of these Regulations including but not limited to delays in payments, non-submission of required information to the Commission and submission of false or misleading information to the Commission shall attract the sanctions and penalties specified in the Act and the Enforcement Regulations.
- (2) The failure by a Licensee to submit its audited Financial Statements to the Commission within the period specified in these Regulations shall attract a—
 - (a) general administrative fine of three million Naira ; and
 - (b) daily fine of three hundred thousand Naira payable for as long as the contravention persists and calculated from the date following the due date for the submission of the audited Financial Statements.

- (3) The failure by a Licensee to pay its Annual Operating Levy as at when due shall attract a general administrative fine of three million Naira in addition to the daily fines stipulated in Part B of the Second Schedule to the Enforcement Regulations.

Miscellaneous

11. – (1) In these Regulations –

“Act” means Nigerian Communications Act, 2003 ;

“Annual Operating Levy” means the levy that is payable by eligible Licensees pursuant to these Regulations and the Licences ;

“Commercial Launch Date” means the deadline specified in a Licence for the commencement of commercial services provision by the Licensee ;

“Commission” means the Nigerian Communications Commissions established under the Act ;

“Enforcement Regulations” means the Nigerian Communications (Enforcement Processes etc.) Regulations 2005 issued and published by the Commission; as may be amended from time to time ;

“Financial Statement” includes –

- (a) disclosure of accounting policies ;
- (b) balance sheet ;
- (c) profit and loss accounts ;
- (d) statement of cash flow ;
- (e) historical financial summary ;
- (f) Directors’ report ;
- (g) notes to the accounts which must include the breakdown of turnover and cost of sales ; and
- (h) such other documents and materials as the Commission may specify and publish from time to time or contained in the Licences.

“Gross Revenue” means the Licensee’s total amount of sales recorded during the relevant period;

“Interconnect Cost” means the costs incurred, payment made (or invoices payable) by the Licensee

for the settlement of interconnection obligations to interconnecting partners during the relevant period ;

“Licence” means any Licence that has been granted by the Commission pursuant to the Act and includes subsisting Licences that were granted by the Commission prior to the commencement date of the Act;

“Licensee” is as defined in the Act and includes Network Operators and Non-Network Operators ;

“Net Revenue” means the Licensee’s Gross Revenue less its Interconnect, Roaming and Bandwidth Costs for the relevant period;

“Network Operator” means any Licensee who owns and operates a communications network including in particular Network Facilities Provider and Network Services Provider as defined in the Act ; and

“Non-Network Operator” means any Licensee who is a value added service provider and relies on the Network Operators to provide its value added services.

- (2) Unless otherwise defined in these Regulations, the terms and expressions used in these Regulations shall have the same meanings and intendments as defined in the Act.

12. These Regulations may be cited as the Annual Operating Levy Regulations, 2014.

Quarterly Payment of Annual Operating Levy

1. National Carrier Licence.
2. Unified Access Service Licence.

Annual Payment of Annual Operating Levy

1. Infrastructure Sharing and Collocation Services Licence.
2. Digital Mobile Licence.
3. Electronic Directory Information Services Licence.
4. Fixed Wireless Access Licence.
5. International Gateway Licence.
6. Internet Exchange Licence.

7. Metropolitan (Fibre) Network Licence.
8. Global Mobile Personal Communicating System (GMPCS).
9. Interconnect Exchange Operator Licence.
10. International Data Access Gateway Licence.
11. International Gateway Licence.
12. National Long Distance Licence.
13. Prepaid Card Calling Services Licence.
14. Public Mobile Communications Licence (Trunk Radio Services).
15. Public Mobile Communications Licence (Vehicular Tracking Services).
16. Installation of Terminal or Other Equipment.
17. Sales and Installation of Terminal Equipment (Major and Satellite).
18. International Submarine Cable Infrastructure and Cable Landing Station Licence.
19. Value Added Service Licence.
20. Internet Service Provision Licence.
21. Private Network Links Licence (LEO).
22. Private Network Links (Regional/National).
23. Private Network Links Employing Satellite (VSAT).

MADE at Abuja this 24th day of July, 2014.

DR EUGENE JUWAH
Executive Vice Chairman
Nigerian Communications Commission

3

Regulation on Roaming on Public Mobile Communications Networks in the Ecowas Region, 2021

Definitions, Objective and Scope of Application

Derinitions

1. For the purposes of this Regulation, the definitions set out in Supplementary Acts A/SA 1/01/07 on the harmonisation of policies and the regulatory framework of the Information and Communication Technology (ICT) sector, A/SA 2/01/07 on access and interconnection in respect of ICT sector networks and services and A/SA 6/01/07 on universal access/service shall apply.

2. In addition to the definitions referred to in paragraph 1, the following definitions shall equally apply :
- *wholesale roaming access* means direct wholesale roaming access or wholesale roaming resale access which involves making available facilities and/or services by a mobile network operator to another undertaking, under defined conditions, for the purposes of providing Community-wide roaming services to roaming customers ;
 - *Community roaming arrangements* means the agreement between operators in different Member States governing their relations with respect to their Community-wide roaming offers;
 - *Community roaming call* means a mobile voice call made by a roaming customer, originating on a visited network and terminating on a public communications network within the ECOWAS region or received by a roaming customer, originating on a public communications network within the ECOWAS region and terminating on the network visited by the customer;
 - *roaming customer* means a customer of a provider of public mobile communications services, by means of terrestrial public mobile network situated in the Community, whose contract or arrangement with that roaming provider permits the use of roaming services in the ECOWAS region;
 - *Community roaming provider* means an undertaking that provides a roaming customer with Community-wide retail roaming services’;
 - *Community roaming* means the use of mobile communications by a roaming customer in the ECOWAS region, while in a Member State other than that in which the originating network is

located, by means of arrangements between the home network provider and the visited network operator;

- *visited network* means a terrestrial public mobile communications network situated in an ECOWAS Member State other than that of the roaming customer's home network, through which she can enjoy Community-wide roaming services;
- *home network* means a public communications network situated in an ECOWAS Member State used by a Community roaming customer;
- *Community data roaming service* means a roaming service that makes it possible for a roaming customer to use data, send and receive MMS messages when she is connected to a visited network ;
- *Community roaming SMS message* means an SMS message sent by a roaming customer, originating on a visited network and terminating on a public communications network within the ECOWAS region, including the visited country or received by a roaming customer, originating on a public communications network within the ECOWAS region, including the visited country and terminating on the network visited by the customer;
- *Community roaming tariff* means any tariff not exceeding the Community's maximum charge, which a roaming service provider may levy a roaming customer in the ECOWAS region for the provision of Community roaming calls;
- *fair use of roaming services* means the use of roaming services by a Community roaming customer from a visited network within the ECOWAS region, over a given period of time.

Objective and Scope of Application

1. The purpose of this Regulation is to set out a harmonised legal and tariff framework for roaming on public mobile communications networks within ECOWAS Member States.
2. This Regulation shall apply to all mobile communications service operators and providers established in an ECOWAS Member States.
3. It shall also apply to all mobile communications services originating and terminating in an ECOWAS Member State, regardless of their nature.
4. This Regulation shall not apply to mobile communications services not available to the public, as well as those provided by non-terrestrial networks.

Obligations to Provide Community-wide Roaming Services

Community Wholesale Roaming Access

1. Mobile communication service operators or providers shall meet all reasonable requests for Community wholesale roaming access, under objective, transparent and non-discriminatory conditions.
2. Wholesale roaming access shall cover access to all network elements and associated facilities, relevant services, software and information systems, necessary for the provision of Community-wide roaming services to customers.
3. Mobile communication service operators or providers shall enter into roaming arrangement with all operators in other ECOWAS Member States in order to optimise wholesale roaming services in the Community.

Separate Sale of Retail Roaming Services

1. Mobile communication service operators or providers shall make it possible for their customers to access Community voice, SMS and data roaming services provided as a bundle by any roaming provider.
2. Mobile communication service operators or providers shall meet all reasonable requests for access to facilities and related support services relevant for the separate sale of Community retail roaming services. Access to those facilities and support services that are necessary Community retail roaming services, including user authentication for the separate sale of be free of charge and shall not entail any direct charges to customers.

A Community Roaming Access

1. A community roaming customer shall access emergency numbers of the visited country and receive emergency alerts under the same conditions as subscribers in the visited country.
2. Calls to emergency charge for the Community numbers and emergency roaming customer.
3. Mobile communication service operators alerts shall be free of or providers are required to transfer free of charge all calls and other electronic communications to emergency numbers under the Coinmunity roaming regulation.

Regulation of Community Roaming Charges

'Intra-community Voice and SMS Roaming Charges

1. The intra-Community retail charge (excluding VAT) for a Community voice tariff which a roaming provider may levy on its customers the ECOWAS region for the provision of a Community roaming exceed the highest tariff for international calls from the visited country to other countries in the ECOWAS region.

Reception of Community roaming calls shall be free of charge within a maximum period of thirty (30) consecutive days in one of the ECOWAS States.

2. The intra-Community SMS tariff which a roaming provider retail charge (excluding VAT) for a Community may levy on a roaming customers not exceed the highest tariff for international SMS from the visited country to other countries in the ECOWAS region. shall

Roaming providers shall not charge their customers while roaming in the Community.

3. The intra-Community wholesale operator may levy on the customer's Community roaming call originating 60% of the intra-Community for the receipt of an SMS charge that the visited network roaming provider for the provision of a on that visited network shall not exceed retail charge.
4. The intra-Community wholesale operator may levy on the customer's Community roaming SMS originating on another Member State's network, charge that the visited network roaming provider for the provision of a on that visited network and terminating including the home country, exceed 60% of the intra-Community retail charge.

Wholesale and Retail Charges Roaming Calls and SMS

1. The local retail charge (excluding levy on its customers travelling Community roaming call originating FOR COMMUNITY shall not VAT) that a roaming operator may in the ECOWAS region for the provision on that visited network and terminating on any network of the visited country shall not exceed the highest tariff for local calls from the visited country. Reception of local roaming calls shall be free of charge within a maximum period of thirty (30) consecutive days in one of the ECOWAS

2. The local retail charge (excluding a roaming customer for an SMS originating terminating of a Member States. VAT) that an operator may levy on on that visited network and on any network of the visited country shall not exceed the highest tariff for SMS from the visited country. Reception of community roaming SMS shall be free of charge.
3. The local wholesale charge that the visited network operator may levy on the customer's roaming provider for the provision of a Community roaming call originating on that visited network and terminating of the visited country shall not exceed 60% of the retail charge for a local call.
4. The local wholesale charge that the visited network operator may levy on the customer's on any network roaming provider for the provision of a Community roaming SMS originating on that visited network and terminating network of the visited country shall not exceed 60% of the retail charge for a local SMS.

Charges for Community Data Roaming Services

1. The retail charge (excluding VAT) that a roaming provider may levy on a customer for the provision of Community roaming data services shall not exceed the highest megabyte rate in the visited country.
2. The wholesale rate that the visited network operator may levy on the customer's roaming provider for the provision of a Community roaming data services originating on that visited network shall not exceed 80% of the retail charge.

Community Roaming Voice Message

Receiving and listening to a voice message while roaming shall be free of charge

Transparency in the Supply of Ecowas Roaming Services

General Transparency Rules for Ecowas Roaming Services

1. When the roaming customer enters a Member State other than that of his domestic provider, the latter shall deliver automatically, immediately and at no cost, by an SMS, e-mail or a pop-up window on the mobile device, basic personalised information on the roaming tariff (VAT included) applied once the customer makes or receives calls or SMS or uses data services in the Member States visited. The basic personalised pricing information shall include charges (in the currency of the home bill provided by the customer's domestic provider) to which the roaming customer within ECOWAS may be subject, for:
 - making roaming calls within the visited Member State and back to the Member State of his domestic provider, as well as for regulated roaming calls received ;
 - sending roaming SMS messages while in the visited Member State;
 - using roaming data services while in the visited Member State (expressed in price per Megabytes).
2. Roaming providers shall inform roaming users of harmonised roaming rates for voice calls, SMS and data services while roaming within the Community, as well as the roaming rates for their network.
3. Each operator shall provide clear, precise and up-to-date information on ECOWAS roaming services, on its website and through printed material.
4. Roaming providers shall also provide their roaming customers with updates on applicable roaming charges without undue delay, in the event of any change.
5. Roaming customers shall have the right to request and receive, free of charge and irrespective of their location

within ECOWAS, through a mobile voice call or by SMS, more detailed personalised pricing information on the roaming charges that apply in the visited network to voice calls, SMS and data services, and information on the transparency measures applicable by virtue of this Regulation. Such a request shall be to a toll-free number designated for this purpose by the roaming provider.

6. Roaming providers shall make available to their customers information on how to avoid inadvertent roaming in border regions.

Specific Transparency Rules for Ecowas Roaming Services

1. Roaming providers shall provide basic personalised pricing information on roaming voice, SMS and data services automatically, by voice call, free of charge, to blind or partially-sighted customers if they so request.
2. Roaming providers shall notify roaming customers of the duration and cost of each called made while roaming within ECOWAS.
3. Roaming providers shall inform their customers, before the conclusion of a contract and at regular intervals thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, roaming providers shall notify to their customers, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

Characteristics of Community Roaming Services

Reasonable Use of Community Roaming Services

1. Reasonable use shall be the convenient use of Community roaming services as roaming users travel within ECOWAS over a period of thirty (30) consecutive days. Roaming providers shall comply with the stated

period of reasonable use of Community roaming services.

2. The domestic operator shall notify its roaming customer seven (7) days before the end of the period of reasonable use, by message or a voice call.

Quality of Community Roaming Services

1. Roaming services provided to users roaming within ECOWAS shall be of comparable quality to those offered by the operator of the network visited to its subscribers.
2. No roaming provider, domestic operator or operator of a visited network shall modify the technical features of Community roaming services in such a way as to make them different from the technical features of the same services provided in its domestic market.

Control and Monitoring Obligations

Member States' Obligations

1. Member States shall comply with this Regulation within their territory and shall provide the public with updated and easily accessible information concerning implementation of the Regulation.
2. Member States shall equally be alert to the particular case of inadvertent roaming in the border regions of neighbouring Member States and shall monitor whether traffic-steering techniques are used to the disadvantage of customers and take the relevant necessary measures.
3. Member States shall have the power to require companies subject to obligations under this Regulation to supply all information relevant to the implementation of this Regulation. These companies shall provide such information promptly on request and in accordance with the request by the Member State.
4. Member States shall ensure that operators provide adequate access and interconnection in order to

guarantee the end-to-end connectivity and interoperability of roaming services, in conformity with Supplementary Act A/SA 2/01/07 relating to access and interconnection of ICT sector networks and services.

- 5, Member States shall ensure that all surcharges are removed for incoming intra-Community traffic within ECOWAS, within the framework of implementation of this Regulation on Community roaming.
6. Member States shall ensure that communication campaigns on Community roaming are carried out in the country.
7. A Member State which notices the violation of the obligations set out in this Regulation within its territory, shall demand an immediate end to the violation.
8. To prepare for the review of this Regulation, Member States shall monitor developments in wholesale and retail prices of voice calls and data, including SMS and MMS, for customers roaming within the Community.

Obligations of National Regulatory Agencies

National Regulatory Agencies shall be responsible for :

- putting in place and ensure reliability of subscriber identification systems,
- putting in place a committee to check fraud in the area of Community roaming,
- getting to know the complaints and demands about Community ro services made by subscribers,
- monitoring developments in wholesale and retail prices for Community roaming services,
- cooperating with one another to reduce inadvertent roaming in the border areas of Member States,
- ensuring compliance with regulations on Community roaming,
- forward to ECOWAS Commission up-to-date information on the implementation of this Regulation,
- forwarding the roaming tariff ceilings provided for in Articles 6, 7 and 8 to ECOWAS Commission and

- updating same every two years,
- notifying roaming providers of Community roaming tariff ceilings once these have been forwarded by the ECOWAS Commission.

Obligations of Ecowas Roaming Service Providers

Community roaming providers shall be responsible for :

- conveying to national regulatory agencies, information on Community roaming set in conformity with this Regulation,
- implementing Community roaming tariff ceilings, no later than 3 months after National Regulatory Agencies give notice of them.

Obligations of ECOWAS Commission

ECOWAS Commission shall be responsible for :

- consolidating the Community roaming tariff ceilings forwarded by National Regulatory Agencies,
- forwarding the consolidated Community tariff ceilings to all National Regulatory Agencies no later than One (1) month after the deadline for transmission of Community tariff ceilings by the National Regulatory Agencies.

Review

1. ECOWAS Commission shall review the implementation of this Regulation and shall present a report to the ECOWAS Council of Ministers no later than 31st December, 2020.
2. ECOWAS Commission shall, in particular, assess the attainment of the objectives of this Regulation on Community roaming and shall prepare a report accordingly.
3. Should the report show that the structural measures set out in the Regulation on Community roaming were inadequate to strengthen competition in the internal market for roaming services for the benefit of all

ECOWAS among users or that the differences between ECOWAS roaming rates and national rates have not been eliminated, the Commission shall make appropriate proposals to the Council of Ministers to remedy the situation and thereby achieve ultimately, an internal market for mobile communication services, with no difference between national rates and Community roaming rates.

Settlement of Cross-border Community Roaming Disputes and Sanctions Regime

Settlement of Cross-border Community Roaming Disputes

In the event of a dispute arising from the obligations set out in this Regulation, among Community roaming operators located in separate Member States, the procedures for dispute settlement stated in Articles 16 and 17 of Supplementary Act A/SA 1/01/07 relating to the harmonisation of policies and the regulatory framework for the Information and Communication Technologies (ICT) sector shall apply.

Sanctions Regime

1. Member States shall determine the sanctions to be applied to violations of this Regulation and shall take all measures necessary to enforce same.
2. The sanctions set out shall be effective, proportionate and dissuasive.

Transitional Arrangements

Application of Community Roaming Charges

National regulatory agencies and Community roaming providers shall have six (6) months from the entry into force of this Regulation, to implement Community roaming charges.

Communication and Implementation Deadline

1. The National regulatory agencies shall forward to the ECOWAS Commission, January, 2018. Community roaming tariff ceilings, no later than 31st
- 2.. The ECOWAS Commission shall forward to national regulatory agencies, consolidated Community roaming charges no later than 28th February, 2018.
3. Roaming providers shall sign roaming agreements in conformity with this Regulation and shall implement same no later than 3 Ist May, 2018.

Final Provisions

Enttry into Force and Revision

1. This Regulation shall enter into force upon its signature and shall be binding in its entirety and directly applicable in all ECOWAS Member States.
2. It shall be revised four years after the Regulation has entered into force.

Publication

1. This Regulation shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of the date of Signing by the Chair of the Council of Ministers.
2. Itshall also be published by each Member States in its National Gazette within thirty (30) days of notification by the Commission.

Done at Abuja, this 16th day of December, 2017.

Pror. Ropert Dussey
Chairman
for the Council

4

Competition Practices Regulations, 2007

Scope and Objectives

1. These Regulations are made to provide a regulatory framework for the promotion of fair competition in the communications sector, and protection against the misuse of market power or other anti-competitive practices, pursuant to Part 1 of Chapter VI of the Act and all matters related thereto.
2. These Regulations shall :
 - (a) provide further guidance on the standards and procedures which the Commission will apply in determining whether particular conduct constitutes substantial lessening of competition for the purposes of the Act ;
 - (b) clarify what agreements or practices the Commission will find to be anticompetitive, and so prohibited under the Act;

- (e) provide further guidance on the standards and processes which the Commission will apply in determining whether a Licensee has a dominant position in one or more communications markets;
 - (d) clarify what conduct the Commission will find to be an abuse of dominance, and subject to a “cease conduct” direction under the Act ; and
 - (e) provide further guidance on the merger review procedures to be applied by the Commission.
3. These Regulations apply to all Licensees and any other providers of communications services in Nigeria and Licensees shall remain subject to any conditions regarding anti-competitive conduct set out in their licenses.

Substantial Lessening Of Competition

- 4. While the provisions of section 91(1) of the Act prohibits Licensees from engaging in conduct which has the purpose or effect of substantially lessening competition in any aspect of the Nigerian communications market, section 91 (2) permits the Commission to publish guidelines or regulations from time to time which clarify the meaning of “substantial lessening of competition” and section 92(4) permits the Commission to direct any Licensee in a dominant position to cease conduct which has or may have the effect of substantially lessening competition in any communications market and to implement appropriate remedies.
- 5. The purpose of this Part of the Regulations is to provide guidance, regarding Guidance on substantial lessening of competition. Considerations used in determining whether particular conduct constitutes substantial lessening of competition.
- 6. In accordance with the provision of section 91(2) of the Act, which identifies market circumstances and other matters that might be included by the Commission in any guidelines or regulations with regard to the

meaning of “substantial lessening of competition” in assessing whether any conduct constitutes substantial lessening of competition, the Commission shall consider the :

- (a) definition of the relevant market or markets (using the market analysis methodology described in Part IV of these Regulations) ;
 - (b) impact of the conduct on existing competitors in the identified markets ;
 - (c) impact of the conduct on further market entry ;
 - (d) impact of the conduct on consumers, including the availability and pricing of products and services ; and
 - (e) degree of interference with competition that results in identifiable injury to competitors or consumers.
7. In assessing whether a particular conduct meets the standard identified in Regulation 6 (e), the Commission shall apply the following further considerations :
- (a) a trivial or de minimis degree of lessening of competition will not be acted on by the Commission ;
 - (b) the degree of market power of the Licensee (using the market definition and assessment of market power methodologies described in Part IV of these Regulations) ;
 - (c) a smaller degree of interference or injury resulting from the conduct of a Licensee with a large degree of market power (including Licensees found to be in a dominant position) which may be found to constitute substantial lessening of competition.
8. Subject to a Licensee demonstrating otherwise in the course of any inquiry or other procedure conducted by the Commission, or in the course of an application pursuant to Section 93 of the Act, the following conduct

or practices shall be deemed to result in a substantial lessening of competition :

- (a) failing to supply interconnection or other essential facilities to a competing Licensee, in accordance with any interconnection agreement between the parties or any direction, rule or order issued by the Commission, pursuant to the Act or the Interconnection Regulations, except under circumstances that are objectively justified based on supply conditions, such as failure to supply, based on a shortage of available facilities;
- (b) discriminating in the provision of interconnection or other communications services or facilities to competing Licensees, except under circumstances that are objectively justified based on supply conditions, such as discrimination based on differences in the costs of supply ;
- (c) bundling of communications services, whereby the Licensee in question requires, as a condition of supplying a service to a competing Licensee, that the competing Licensee acquire another service that it does not require ;
- (d) offering a competing Licensee more favourable terms or conditions that are not justified by cost differences, if it acquires another service that it does not require ;
- (e) pre-emptively acquiring or securing scarce facilities or resources, including rights of way, required by another Licensee for the operation of its business, with the effect of denying the use of the facilities or resources to the other service provider ;
- (f) supplying communications services, at prices below long run a average incremental costs or

such other cost standard, as is adopted by the Commission ;

- (g) using revenues or the allocation of costs from one communications service to cross-subsidize another communications service, except where such cross subsidy is specifically approved by the Commission including, approval of tariffs or charges for the relevant communications services;
- (h) failing to comply with interconnection or facilities access obligations, including the Telecommunications Networks Interconnection Regulations 2007, any other interconnection or access terms specified or approved by the Commission, or any interconnection or access related decisions, directions or guidelines of the Commission ;
- (i) performing any of the following actions, where such actions have the effect of impeding or preventing a competing Licensee's entry into, or expansion in, a communications market ;
 - (i) deliberately reducing the margin of profit available to a competing Licensee that requires wholesale communications services from the Licensee in question, by increasing the prices for the wholesale communications services required by that competing Licensee or decreasing the prices of communications services in retail markets where they compete, or both ;
 - (ii) requiring or inducing a supplier to refrain from selling to a competing Licensee ;
 - (iii) adopting technical specifications for networks or systems to deliberately

- prevent interconnection or interpretability with a network or system of a competing Licensee ;
- (iv) failing to make available to competing Licensees on a timely basis, technical specifications, information about essential facilities, or other commercially relevant information which is required by such competing Licensees to provide communications services and which is not available from other sources ; and
 - (v) using information obtained from competing Licensees, for purposes related to interconnection or the supply of communications facilities or services by the Licensee in question, to compete with such competing Licensees ; and
 - (j) any failure by a Licensee to comply with any decision, rule, direction or guideline issued by the Commission, regarding either prohibited or required competitive practices.
9. The Commission may, from time to time, specify other conduct or practices that shall be deemed to result in substantial lessening of competition, including those that arise pursuant to Part III of these Regulations.
 10. In reviewing conduct to determine whether it constitutes substantial lessening of competition, the Commission shall follow the procedures described in the Schedule to these Regulations.

Anti-competitive Agreements and Practices

11. The provision of section 91(3) of the Act prohibits Licensees from entering into agreements or arrangements which provide for rate fixing, market sharing, or any boycotting of a competitor, supplier or Licensee, while section 91(4), prohibits Licensees from

requiring any person that acquires communications products or services, to acquire any other product or service, either from the Licensee or another person, or directing them not to acquire any other product or service either from the Licensee or another person.

12. (1) The Commission shall have the power to review, either on its own initiative or on application by an interested person, other forms of agreement and related practices that have the purpose or effect of substantially lessening competition, apart from those referred to in sections 91 (3) and (4) of the Act.
- (2) The agreements and practices identified in sections 91(3) and 91(4) of the Act are prohibited without the requirement of assessing their practical effects.
13. The Commission shall review under this Part, the following types of agreements and practices :
 - (a) price-fixing agreements, pursuant to which, competing Licensees agree on or otherwise manipulate consumer prices ;
 - (b) bid-rigging, pursuant to which, competing Licensees manipulate the prices or conditions in what should otherwise be a competitive tender process ;
 - (c) market allocation agreements, pursuant to which, competing Licensees allocate geographic or product markets amongst themselves ;
 - (d) resale price maintenance, pursuant to which, a Licensee that supplies a competing service provider with products or services, attempts to impose restrictions on the prices charged by that service provider to consumers ; and
 - (e) exclusive dealing agreements, pursuant to which, a Licensee enters into an agreement with another party for the supply of products or services on an exclusive basis, and where that exclusivity has or may have the effect of

substantially lessening competition in related communications markets.

14. The Commission may, review any other agreements or practices between Licensees or between Licensees and third parties, including joint-venture or similar collaboration agreements, to determine whether they have the purpose or effect of substantially lessening competition.
15. In any assessment of whether agreements or practices constitute substantial lessening of competition, the Commission shall apply the standards and processes described in Part II of these Regulations.

Determination of Dominant Position

16. The provision of section 92(1) of the Act empowers the Commission to make determination, whether a Licensee is in a dominant position in one or more communications markets in Nigeria and section 92(2), permits the Commission to publish guidelines or regulations, clarifying how it will apply the test of dominant position to Licensees, while section 92(3) identifies matters which the Commission may take into account in connection with such guidelines or regulations.
17. The purpose of this Part of the Regulation is to provide further guidance, regarding the standards and processes to be used by the Commission, to determine whether a Licensee has a dominant position in one or more communication markets.
18. (1) The Commission shall apply the standards and processes described in this Part, with the objective of identifying those Licensees that have a position of economic strength in one or more specifically defined communications markets, such that, they have the ability to unilaterally restrict output, raise prices, reduce quality or otherwise, act independently of competitors or consumers.

- (2) In determining whether a Licensee is in a dominant position, the Commission may, consider a range of market circumstances or criteria, but shall consider one or more of the following :
 - (a) the market share of the Licensee, determined by reference to revenues, numbers of subscribers or volumes of sales ;
 - (b) the overall size of the Licensee in comparison to competing Licensees particularly any resulting economies of scale or scope that permit the larger Licensee to produce products or services at lower costs ;
 - (c) control of network facilities or other infrastructure, access to which is required by competing Licensees and that cannot, for commercial or technical reasons, be duplicated by competing Licensees ;
 - (d) the absence of buying power or negotiating position by customers or consumers, including substantial barriers to switching service providers ;
 - (e) ease of market entry, and the extent to which actual or potential market entry protects against the exercise of market power such as raising prices ;
 - (f) the rate of technological or other change in the market, and related effects for market entry or the continuation of a dominant position.
- 19. (1) The evaluation of dominant position shall begin with the definition of the relevant communications market or markets.
- (2) In its assessment and definition of relevant communications markets, the Commission shall take account of the following circumstances and criteria :
 - (a) markets shall be determined by, analyzing the products or services that make up a specific

market, as well as the geographic scope of that market ;

- (b) the Commission will assess demand-side substitutability, in order to measure the extent to which consumers are prepared or able to substitute other products or services for the products or services supplied by the Licensee in question ;
- (c) the Commission will also assess supply-side substitutability, to determine the extent to which suppliers other than the Licensee in question are able to supply products or services that provide a competitive alternative to consumers.

- 20. Subject to any other determination of the Commission under this Part, or to any demonstration by a Licensee in the specific circumstances that the presumption should not apply, the Commission will presume that any Licensee whose gross revenues in a specific communications market exceed forty per cent (40%) of the total gross revenues of all Licensees in that market, is in a dominant position in that market.
- 21. In addition to determining that an individual Licensee is in a dominant position, the Commission may also determine that two or more Licensees, acting jointly or collectively, are in a dominant position, including, where the Licensees have no common ownership, are not parties to any formal agreement or operate in different markets.
- 22. The procedures to be applied by the Commission in making any determination of dominant position are described in the Schedule to these Regulations.

Abuse of Dominant Position

- 23. The provision of section 92(4) of the Act, empowers the Commission to direct a Licensee in a dominant position, to cease conduct which has or may have the effect of substantially lessening competition in one or more

communications markets, and to implement appropriate remedies.

24. In determining whether any particular conduct engaged in by a Licensee, which the Commission has identified as being in a dominant position, constitutes substantial lessening of competition, the Commission shall apply the standards and procedures described in Part II of these Regulations.
25. Where the Commission determines that the conduct of a Licensee in a dominant position has or may have the effect of substantially lessening competition, the Commission may issue directions to the Licensee, pursuant to Regulation 34.

Review of Mergers, Acquisitions and Takeovers

26. Further to the powers and functions of the Commission, regarding determinations of substantial lessening of competition and dominant position, and consistent with conditions of licences granted to public network operators, requiring prior notification and Commission approval before any change of share holding affecting more than 100% of the total number of shares in a Licensee, the Commission may review all mergers, acquisitions and takeovers in the communications sector.
27. The Commission shall apply the review procedures, described in this Part of the Regulations to the following transactions :
 - (a) transactions that involve the acquisition of more than 10% of the shares of a Licensee ; or
 - (b) any other transaction that results in a change, in control of the Licensee ; or
 - (c) any transaction that results in the direct or indirect transfer or acquisition of any individual licence, previously granted by the Commission pursuant to the Act ; and

- (d) where the Commission determines, based on the preliminary information provided by a Licensee in its initial transaction notification, that the transaction may, result in a substantial lessening of competition in one or more communications markets or may, result in the Licensee or any successor company having a dominant position in one or more communications markets.
28. (1) Where a proposed transaction involves any of the circumstances described in Regulation 27 (a), (b) or (c), the transaction will require prior notification and the approval of the Commission.
- (2) The Licensee shall, submit a written notification and request for approval, at least sixty (60) days, prior to the completion date for the intended transaction, to be accompanied by at least, the following information :
- (a) the identification of all persons involved in the transaction, including buyers, seller, their shareholders and affiliated companies, and any pensions, having a greater than 10% ownership interest in all such persons ;
 - (b) a description of the nature of the proposed transaction, including a detailed analysis of the resulting scheme of arrangement and summary of its commercial terms ;
 - (c) financial information on the persons involved in the proposed transaction, including their annual revenues from all communications markets, identified by specific markets, the value of assets allocated to communications businesses and copies of any recent annual or quarterly financial reports ;
 - (d) a description of the communications markets in which the persons involved in the proposed transaction operate ; and
 - (e) a description of the effects of the transaction, on the control of network: facilities or related

infrastructure, including any interconnection or access arrangements with other Licensees.

29. The Commission may request additional information, regarding an application at any time.
30. Within thirty (30) days of receipt of a fully completed application, including any additional information requested by the Commission, the Commission may :
 - (a) approve the proposed transaction without conditions ;
 - (b) approve the proposed transaction with such conditions as the Commission determines are necessary, to prevent or compensate for any substantial lessening of competition resulting from the transaction ;
 - (c) deny approval of the proposed transaction ;
 - (d) issue a notice initiating an inquiry or other public proceeding, regarding the proposed transaction, and following such proceeding, the Commission may take one of the actions described in subparagraphs (a), (b) or (c) above.
31. One or more parties to a proposed transaction may, apply to the Commission, requesting expedited approval of the transaction, including in the event that the Commission does not take one of the steps identified in Regulation 30 within the identified 30 day period.
32. In determining whether a proposed transaction may result in a substantial lessening of competition or any dominant position, the Commission shall, apply the standards and procedures described in Parts II and IV of these Regulations.

Miscellaneous Provisions

33. Any person who contravenes any of the provisions of these Regulations, is in breach thereof and is liable to such fines, sanctions or penalties, including any penalties determined under the Enforcement Processes

Regulations, 2005 or as may be determined by the Commission from time to time.

34. If the Commission determines that in a particular case, or in a number of cases, the actions or activities of a Licensee constitute an abuse of its dominant position or an anti-competitive practice, within the meaning of the Act or these Regulations, in addition to any other action or remedy provided for under the Act, these Regulations or the Enforcement(Regulations 2005, the Commission may issue a direction to :
- (a) require one or more persons named in the direction, to take one or more of the following actions :
 - (i) cease the actions or activities, specified in the direction immediately, or at a time prescribed in the direction, and subject to such conditions as are prescribed in the direction ; or
 - (ii) make identified changes, in actions or activities specified in the direction, as a means of eliminating or reducing the abusive or anti-competitive impact ;
 - (b) require the Licensee involved in the abusive actions or anti-competitive practices, and the persons affected by such actions, activities or practices, to meet and attempt to determine remedies to prevent, eliminate or compensate for such actions, activities or practices, and to resolve any remaining dispute;
 - (c) require the Licensee, to pay compensation to persons affected by its abusive actions or anti-competitive practices ;
 - (d) require the Licensee responsible for the abusive actions or anti-competitive practices specified in the direction, to publish an acknowledgment and apology, for such actions or practices, in one or more newspapers of general circulation, in such

a form, at such times and otherwise, as the Commission specifies in the direction ;

- (e) require the Licensee, to provide periodic reports to the Commission, to assist in determining, whether the actions or practices are continuing and to determine their impact on communications markets, competing Licensees and consumers.

35. The Commission may, from time to time, issue additional rules, directions or guidelines on any aspect of these Regulations, and either of general application or specific to a proceeding.

36. Terms and expressions defined in the Act shall have the same meanings in these Regulations. In addition, unless the context otherwise requires :

“Act” means, the Nigerian Communications Act, 2003 ;

“consumer” means, any subscriber, customer or other consumer of

communications services, whether an individual, corporation or other legal entity ;

“Enforcement Processes Regulations 2005” means the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005, S. I. No. 7 of 2005 and as those regulations may be amended from time to time ;

“Interconnection Regulations” means, the Telecommunications Networks Interconnection Regulations 2003, S. I. No. 13 and as those regulations may be amended from time to time;

“Regulations” means, the Competition Practices Regulations, 2007.

37. These Regulations may be cited as the Competition Practices Regulations, 2007.

Procedures

In determining, whether conduct constitutes a substantial lessening of competition, pursuant in Sections 91(1) or 92(4) of the Act or a Licensee is in a dominant position pursuant to Section 92 (1) of the Act, or a Licensee is otherwise acting contrary to these Regulations, the Commission shall follow the procedures set out in this Schedule or such other procedures specific, as are identified in any notice issued by the Commission and these procedures are intended to supplement, but are subject to the procedural requirements of Chapter V of the Act.

Proceedings Commenced by Application from an Interested Party

1. An interested party, that is, a complainant that wants the Commission to investigate a competition related complaint or to take related action against a Licensee shall :
 - (a) submit a written request (a "*Request for Investigation*") to the Commission and the Complainant shall deliver a copy of the Request for Investigation to the other party (the "*Responding Party*") on the same day that the request is submitted to the Commission ;
 - (b) in its Request for Investigation, summarize the nature of the complaint and the desired outcome, including a summary of all relevant events or circumstances and any related correspondence or other supporting materials.
2. The Responding Party shall have ten (10) days, from the day on which the Request for Investigation is delivered by the Complainant, to provide its comments if any, on why the Commission should not investigate or otherwise respond to the complaint ("*Comments*") and the Responding Party shall deliver a copy of the Comments to the Complainant, on the same day that the comments are submitted to the Commission.

3. The Commission shall :
 - (a) consider whether, it will undertake an investigation or take any other action in response to the complaint ;
 - (b) within thirty days of submission of the Request for Investigation, issue a written notice to the parties, identifying whether it will take action, the specific action to be taken and the basis for its decision.
4. Where the Commission receives more than one Request for Investigation in connection with substantially the same conduct or circumstances, it may consolidate the request into a single proceeding.
5. Within thirty days of notification by the Commission that it will undertake an investigation :
 - (a) the Complainant shall make its formal written submissions, regarding the complaint and the submissions ("*Complaint Submissions*") shall set out a full statement of the circumstances and arguments the Complainant relies on in support of its position and the desired outcome, including any specific breaches of the Act, any regulation, rule, direction, licence condition or other right or obligation, committed by the responding party and the consequences of those breaches for the Complainant ;
 - (b) the Complaint Submissions shall include, any documentary or other evidence relied on by the Complainant in support of its position and desired outcome and a copy of the Complaint Submissions shall be delivered to the Responding Party, on the same day that they are submitted to the Commission.
6. The Responding Party shall have fifteen (15) days, from the day on which the Complaint Submissions are delivered by the Complainant, to submit a written response to the submissions ("*Response*") and a copy of

the Response shall be delivered to the Complainant, on the same day that the Response is delivered to the Commission.

7. The response shall identify, any circumstances or arguments included in the Complaint Submissions that the Responding Party admits or agrees with and for each circumstance or argument relied on by the Complainant in the Complaint Submissions that the Responding Party rejects or disagrees with, the Responding Party shall, provide a clear statement of how its position differs from that of the Complainant and the circumstances and evidence in support of its position and desired outcome,
8. In appropriate cases, the Commission may, provide the Complainant an opportunity to reply in writing, to the Response and in such cases, the Commission shall, allow the Responding Party an opportunity, to submit a final written response, addressing any new submissions or evidence raised in the Complainant's reply.
9. Each party shall, submit its further submissions or evidence, within the time period specified by the Commission, or if no time period is specified, then within fifteen (15) days of being informed by the Commission, that it may make the further submissions.

Proceedings Commenced by the Commission

10. The Commission may :
 - (a) at any time, decide to initiate a proceeding, to determine whether con duet constitutes a substantial lessening of competition, pursuant to sections 91 (1) or 92 (4) of the Act, a Licensee is in a dominant position, pursuant to section 92(1) of the Act ; or
 - (b) any conduct of a Licensee, is otherwise contrary to these Regulations (a "*Commission Proceeding*").

11. The Commission shall, commence a Commission Proceeding, by delivering a written notice to the Licensee or any other person who is the subject of the proceeding (a "Proceeding Notice"), identifying the nature of the proceeding, including a summary of the events, circumstances, conduct and provisions of the Act, licence conditions or any regulations, decisions, directions, rules or other actions of the Commission relevant to the proceeding and the potential outcome or practical effects of the proceeding.
12. The Proceeding Notice shall also specify, any additional or other procedures applicable to the proceeding, including the timing for the delivery of submissions, by the person(s) receiving the Proceeding Notice or any other interested persons and the further actions to be taken by the Commission in concluding the proceeding.

Procedures applicable to all Proceedings Commenced under these Regulations

13. The Commission may, grant an extension of time, for any interested party to make its submissions and any request for an extension of time shall, be made in writing to the Commission, at least five (5) days before the expiration of the otherwise applicable deadline.
14. The Commission will, inform parties of its decision, in response to an extension request within three (3) days of receipt of the request.
15. (1) The Commission may, request either or both parties, to submit additional information at any time during the course of a proceeding.
 - (2) Any information provided by a party, shall be provided to the other party, at the time it is submitted to the Commission.
 - (3) Where a party wishes to submit confidential information to the Commission in connection with the proceeding that party may, request the Commission for confidential

treatment of such information, pursuant to Section 59 of the Act.

16. The Commission will, generally complete proceedings under these Regulations, and issue either a decision resolving the issues or a notice specifying any other actions to be taken in connection with the proceeding, within sixty (60) days of receiving all necessary information and the Commission may, by written notice to the parties, at any time during the relevant proceeding, extend the time for the Commission to issue its decision.
17. On completion of a proceeding under these Regulations, the Commission may :
 - (a) issue a direction, requiring the responding party or any other person, to undertake specific actions or to cease specific actions or to resolve any conduct, contrary to the Act or any Regulation, rule, direction) licence condition or related right or obligation ;
 - (b) issue a direction, making specific determinations, regarding specific circumstances or issues relevant to the proceeding, including the payment of any applicable compensation ;
 - (c) exercise its rights under the Act or the Enforcement Processes Regulations, 2005, to impose specific monetary or other penalties for identified misconduct ;
 - (d) refer any outstanding matters, to the Federal High Court or other identified authority that is competent to resolve the outstanding matters ;
or
 - (e) where the proceeding raises questions of general interest or application to the communications sector, the Commission may, initiate a further public consultation or inquiry that permits submissions from other interested parties and

make resolution of the earlier proceeding subject to the conclusion of that consultation or inquiry.

18. (1) Without interfering with a party's ability to seek interim or emergency relief from a court of competent jurisdiction, the Commission shall, be entitled to make interim determinations, including, issuing interim directions, pending completion of a proceeding.
- (2) Any decision by the Commission on completion of a proceeding under these Regulations shall, be in writing and shall include, a statement of reasons for the decision.
- (3) Except as specifically directed otherwise by the Commission, as part of any final decision in a proceeding, the parties shall bear their own costs of participating in the proceeding.
- (4) The Commission may, in the course of completing any proceeding, enlist the services of an appropriately qualified expert, to assess any issues or circumstances raised by a party, that should be considered with the benefit of specialist knowledge.

MADE at Abuja this 6th day of December, 2007.

ERNEST NDUKWE
Executive Vice-Chairman

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Consumer Code of Practice Regulations, 2007

Scope and Objectives

1. (1) These Regulations are made pursuant to Part I of Chapter VIII of the Nigerian Communications Act (in these Regulations referred to as “Act”), and provide a further definition of the procedures and substantive requirements for developing consumer codes to govern the provision of services by licensed telecommunications operators in Nigeria and related consumer practices.
- (2) Specifically, these Regulations are made pursuant to section 106 of the Act and the functions of the Commission identified in Sections 4 (1) (b) and 4 (1) (p) of the Act.

2. The specific objectives of these Regulations are to – confirm and clarify the procedures to be followed by Licensees in preparing approved consumer codes of practice in accordance with section 106 of the Act ; and to determine and describe the required contents and features of any consumer code prepared by, or otherwise applicable to, Licensees.
3. These Regulations apply to all Licensees and any other providers of communication services in Nigeria.

Consumer Codes Of Practice

4. (1) A Licensee may, at any time, prepare an individual consumer code for the provision of services and related consumer practices applicable to the Licensee, and submit that individual consumer code for approval by the Commission.
- (2) Attached as Schedule 1 to these Regulations is a General Consumer Code of Practice (the “General Code”), which the Commission is hereby publishing to provide direction on the required terms of any consumer code to be approved by the Commission or otherwise applicable to Licensees.
- (3) Individual consumer codes prepared and submitted by Licensees shall include at least the terms and conditions of the General Code, or equivalent terms and conditions that are no less favourable to consumers than the General Code.
5. The Commission recognises that in developing individual consumer codes there may be differences due to the service, platforms used or types of services provided by individual Licensees, such as wireless versus fixed line or telephony versus data services. Nevertheless, the General Code remains a minimum set of requirements and the minimum standard for the provision of services and related consumer practices applicable to Licensees.

6. (1) Within thirty days of submission of an individual consumer code by a Licensee, the Commission shall take one of the following actions :
 - (a) approve the proposed consumer code without alterations ;
 - (b) approve the proposed consumer code with such alterations as the Commission identifies as necessary to meet the minimum requirements of the General Code ;
 - (c) deny approval of the proposed consumer code, with directions to the Licensee regarding areas for improvement for further development of the proposed consumer code ; or
 - (d) identify an extended period of time for review of the proposed consumer code, following which the Commission may take any of the actions described in sub-paragraphs (a), (b) or (e) above.
- (2) Pending approval by the Commission of any individual consumer code submitted by a Licensee, the provision of services and related consumer practices applicable to that Licensee shall be governed by the General Code.
7. (1) Following approval by the Commission of an individual consumer Code submitted by the Licensee, the individual consumer code shall be published by the Licensee in two national newspapers or as otherwise directed by the Commission, and the approved individual consumer code shall govern the provision of services and related consumer practices applicable to that Licensee beginning on the publication date.
- (2) Approved individual consumer codes may be published or distributed by the Commission in any way it deems appropriate. Licensees shall also provide a copy of any approved individual consumer code to consumers on request.

Compliance and Enforcement

8. Licensees shall be subject to the compliance provisions set out in Part VIII of the General Code, or equivalent provisions of any approved individual consumer code.
9. Any Licensee that contravened any of the provisions of these Regulations is in breach thereof and is liable to such fines, sanctions or penalties, including any penalties determined under the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005, as may be determined by the Commission from time to time.

Miscellaneous

10. The Commission may from time to time issue additional rules, directions or guidelines on any aspect of these Regulations, and either of general application or specific to a Licensee.
11. The Commission may also revise the general code at any time by publishing a replacement schedule to these regulations and may direct licensees to make alterations to any previously approved individual consumer codes as required to give effect to the amendment to the general code.
12. These regulations may be cited as the Consumer code of Practice Regulations

General Consumer Code of Practice

Part I – Introduction

1. (1) This General Consumer Code of Practice (the “General Code”) is published by the Nigerian Communications Commission pursuant to section 106 of the Nigerian Communications Act 2003 (in these Codes referred to as “the Act, which contemplates the development of a consumer code that would govern the provision of services by licensed telecommunications operators in Nigeria.
- (2) This General Code is to be read in conjunction with the Consumer Code of Practice Regulations 2007.
2. An terms used in this General Code are either defined in the code or have the meanings defined in the principal Act.
3. The Code applies to all Licensees, and in regard to all telecommunications services offered to the public. It is intended to guide the production of individual codes by each Licensee – with the substantive content of this. General Code as a minimum set of requirements. It is recognized that in developing individual versions of the code there may be some differences due to the service platforms prototypes of services involved, such as wireless versus fixed line or telephony versus data services. Pending approval by the Commission and publishing by any Licensee of individual code, this General Code shall apply.
4. (1) The Commission intends to establish a forum of industry and consumer representatives (the “Consumer Forum”) to assist in ongoing monitoring and review of the General Code to ensure that it is kept up to date and adequately addresses consumer issues.
- (2) Compliance procedures are described in Part VIII of this General Code. Compliance monitoring and code administration will typically be undertaken by the Consumer Affairs Bureau of the Commission, or such

other departments or authorities within the Commission as are designated from time to time.

5. The Commission, acting on its own initiative or with the assistance of the Consumer Forum, may recommend amendments to this General Code and/or any individual Licensee's consumer code. The Commission would expect to consult on any such changes pursuant to sections 57 and 58 of the Act.

Provision of Information to Consumers

6. (1) Licensees shall provide Consumers with information on their services that is complete, accurate, and up-to-date and in simple, clean language.
- (2) Licensees shall endeavour to respond in a timely manner to Consumer requests for information on their services and such information shall be provided free of charge and shall include at least the following :
 - (a) current service, arrangements, including rates and terms and conditions for all services offered to the public, shall be readily available in print and electronic format (including on each Licensee's web site). Such information shall also be available at all retail outlets where the Licensee's services are sold ;
 - (b) services that are subject to price or tariff regulation by the Commission shall be described in service tariff pages published in an accessible form, including being made available at designated company offices and on the Licensee's web site ;
 - (c) for those Licensees that publish subscriber directories, the terms of service shall be printed in the front section of such directories ; and
 - (d) where a Licensee seeks any change in the tariff rates for services, affected Consumers shall be notified of the proposed price change in an

effective manner that in, particular, lets them comment to the Commission on the proposed changes. After approval by the Commission, Consumers should also be notified of the resulting tariff changes in an effective manner.

7. Licensees shall supply, or make available on request, a copy of the contract or agreement for the provision of services, and such contracts shall be written in plain and clear language.
8. (1) Before entering into a contract for any service, Consumers shall be provided a complete description of the service in clear and plain language, avoiding unnecessary technical terms. Where other services are required in order to effectively utilize the service, the Consumer shall be sufficiently informed of such requirements or service dependencies.
- (2) The Licensee shall also provide information on the service quality levels offered, the waiting time for initial connection and any service areas and coverage maps if applicable.
- (3) The Licensee shall provide specific information regarding any compensation, refund or other arrangements, which may apply if contracted quality service levels are not met, along with the procedures and methods for resolving disputes in respect of the service contract.
- (4) Where services are packaged with one or more other services or products, the Licensee shall provide the Consumer in relation to each service or product :
 - (a) a description of each component service or product, and where the Licensee sells the service or product component separately, the price that the Licensee would charge for the component on a stand-alone basis ; and
 - (b) for services that are bundled with services from third parties, Licensees shall be fully responsible for the effective performance of the entire

package including service support, maintenance, complaints handling, dispute resolution and other administrative requirements.

- (5) Where services are subject to upgrade or migration options, Consumers shall be provided with clear and complete information regarding the upgrade or migration terms, including any changes in service performance and any duly approved fees or charges resulting from the upgrade or migration.
9. Before a contract for service is entered into, the Licensee shall inform the Consumer of :
 - (a) the applicable rates or charges ;
 - (b) what the charges include ;
 - (c) each part or element of an applicable charge, and the method of its calculation ;
 - (d) the frequency of the charge or other circumstances that give rise to the charge ;
 - (e) whether, the charges or elements thereof are subject to change from time to time, the circumstances of such changes and how the Consumer will be informed of such changes.
10. The contract itself shall contain the following information regarding the term :
 - (a) the commencement date of the contract ;
 - (b) what the minimum contract term is, if applicable;
 - (c) where applicable, the minimum contract period and the manner and consequences of termination;
 - (d) the situations where early termination is possible;
 - (e) the amount or method of calculating any charges payable upon early termination;
 - (f) the conditions and terms of renewal of the contract, if applicable;
 - (g) the conditions and terms of disconnection and

reconnection and fees that may be charged for disconnection or reconnection ;

- (h) terms and conditions that may apply to refund of any deposit including timing and any deductions or charges applicable ;
- (i) terms and conditions relating to situations that may give rise to the interruption, withdrawal or discontinuation of the service ; and
- (j) terms and conditions relating to the delivery, installation or activation of the service.

11. (1) Before entering into a contract to provide services, the Licensee shall inform the Consumer as to whether there is any contractual warranty relating to products (if any) supplied for use in connection with the service, including how to obtain warranty service if needed and where a copy of the warranty is not provided with the products, the Licensee shall inform the Consumer how and where it is available.

(2) Licensees will provide specific information regarding any maintenance services offered.

12. Licensees shall provide services within any service supply time targets set out in the Commission's Quality of Service Regulations, subject to the following :

- (a) in the event the Licensee encounters technical problems that interfere with provisioning of the service(s), the time for provisioning will be subject to any time or process of rectification permitted by the Commission ;
- (b) Licensees will not be responsible for any readiness of premises or availability of infrastructure or equipment that is beyond the reasonable control of the Licensee; and
- (c) Licensees will not be responsible for delays or refusals of service requests caused by the Consumer being identified as not credit-worthy.

13. (1) Licensees shall implement the facilities and processes needed to permit Consumers to report faults 24 hours a day.
- (2) Licensees shall comply and shall cause their agents to comply with the relevant fault repair standards set out in the Commission's Quality of Service Regulations.
- (3) Licensees shall endeavour to give advance warning of anticipated service disruptions or planned outages, including details of the disruption or outage, the services and service areas affected and any applicable compensation or other remedies.
- (4) In the event of force majeure such as floods and storms the Licensee shall endeavour to rectify the fault within such period of time as may be reasonable in the circumstances.
14. (1) The Licensee shall ensure that any Consumer can access:
 - (a) operator assistance services ; and
 - (b) a directory enquiry facility containing directory information on all subscribers in Nigeria, except for those subscribers who have exercised their right to have their directory information suppressed or removed.
- (2) Where the Licensee assigns telephone numbers to subscribers, it shall ensure that each of those subscribers is, on request, supplied free of charge, with a directory containing directory information on all subscribers who have been assigned telephone numbers in the subscriber's local area.
- (3) Any directories supplied shall not contain directory information for those subscribers who have exercised their right to have their directory information suppressed or removed.
- (4) A directory may be produced by or for the Licensee, or by another person not acting on behalf of a Licensee. Where a directory is produced by or for the Licensee, the Licensee shall ensure that it is updated on a regular basis (at least once a year).

- (5) The Licensee may charge Consumers a reasonable fee for providing directory enquiry services, subject to the approval of the Commission, and may charge a reasonable fee for any additional directories requested by Consumers.
- 15. (1) The Licensee shall from time to time consult the Consumer Forum to ensure that the requirements and interests of disabled Consumers are fully taken into account in the development and provision of its services.
- (2) The Licensee shall comply with any specific obligations that the Commission may impose on operators in respect of special services or service arrangements for subscribers with disabilities.
- 16. (1) The Licensee shall comply with any network or other requirements that may be approved by the Commission in respect of the provision of emergency services, including such measures as location identification information, special numbers and routing to emergency services locations.
- (2) Calls to emergency services shall be free of charge.
- (3) Licensees may apply to the Commission regarding the recovery of any special costs of implementing or operating emergency services, which the Commission may consider pursuant to section 107 of the Act.

Advertising and Representation of Services

- 17. The Advertising Practitioners Council of Nigeria (APCON) regulates advertising practices in Nigeria, and has established the Nigerian Code of Advertising Practice. Licensees shall comply with the advertising standards established by APCON, and any other applicable laws or standards, in addition to the rules regarding the advertising or other promotion of telecommunications services set out in this General Code.

18. (1) Licensees shall make clear in advertising materials which promote the availability of a service any geographical or technical limitations on the availability of the service to consumers which :
 - (a) substantially affect the performance of the service ; and
 - (b) are known to the Licensee.
- (2) Licensees shall make clear in any advertising materials which promote a service offer any limitations in the offer which restrict it —
 - (a) to a particular group of people ;
 - (b) to a partial zone, region or other geographical area within the country ;
 - (c) to a particular period of time ; or
 - (d) through the limited availability of equipment, facilities or other materials.
19. (1) Where a Licensee represents in advertising materials that a service is provided as part of a package, the Licensee shall ensure it is able to supply all components of the service package. In the event the Licensee is or may be unable to supply any component of the package, appropriate information about this limitation shall be included in the advertising materials.
- (2) Where advertising materials indicate the price of a component of a service package, a Licensee shall include in the advertising materials a statement of the minimum total charge for the package, and indicate any conditions that may apply to obtain the component at the stated price.
20. (1) No Licensee shall engage in unsolicited telemarketing unless it discloses :
 - (a) at the beginning of the communication, the identity of the Licensee or other person on whose behalf it is made and the precise purpose of the communication ;
 - (b) during the communication, the full price of any

product or service that is the subject of the communication ; and

- (c) that the person receiving the communication shall have an absolute right to cancel the agreement for purchase, lease or other supply of any product or service within seven (7) days of the communication, by calling a specific telephone number (without any charge, and that the Licensee shall specifically identify during the communication) unless the product or service has by that time been supplied to and used by the person receiving the communication.
- (2) Licensees shall also conduct telemarketing in accordance with any “call” or “do not call” preferences recorded by the Consumer, at the time of entering into a contract for services or after, and in accordance with any other rules or guidelines issued by the Commission or any other competent authority.

Consumer Billing, Charging, Collection and Credit Practices

- 21. A Licensee shall at all times endeavour to –
 - (a) ensure that billing is accurate and timely ;
 - (b) ensure that billing accuracy is verifiable ;
 - (c) ensure that sufficient information shall be on the bill or otherwise readily available to the Consumer for verification of the bill without any charge ;
 - (d) ensure that upon a bona fide request from a Consumer, the Licensee shall inform or provide the Consumer with timely, accurate and current information about its billing terms and conditions and options relevant to that Consumer ;
 - (e) retain records of a Consumer’s bill and related charges for a minimum period of twelve (12) months ; and

- (j) in interpreting the obligations described in this section, references to “billing” or “bill” include the Licensees systems for recording and processing any prepaid transactions, including the debiting of call charges against prepaid card balances.
22. A Licensee shall ensure that, at a minimum, the following information is included in any bills issued by it or on its behalf :
- (a) the Consumer’s billing name and address ;
 - (b) the Licensee’s current business name, address and registered number ;
 - (c) a way of identifying the bill uniquely ;
 - (d) the billing period ;
 - (e) a description of the charges (and credits) for which the Consumer is billed ;
 - (f) the total amount billed, applicable credits, payments or discounts, and the net amount payable by the Consumer (or repayable by the Licensee) ;
 - (g) the date on which the bill is issued ;
 - (h) the bill (or refund) payment due date ;
 - (i) methods of bill (or refund) payment ;
 - (j) methods of contact for complaints and billing inquiries ; and
 - (k) any call charges applicable for complaints and billing inquiry calls.
23. (1) A Licensee shall ensure that Consumers have access to itemize details of all charges, either on the bill or on a separate statement provided by the Licensee upon request.
- (2) Unless otherwise requested by or agreed with the Consumer, Licensees shall provide itemized details during the current billing period. Where applicable, the Licensee shall inform Consumers of the notice period required to obtain itemized billing. In addition, Licensees shall ensure that itemized details contained

in previous bills are available for 12 months, or any longer period required by law.

- (3) A Licensee shall not charge Consumers for bills of billing related information, except where the Consumer requests information not required to be provided under this General Code such as requests for billing details more than one (1) year old. Licensees shall inform Consumers of any applicable charge resulting from their billing requests, and shall obtain the consent of the Consumer to any charge before it is imposed.
24. A Licensee shall process and issue bills within 30 days of the closure of each billing period. A bill shall include all charges incurred during the billing period except where :
 - (a) there exists a separate agreement with the Consumer to the contrary ; or
 - (b) there is a delay as a result of the inclusion by the Licensee of information from other suppliers or service providers in the bill ; or
 - (c) there is a delay as a result of a change initiated by the Consumer, such as where the Consumer has requested a different billing frequency or billing period ; or
 - (d) there is a delay as a result of the suspension of charges that are in dispute ; or
 - (e) there has occurred a billing system or processing problem, in which case the problem shall be rectified and bills issued without undue delay and in accordance with any time periods identified by the Commission ; or
 - (f) billing is delayed by circumstances beyond the reasonable control of the Licensee, such as an event of force majeure.
25. Licensees shall ensure that Consumers are able to verify their bill payment by acknowledgment of payment on the next bill issued, telephone confirmation by calling a specified number, or such other appropriate and

accessible methods as may be made available by Licensees.

26. Licensees shall provide Consumers with advance written notification of any proposed changes in billing periods, such advance notification to be at least equal to two (2) of its otherwise applicable billing periods (i.e. at least 2 months in advance where the billing period being changed is monthly).
27. Where a Consumer has not paid the Licensee all or part of a bill for services provided by the Licensee, any measures taken by the Licensee to effect payment or disconnection shall—
 - (a) be proportionate and not unduly discriminatory ; and
 - (b) be accompanied by appropriate warning to the Consumer in advance of any resulting service interruption or disconnection ; and
 - (c) confine any service interruption or disconnection to the service(s) concerned, as far as technically feasible.

Consumer Obligations

28. Consumers shall be bound by a Licensee's terms of service on return of a signed service agreement, or on clearly accepting the service terms by any form of telecommunications. Consumers shall also be deemed to accept a Licensee's service terms on any commencement of use of the service that follows adequate communication by the Licensee of its service terms.
29. Consumers shall grant the Licensee or its authorized representatives, without charge, access to premises, equipment or facilities as reasonably required for any provisioning or maintenance of the services, equipment or facilities.
30. (1) Consumers shall not use any equipment or related facilities provided by a Licensee for reasons other than

those related to normal service, and shall not do anything that interferes with the functioning of such equipment or facilities, without prior written authorization from the Licensee, Consumers shall be responsible for any loss of or damage to equipment or facilities that results from actions contrary to their service terms or this General Code.

- (2) Equipment owned by the Licensee and connected to a telecommunications network may not be moved to a location or address other than the location or address where service was installed, without prior written authorization from the Licensee. This restriction should not apply to any equipment that is accompanied by operating instructions indicating that it may be disconnected and reconnected as part of its normal use.
 - (3) Modification or attachment of any unauthorized device to the Licensee's equipment or facilities is prohibited without prior written authorization from the Licensee.
 - (4) No equipment or device that interferes in any way with the normal operation of a telecommunications service, including any equipment or device that intercepts or assists in intercepting or receiving any service offered by the Licensee that requires special authorization, may be installed by or on behalf of any Consumer.
31. Consumers shall not re-sell any service provided by a Licensee except as permitted by the service agreement of the Licensee (and subject to any applicable licensing or authorization by the Commission pursuant to the Act).
32. Consumers shall not misuse public telecommunications services, including by :
- (a) dishonestly obtaining telecommunications services ; or
 - (b) possessing or supplying equipment that may be used to obtain such services dishonestly or fraudulently ; or

- (c) using services to send messages that are obscene, threatening or otherwise contrary to applicable laws or regulation.
33. (1) In a competitive market, a Consumer may be tempted to accumulate payment arrears with one Licensee for services used, then 'switch' service to another Licensee without settling payment with the previous Licensee. This type of "dishonest churning" by Consumers constitutes an abuse of a competitive telecommunications market. In order to prevent this abusive behaviour, Consumers shall be required to settle a valid payment arrears with a Licensee before switching to another service provider.
- (2) Licensees shall be permitted to investigate if a person seeking its services has settled with his or her previous supplier, before having any obligation to provide service to that person.

Protection of Consumer Information

34. (1) The purpose of this part is to set out the responsibility of a Licensee in the protection of individual Consumer information.
- (2) Licensees should also be aware of the authority granted to the Commission under Section 147 of the Act, which permits the Commission on certain situations to allow "authorised interception of communications", including stipulating the technical requirements for authorised interception.
35. (1) A Licensee may collect and maintain information on individual Consumers reasonably required for its business purposes. However, the collection and maintenance of information on individual Consumers shall be —
- (a) fairly and lawfully collected and processed ;
 - (b) processed for limited and identified purposes ;
 - (c) relevant and not excessive ;

- (d) accurate ;
 - (e) not kept longer than necessary ;
 - (f) processed in accordance with the Consumer's other rights ;
 - (g) protected against improper or accidental disclosure ; and
 - (h) not transferred to any party except as permitted by any terms and conditions agreed with the Consumer, as permitted by any permission or approval of the Commission, or as otherwise permitted or required by other applicable laws or regulations.
- (2) Licensees shall meet generally accepted fair information principles including :
- (a) providing notice as to that individual Consumer information they collect, and its use or disclosure;
 - (b) the choices Consumers have with regard to the collection, use and, disclosure of that information;
 - (c) the access Consumers have to that information, including to ensure its accuracy ; and
 - (d) the security measures taken to protect the information, and the enforcement and redress mechanisms that are in place to remedy any failure to observe these measures.
- (3) These rules apply to individual Consumer information whether initially provided verbally or in written form, so long as that information is retained by the Licensee in any recorded form.
- 36.** Any Licensee that collects information on individual Consumers shall adopt and implement a policy regarding the proper collection, use and protection of that information. Licensees shall ensure that any other Licensees or other persons with whom they exchange or otherwise disclose such information have adopted

and implemented an appropriate protection of Consumer information policy.

37. (1) A Licensee's policy on the protection of Consumer information shall be made available in an accessible and easy to read manner, including as specifically directed by the Commission from time to time.
- (2) The policy shall state clearly what information is being collected ; the use of that information ; possible third party exchange or disclosure of that information ; and the choices available to the Consumer regarding collection, use and disclosure of the collected information.
- (3) The policy shall disclose the consequences, if any, of a Consumer's refusal to provide information.
- (4) The policy shall also include a clear statement of how to contact the Licensee regarding information issues and related information access or complaint mechanisms.
38. (1) Licensees collecting, maintaining, using or disclosing individually identifiable Consumer information shall take reasonable steps to ensure that the information is accurate, relevant and current for the purposes for which it is to be used.
- (2) Licensees shall establish appropriate processes or mechanisms so that inaccuracies in individual Consumer information, including out of date information, may be identified and corrected. Other procedures to ensure data quality may include use of reliable sources and collection methods, reasonable and appropriate Consumer access and correction, and protection against incidental or unauthorized alteration.

Complaints Handling

39. — (1) Licensees shall provide easily understood information about their complaint processes in various media and formats, including as specifically directed by the Commission from time to time.

- (2) Licensees shall ensure that Consumers can easily identify how a complaint may be lodged, either at a Licensee's premises or using identified forms of telecommunications.
 - (3) Information on the complaints handling processes shall contain information—
 - (a) to Consumers about their right to complain ;
 - (b) on how Licensees can be contacted in order to make a complaint ; and
 - (c) on the types of supporting information including, documents the complainant needs to furnish when making a complaint.
 - (4) All complaints will be recorded by Licensees, and processed in accordance with identified practices and procedures.
40. (1) Licensees are encouraged to make adequate provision to ensure that people with physical disabilities or other special needs are able to access their complaint handling processes, including ensuring that Consumers can be easily represented by their authorised representatives in order to make a complaint.
- (2) In cases where Consumers specifically request assistance in lodging complaints, Licensees are encouraged to provide reasonable assistance.
41. (1) Written complaints shall be acknowledged by the Licensee and acted on within any time frames set out in the Commission's Quality of Service Regulations (or as otherwise directed by the Commission from time to time). A Licensee can acknowledge and otherwise initially respond to a complaint either verbally or in writing, but should make reasonable efforts to make the initial response in the manner requested by the complainant.
- (2) Non-written complaints shall be taken as acknowledged by the Licensee at the time the complaint was communicated to the Licensee.

- (3) Where possible, Consumers shall be advised when they make a complaint of the expected actions and timing for investigating and resolving the complaints. In the event that the Licensee regards the complaint as frivolous or vexatious, the Consumer shall be informed accordingly and if dissatisfied the Consumer shall have the further recourse described below. In any event, no Consumer complaint shall remain unresolved for more than three (3) months.
- (4) Licensees shall implement processes to provide Consumers with sufficient information and the means to inquire on the progress of complaints. Such processes may include complaint reference numbers or other identifiers in order to facilitate timely and accurate responses to subsequent enquiries by Consumers.
- (5) Consumers shall be advised of the outcome of the investigation of their complaint, and any resulting decision by the Licensee.
- (6) Where a Consumer is not satisfied with a decision reached pursuant to a complaint, the Licensee shall give the Consumer the option of pursuing an identified escalation process by which the decision may be examined by a suitably qualified person in the Licensee's organization. Where the Consumer has already been provided with the benefit of the Licensee's escalation process(es) and where there are no further escalation processes, the Licensee shall inform the Consumer accordingly.
- (7) In the event that a complaint has not been resolved to the Consumer's satisfaction, including as a result of any escalation process, within sixty (60) days of being communicated to the Licensee, the Licensee shall inform the Consumer that he or she may refer the complaint to the Commission.
- (8) Failure to deal with Consumer complaints, and any related service failures, shall also be subject to the requirements of the Quality of Service Regulations,

including payment of any specific service credits or rebates established pursuant to these regulations.

42. Complaint handling processes shall be provided free of charge. However, a Licensee may impose a reasonable charge for complaint handling processes where investigation of the complaint requires the retrieval of records more than twelve (12) months old, and where that retrieval results in any incremental expense or significant inconvenience to the Licensee. Any such charges shall be identified and agreed to by the Consumer before being incurred.
43. (1) Licensees shall advise Consumers that, in the event they remain dissatisfied with the outcome of a complaint they may refer the complaint to identified persons or departments, within the Commission.
(2) For disputes that remain unresolved by other means, the Commission will apply the processes set out in its Dispute Resolution Guidelines.
44. (1) A Licensee shall avoid imposing any disconnection or credit management action regarding any service to which a complaint or billing dispute relates while the complaint or dispute is being investigated. The Licensee shall inform the Consumer that, while the complaint or dispute, is being investigated, the Consumer is obliged to make payment of any outstanding amounts other than the amount that is specifically in dispute.
(2) Where a Licensee intends to take disconnection or credit management action against a Consumer regarding any amount that has been the subject of a complaint or dispute, the Licensee will specifically notify the Consumer before taking the intended action.
45. (1) Licensees shall have appropriate recording systems for complaints and their outcomes. Such tracking is also needed to meet the requirements of the quantity of Service Regulations.

- (2) Complaints tracking data shall be categorised and analysed by the Licensee from time to time to allow for the identification of recurring problems, Licensees shall inform the Consumer that a record of their complaints is being kept, and if requested by the Consumer shall describe the complaints, tracking system used by the Licensee.
- 46. Licensees shall review their complaint handling and tracking processes from time to time to ensure effective processing, of complaints. Licensees shall also report on the outcome of these reviews as requested by the Commission, and shall make any changes to complaint handling and tracking processes identified, by the Commission.
- 47. Licensees shall update any information regarding their complaint handling and tracking processes as appropriate, including information provided to Consumers or the Commission.
- 48. Information collected and recorded as part of the Licensee's complaint handling processes shall be retained by Licensees for at least twelve (12) months following resolution of a complaint.
- 49. The Commission may from time to time audit the complaints handling and tracking processes of Licensees, including by exercising its powers pursuant to section 141 of the Act.

Code Compliance

- 50. Licensees shall –
 - (a) develop appropriate policies and procedures for ensuring compliance with this General Code (or any individual consumer code approved by the Commission) ;
 - (b) ensure that the compliance policy, procedures and applicable code provisions are publicized to employees and other representatives of the Licensee;

- (c) develop appropriate procedures or programs to educate employees regarding code compliance issues;
 - (d) implement appropriate management structures and practices to monitor compliance with the policies, procedures and code provisions ; and
 - (e) provide information to the Commission, as provided for in this General Code or as otherwise requested by the Commission, relevant to the Licensee's consumer code obligations and ongoing compliance efforts.
- 51.(1) The Commission will monitor compliance with applicable code provisions on a regular basis to ensure the overall effectiveness of consumer codes in achieving their objectives, which include—
- (a) complaints monitoring ;
 - (b) routine verification of code compliance by Licensees ; and
 - (c) identification of other consumer code issues.
- (2) The Commission will publish quarterly progress reports to assist it in its ongoing monitoring and review of consumer codes and related issues. The progress reports will include—
- (a) identified breaches of applicable code provisions, and any remedial actions taken ;
 - (b) recurring complaints and actions taken to address these;
 - (c) statistics on complaints and their resolution ; and
 - (d) steps taken by Licensees in the development of in-house compliance systems,
- (3) The Commission's annual report will contain a summary of all progress reports or the relevant year.
52. (1) Complaints about failure to comply with this General Code or any other applicable consumer code will arise in two broad categories: Consumer complaints and "Industry" complaints.

- (2) The Commission shall administer appropriate and impartial processes for the investigation and resolution of both Consumer and Industry complaints.
 - (3) In the event the Commission finds that a complaint does not fall within its jurisdiction, the Commission will refer the matter to the appropriate body.
- 53. All complaints by Consumers will first be lodged and dealt with by the relevant Licensee in accordance with Part VII of this General Code. Where a Consumer lodges a complaint with the Commission and does not initially contact the Licensee, the Commission will forward the complaint to the Licensee for resolution in accordance with Part VII of this General Code.
- 54. (1) Industry complaints are those made by one Licensee against another for an alleged breach of a consumer code. Industry complaints will also include complaints by a group representing consumer interests against a Licensee.
 - (2) All Industry complaints will be lodged directly with the Commission. Where an Industry complaint is lodged with a Licensee, without evidence that the complaint has been lodged with the Commission as well, the Licensee shall forward a copy of the complaint to the Commission without delay, and will notify the complainant that its further contact regarding the complaint should be with the Commission and not the Licensee.
- 55. (1) The Commission will oversee compliance with and administration of the General Code and any other applicable consumer codes.
 - (2) The Commission will analyse and investigate complaints in order to determine whether there has been a breach of the applicable code. In the event the Commission finds that there has been a breach, it will consider the following factors in arriving at a decision

on the remedial actions or penalties to be imposed :

- (a) seriousness of the breach ;
 - (b) past conduct of the Licensee with respect to compliance with the code ;
 - (c) representations made by the Licensee with regards to the breach and related circumstances ; and
 - (d) any compensation offered by the Licensee to affected Consumers for the breach.
- (3) The monitoring and enforcement of consumer codes will be exercised in accordance with the Nigerian Communication's (Enforcement Processes, etc.) Regulations 2005. With respect to any penalties for contravention of applicable code provisions, the Commission will be guided by the considerations set out in Chapter IV ("Administrative Fines") of those regulations.
- (4) The Commission may also issue a caution notice to a Licensee with no record of past problems, identifying remedial measures to be undertaken but imposing no other penalties or sanctions.
- (5) Continuing or repeated breaches of this General Code or any other applicable consumer code shall be reviewed by the Commission to determine if they constitute an offence under the Act, including as a breach of applicable licence conditions.
- (6) Unless otherwise specifically identified by the Commission, the parties to a complaint shall be responsible for their own costs or expenses associated with the complaint. The Commission shall also identify any circumstances in which any costs or charges will be payable to the Commission in connection with its involvement in the resolution of any complaint, prior to a party incurring the payment obligation.
- 56.** In the event that a decision by the Commission is not accepted by a party to the decision, that party will have the right to challenge the decision pursuant to Sections

86 to 88 of the Act, in accordance with the practices and procedures described in those sections.

57. Information disclosed in the course of any complaint or compliance proceeding under this General Code or other applicable consumer code may be protected as confidential information as provided under the Act, including Sections 59, 60 and 86(3) of the Act.

MADE at Abuja this 3rd day of July, 2007.

EXPLANATORY NOTE
ENGR. ERNEST NDUKWE, (OFR)
Executive Vice-Chairman

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Nigerian Communications (Enforcement Process, etc) Regulations, 2019

Preliminary Provisions

1. The Commission shall in the exercise of its monitoring and enforcement powers, comply with processes and procedures provided by the Act and these Regulations.
2. (1) The Commission shall exercise its monitoring and enforcement powers –
 - (a) independently and at its discretion ; or
 - (b) in response to a written report made by any person in such form or manner specified in Form A1 of the First Schedule to these Regulations.
- (2) The Commission shall in using Form A2 of the First Schedule to these Regulations, acknowledge the receipt of any report made by any person pursuant to sub-regulation (1)(b) of this regulation.

- (3) The Commission shall, prior to exercising its monitoring and enforcement powers pursuant to a report made by any person under subregulation (1)(b) of this regulation, satisfy itself in the manner and on the issues specified in section 62(2) of the Act.
- (4) The Commission shall publish on its website, on a quarterly basis, details of its monitoring and enforcement activities pursuant to sub-regulation (1) of this regulation and such publication shall include full details of any action taken by the Commission as regards the report made to it pursuant to subregulation (1)(b) of this regulation.
- (5) The Commission shall in addition to sub-regulation (4) of this regulation, inform an Operator of any enforcement action taken against it by the Commission.

General Processes And Procedures For Exercising Monitoring And Enforcement Powers

- 3. Subject to the Act and any Regulations made thereunder or any licence issued pursuant to the Act, the Commission shall, in exercising its monitoring and enforcement powers, be guided by the following principles and considerations –
 - (a) transparency, fairness and non-discrimination ;
 - (b) provision of modern, qualitative, affordable and readily available communication services in all parts of Nigeria;
 - (c) promotion of fair competition and investment in the communications industry ;
 - (d) the proportionality of the enforcement sanctions to the contravention committed, taking into account the various factors specified in regulation 16(2) of these Regulations ; and
 - (e) such other principles and considerations as the Commission may from time to time, consider necessary in the national interest.

4. (1) Subject to any specific provision of the Act or any Regulations made thereunder or any licence issued pursuant thereto, the Commission may, in the exercise of its enforcement powers, institute civil proceedings in the Court against any person for any remedy, including injunctive relief, recovery of administrative fines, specific performance or other pecuniary awards or damages.
- (2) The Commission may issue directions in writing to any person or licensee, where it deems necessary.
- (3) The Commission may seek the assistance of any law enforcement agency to enforce compliance with any directions issued under sub-regulation (2) of this regulation.
5. (1) In exercising the powers of entry and investigation pursuant to section 141 (2) of the Act, the Commission or any of its authorised officers or appointed Inspectors may ;
 - (a) demand the testing or operation or use howsoever of any radio communication station or apparatus or other communication equipment or facilities by the person in whose custody the equipment or facility is ; and
 - (b) subject to sub-regulations (2) and (3) of this regulation, the Commission may seal off or seize and detain in its custody for such period and on such terms as it may consider expedient or necessary to carry out and conclude the relevant monitoring and enforcement procedure of any –
 - (i) radio communication station or apparatus or other communications equipment or facilities,
 - (ii) building or premises, or
 - (iii) book, record, document or other information storage system.
- (2) The Commission may seize and detain in its custody or seal off any building or premises or any of the items

mentioned in sub-regulation (1) of this regulation in the following circumstances –

- (a) where such item mentioned in sub-regulation (1)(b) of this regulation constitutes part of an unlawful or unauthorised operation ; or
 - (b) where such item mentioned in sub-regulation (1)(b) of this regulation is relevant and required for the prosecution in court of a person who violated any of the provisions of the Act or any Regulations made thereunder ; or
 - (c) such other circumstances that are expressly provided for in the Act.
- (3) In seizing, detaining or sealing off of any premises or building and any of the items specified in sub-regulation (1)(b) of this regulation, the Commission shall –
- (a) obtain a warrant from a Judge of a court of competent jurisdiction ; and
 - (b) provide to the owner or his agent, a written inventory in evidence of the seizure of the seized equipment, facility, book, record, document or other information storage system except that there shall be no need for the issuance of such receipt where the item is sealed off and remains in the custody of the owner or agent certifying.
- (4) Where any item has been seized and detained or any premises or building has been sealed off under sub-regulation (2)(a) of this regulation, the Commission reserves the right to release the item or unseal the premises or building upon the Commission certifying that –
- (a) steps have been taken by the affected person to regularise its operation ; or
 - (b) sanction imposed by the Commission for the unlawful or unauthorised operation has been complied with.

- (5) Where any of the powers of the Commission under section 141 of the Act is to be exercised by any authorised officer or appointed inspector, the Commission shall issue a letter of authority to such officer or inspector in the form specified in Form B of the First Schedule to these Regulations.
- 6. (1) Any person who assaults, obstructs, resists or aids any other person to assault, obstruct or resist any official or appointed inspector of the Commission in the performance of its monitoring and enforcement duties under the Act or these Regulations, commits an offence and shall be liable on conviction to the penalty provided under section 140 of the Act.
- (2) Any person who impersonates any official or appointed inspector of the Commission, commits an offence and shall be liable on conviction to a penalty as provided under section 140 of the Act.
- 7. Any person who knowingly provides false subscriber information or data for registration pursuant to the Registration of Telephone Subscribers Regulations made by the Commission, commits an offence and shall be liable on conviction to a fine not exceeding N1,000,000.00 or imprisonment for a term not exceeding 1 year or to both.
- 8. (1) Every licensee shall keep records of Call Data in accordance with the Cybercrime (Prohibition, Prevention; etc) Act 2015 and the Consumer Code of Practice Regulations. (2) Every licensee shall –
 - (a) make available basic information that may be required by any relevant authority pursuant to section 146 of the Act upon presentation to the licensee a written request from such Relevant Authority and without any further assurance, duly signed by a police officer not below the rank of Assistant Commissioner of Police or its equivalent in any of the Relevant Authorities;
 - (b) subject to sub-regulation (1) of this regulation,

provide such nonbasic information as may be required by any relevant authority, pursuant to section 146 of the Act, upon the presentation to the licensee by the relevant authority of the court order by a Judge or Magistrate in the form or manner specified in Form C1 of the First Schedule to these Regulations ; and

- (c) The provisions of sub-regulations (1) and (2) of this regulation, shall not apply to the Commission with respect to the exercise of its powers under or pursuant to section 146 of the Act.

Consumer Affairs and Technical Regulations

9. The Commission —

- (a) may from time to time, for the purposes of protecting consumers and ensuring ethical marketing and promotional standards by licensees, publish guidelines specifying inter alia minimum standards and requirements in respect of advertisements and promotions of products and services by licensees ;
- (b) shall grant to every licensee, a prior written approval in respect of the contents and representations contained in any promotional products or services, the failure to obtain such required approval shall constitute a contravention under these Regulations ; and
- (c) shall cause the approval or otherwise of the content and representations of promotional products or services to be communicated to the licensee within 14 days from the date of the receipt of the request for approval.

10. The Commission shall in carrying out its type approval functions pursuant to section 132 of the Act, determine and publish its processes and procedures, from time to time.

11. (1) Where licences are issued based on assigned bands of frequencies and operating geographical regions, either in accordance with state boundaries or other such

boundaries as may be delineated and specified by the Commission from time to time, either by way of regulation or licence, the licensee shall ensure that the strength of radio signals from its network emitting into adjacent or other licensee's regions or frequency bands are not such as to cause harmful interference in such regions or frequency bands.

- (2) A licensee shall be deemed not to have contravened sub-regulation
 - (1) of this regulation, where it proves to the satisfaction of the Commission, that any harmful interference was unintended and that the licensee immediately took steps to rectify the interference.
- 12. (1) Without prejudice to such other enforcement measures as may be contained in the Act, any regulations made thereunder or in a licence, the following acts or conducts of licensee or person shall constitute a contravention under these Regulations –
 - (a) any act occasioning harmful interference mentioned in regulation 11 of these Regulations;
 - (b) a breach or violation of any guidelines and standards as may be specified or issued by the Commission, from time to time, on advertisements and promotions of products and services by licensees pursuant to regulation 9 (1) of these Regulations ;
 - (c) a breach or violation of any regulations, order, rule or direction issued by the Commission from time to time;
 - (d) a failure to meet such power limits as the Commission may, from time to time, specify and publish pursuant to section 130 of the Act with respect to radio frequency power output of any transmitting device ; or
 - (e) a failure to fulfill or satisfy howsoever the type approval provisions and requirements in the Act,

any regulations made thereunder or in any licence.

- (2) Any act caused by a licensee in an event of force majeure or other circumstances beyond the control of a licensee and not the wilful or negligent act or omission of such licensee, shall not be construed as a contravention under these Regulations.

13. Without prejudice to such other enforcement measures as may be contained in the Act, any Regulations made thereunder or any licensing conditions, a licensee shall meet such minimum standards of quality of service as the Commission may, from time to time specify and publish pursuant to section 104 of the Act and the Quality of Service Regulations made by the Commission.

14. Notwithstanding such other enforcement measures as may be provided under the Act, any Regulations made thereunder or any licensing condition required to be complied with, the Commission may at its discretion impose administrative fines specified in the Second Schedule to these Regulations for contravention of regulations 9, 12 and 13 of these Regulations.

Administrative Fines

15. (1) Subject to the specific enforcement provisions under the Act, any regulations made thereunder or any relevant licence, the Commission may, subject to sub-regulation (2) of this regulation, impose administrative fines for enforcement purposes, provided that such administrative fines relate only to instances where specific enforcement sanctions have not been provided for in the Act, any Regulations made thereunder or in any licence.

- (2) The Commission in imposing administrative fines as sanctions, shall generally be guided by the following

factors and considerations –

- (a) the severity of the contravention and the need to impose such fine or the amount thereof to serve as a deterrent to both the person who committed such contravention and other persons;
- (b) non-discriminatory and transparency in the imposition of sanctions generally including but not limited to sanctions on different persons for similar contraventions committed in identical circumstances;
- (c) the prevalence of the contravention in the industry generally and the likelihood of repetition by the person who committed the contravention or other persons;
- (d) the duration of the contravention;
- (e) the circumstances of the contravention and in particular, but not limited to, a consideration of whether or not the contravention was deliberately or recklessly or negligently committed by the person who committed the contravention;
- (f) the record of previous or similar contravention by the person who committed the contravention or other persons ;
- (g) the danger to life and property consequent upon the contravention;
- (h) the effect of such contravention on relevant services provided generally;
- (i) any gain either financial or otherwise, derived by the person who committed the contravention directly or indirectly arising from such contravention;
- (j) the degree of harm, injury, discomfort or the incremental cost caused or occasioned by such contravention to consumers or other stakeholders in the communications sector;

- (k) the previous record of the licensee with regards to regulatory compliance and frequency of contravention;
 - (l) the annual turnover of the person who committed the contravention;
 - (m) the extent to which any contravention was caused by a third party;
 - (n) the absence, ineffectiveness or repeated failure of internal mechanisms or procedures required to prevent such contravention by the person who committed the contravention ;
 - (o) the possible mitigating circumstances including but not limited to –
 - (i) whether or not the contravention was of a minor nature and the consequences and effect thereof were equally minor in nature, and
 - (ii) whether or not the person who committed the contravention took immediate steps to remedy the contravention soon after having knowledge of the contravention ;
 - (p) such other factors as the Commission may, from time to time, determine.
16. (1) Without prejudice to the generality of the provisions of regulation 15 of these Regulations, the Commission may impose administrative fines as specified in the Second Schedule to these Regulations for each contravention or non-compliance by licensees.
- (2) Any administrative fine imposed by the Commission pursuant to the Act or any Regulations made thereunder, shall become due and payable by the person who committed the contravention within 14 days from the date of receipt of notice of imposition of fine.
- (3) The payment of an administrative fine shall not be construed as a limitation or foreclosure of the power of the Commission to impose any other enforcement sanctions under the Act and any regulations made thereunder in any violation of licence condition.

17. Without prejudice to the provisions of regulations 15 and 16 of these Regulations, the Commission may in addition to imposing a general or specific fine, withhold regulatory assistance to any licensee, on such terms as the Commission may specify, for any continuing or repeated contravention of the Act, any Regulations or licence conditions.

Grounds and Procedure for Revocation of Licence

18. (1) Without prejudice to the provisions of the Act and any regulations made thereunder or any provision to the contrary contained in any licence, the Commission may, in addition to suspension or revocation of licence under section 45 of the Act, revoke a licence under the following circumstances and procedures, where –
- (a) the licensee ceases for a continuous period of 30 days at any time after commercial launch date, to provide, in the licensed area or any part or location thereof, the service for which the licence was granted;
 - (b) any amount payable under any condition of a licence remains unpaid after it has become due and remains unpaid for a period of 21 days after the Commission notifies the licensee in writing that the payment is due;
 - (c) the licensee fails to obtain type approval of equipment or facilities or comply with the conditions attached to any type approval certificate issued by the Commission pursuant to section 132 of the Act;
 - (d) within 12 months from the effective date on the licence, the licensee has not commenced full licensed operations to the satisfaction of the Commission;
 - (e) the licensee makes any statement in the course of applying for a licence and the statement is

subsequently discovered to be false or misleading in any material particular, provided that the Commission shall give prior notice to the licensee, specifying the details of the default by the licensee and requiring that remedial steps be taken within 30 days of such notice.

- (2) Without prejudice to the provisions of the Act or sub-regulation (1) of this regulation, the Commission may, as an alternative to revocation of a licence pursuant to the Act or any regulations made thereunder, and where necessary –
 - (a) impose administrative fines stipulated in the Second Schedule to these Regulations in respect of the contravention specified in sub-regulation (1) of this regulation ; or
 - (b) require that the licensee makes such changes in its management as the Commission may consider necessary and within such time as may be specified.
- (3) The licence fees that have been paid in respect of a licence revoked pursuant to the Act or sub-regulation (1) of this regulation, shall not be refunded whether in part or whole upon such revocation.

19. The original of any licence that is revoked pursuant to the Act or any regulations made thereunder shall be returned to the Commission by the licensee within 14 days of the effective date of the revocation.

Miscellaneous Provisions

20. (1) Terms and expressions used in these Regulations shall have the same meaning as in the Act, unless the context otherwise requires –
 - “the Act” means, the Nigerian Communications Act, 2003 ;
 - “Administrative fine” means monetary penalties or fines assessed and imposed by the Commission;

“Basic information” means subscriber account information or details; call data which, in the context of this definition, shall include the data of any communication service subscribed to or used by a consumer; and such other information as the Commission may, from time to time, determine; and excludes biometric information as defined under the Registration of Telephone Subscribers Regulations issued by the Commission;

“Commercial launch date” means the date on which a licensee commences provision of commercial services;

“Commission” means Nigerian Communications Commission ;

“Contravention” includes non-compliance with or the infringement of any of the provisions of the Act, any regulations made thereunder or of any licence condition;

“Enforcement” means any action or processes for securing compliance with any of the provisions of the Act, any regulations made thereunder or of any licence including but not limited to suspension or revocation of licence, criminal or civil proceedings against any person who committed the contravention and any administrative action by the Commission;

“Facility” means network facilities as defined in the Act ;

“Harmful interference” means interference which endangers the functioning of a radio-navigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radio communication service operating in accordance with Radio Regulations;

“Interference” means the effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception in a radio communication system, manifested by any performance degradation, misinterpretation, or loss of information which could

be extracted in the absence of such unwanted energy;

“licence” means any licence that has been granted by the Commission pursuant to the Act and includes subsisting licences that were granted by the Commission prior to the commencement of the Act ;

“licensed area” means the geographical area covered by the licence and within which area the licensee is authorised to provide the service;

“Monitoring” refers to the powers of the Commission to monitor Citation. compliance with or infringement of any of the provisions of the Act, any regulations made thereunder or any licence ;

“Non-basic information” excludes biometric information and means any information required by a relevant authority which is not basic information under these Regulations and relates to the operations of the subscriber’s account with the licensee ;

“Regulations” means any regulations or guidelines published or issued by the Commission pursuant to the Act ;

“Relevant Authority” or *“relevant authorities”* means the Nigeria Police Force, National Intelligence Agency, State Security Services, Economic and Financial Crimes Commission, National Drug Law Enforcement Agency, Independent Corrupt Practices and Other Related Offences Commission and any other organisation or agency as the Commission may from time to time specify and publish ;

“Regulatory assistance” means any function or action, which a licensee may require from the Commission to perform on its behalf under the Act and any Regulations made thereunder ;

“The Court” means Federal High Court of Nigeria ;

“Unauthorised” means an act or omission not within the scope of operating licence specified by the Act or any Regulations or business rules issued by the Commission;

“Unlawful” means any act or omission that is contrary to or against the Act or any regulations made thereunder or any other law governing the telecommunications industry.

- 21.** These Regulations may be cited as the Nigerian Communications (Enforcement Processes, Etc.) Regulations, 2019.

MADE at Abuja this 11th day of January, 2019.

Prof. Umar Garba Danbatta, FREAS, FA Eng., FNSE
Executive Vice Chairman
Nigerian Communications Commission

7

Frequency Spectrum (Fees and Pricing, Etc.) Regulations, 2004

Scope And Objectives

1. These Regulations shall cover the determination of all frequency spectrum fees for commercial activities in the telecommunications sector in Nigeria.
2. The objectives of these Regulations shall be to –
 - (a) establish a transparent, fair, competitive and non-discriminatory pricing structure that include, but not limited to, auctions, beauty contest and other internationally accepted methods of bidding for the acquisition of frequency spectrum ;
 - (b) standardise frequency spectrum fees and pricing system in order to promote uniformity, consistency and efficiency in spectrum management in Nigeria in conformity with international standards ;
 - (c) ensure that the prices reflect the market value and are directly proportional to frequency spectrum size ;

- (d) promote efficiency and competition in the usage of frequency spectrum ;
 - (e) facilitate access to frequency spectrum by simplifying and harmonising the electronic magnetic wave spectrum pricing process ; and
 - (f) to achieve government policy objectives of even development of telecommunications infrastructure across Nigeria and the universal service goals.
3. The Commission shall categorise the licence on frequency spectrum that are capable of being shared by several operatives on a simultaneous basis for which the Commission has power to grant under the Act.

Licensing Areas And Tiers

4. As from the commencement of these Regulations, frequency spectrum pricing shall, in line with international best practices, be determined by empirical formula derived from market conditions and, where appropriate, competitive methods as may be determined by the Commission, from time to time.
5. (1) Frequency spectrum shall be issued in accordance with the licensing areas corresponding to the States in the Federation or the Federal Capital Territory and categorised into tiers as specified in the First Schedule to these Regulations.
- (2) The Commission may, from time to time, review the categorisation of licensing areas into tiers as specified in the First Schedule to these Regulations.
6. Every frequency spectrum, other than a microwave frequency, shall be priced on a State by State basis subject to market potentials and economic activities.

Frequency Spectrum Licences and Permits

7. (1) Frequency spectrum licences shall be classified as—
- (a) short-term permit with a tenure of 4 months ; or
 - (b) medium-term permit with a tenure of one year ;
- or

- (c) long-term licence with a tenure of 5, 10 or 15 years.
- (2) For the purposes of paragraphs (a) and (b) of this regulation, any frequency spectrum licence with a tenure of one year and below is classified as a permit.
- 8. Notwithstanding the provisions of regulation 7 of these Regulations, the Commission may, from time to time, determine the duration, terms and conditions of any frequency spectrum licence under these Regulations.
- 9. (1) All frequency spectrum licences shall be subject to renewal upon payment of renewal fees and meeting other terms and conditions as may be determined, from time to time, by the Commission.
- (2) Notwithstanding paragraph (1) of this regulation, any medium-term permit, other than those mentioned in regulation 10 of these Regulations, may be renewable with the approval of the Commission.
- 10. (1) Any assignee of frequency spectrum or other operator, may elect to pay for frequency spectrum yearly or every five years : Provided that such frequency spectrum is not assigned through the process of an auction.
- (2) Where a frequency spectrum was assigned through an auction process, the parent for the frequency spectrum shall be made in accordance with the rules of such auction.
- 11. The fees payable by any operator shall be determined by a pricing formula as specified in the Second Schedule to these Regulations.
- 12. Every operator who is allocated frequency spectrum shall submit an annual report on the usage of the frequency spectrum allocated or assigned to him.
- 13. (1) Every frequency spectrum allocated under these Regulations shall be utilised or used up within a period of one year or such other period of validity as the Commission may, from time to time, specify in the terms and conditions of allocation.

- (2) Any frequency spectrum licence not utilised in accordance with paragraph (1) of this regulation may be revoked by the Commission.
- (3) Where a frequency spectrum licence is revoked under these Regulations for non-utilisation thereof, the licence fee paid for the allocation shall not be refundable except with the express approval of the Commission.

Pricing Policy

- 14. (1) The Commission shall adopt a pricing formula that reflects the economic value of frequency spectrum so as to encourage the efficient usage and stimulate growth.
- (2) The price of a frequency spectrum shall be directly proportional to the size of the frequency spectrum assigned.
- (3) Without prejudice to paragraph (2) of this regulation, the price of frequency spectrum may vary subject to the frequency band ; and the band price shall reflect the level of congestion, market demand and the relative cost of deploying network infrastructures.
- 15. The fees payable for frequency spectrum shall be sufficient and adequate to encourage the optimal use of the frequency spectrum and to cover the administrative cost of the frequency spectrum management.
- 16. (1) The fees payable for each category of frequency spectrum shall be as determined by the Commission using the pricing formula specified in the Second Schedule to these Regulations.
- (2) The price per MHz of frequency spectrum may be determined and published by the Commission every year and such fees may be reviewed, from time to time, by the Commission.
- (3) The Commission may, from time to time, review the fees specified in the Second Schedule to these Regulations, and when reviewed, the new unit price

and rate shall apply only to—

- (a) new requests for frequency spectrum allocation made after the commencement of the revised fees ;
- (b) renewal of expired licences ; or
- (c) reinstatement of revoked licences.

Miscellaneous

17. Regulations 11 and 12 of the Wireless Telegraphy Regulations are hereby consequently amended by these Regulations.

18. In these Regulations, unless the context otherwise requires—

“Act” means the Nigerian Communications Act 2003 ;

“Commission” means the Nigerian Communications Commission established under the Act;

“frequency spectrum” means a wide range of frequencies with different characteristics and applications;

“Nigeria” means the entire geographical land area, the territorial waters and air limits of Nigeria and any area to which the provisions of the Act applies;

“operator” means a providers of telecommunication service duly licensed by the Commission and includes but not limited to a licensed carrier;

“person” includes any individual or natural person, any firm, corporation, partnership, trust, limited liability company, joint venture, government entity or other entity recognised under any law for the time being in force;

“Radio Regulations” means the publication of the International Telecommunication Union (ITU) that delineates radio frequencies into bands and stipulates the services applicable;

“telecommunications network infrastructure” includes any form of installation which ensures either the transmission or the transmission and routing of telecommunications signals and the associated exchange of the control and operational information between network termination points.

19. These Regulations may be cited as the Frequency Spectrum (Fees and Pricing, Etc.) Regulations 2004.

MADE at Abuja this 16th day of November, 2004.

ERNEST NDUKWE
Executive Vice-Chairman

8

Lawful Interception of Communications Regulations, 2019

Scope, Objectives and Application of these Regulations

1. These Regulations seek to provide legal and regulatory framework for lawful interception of Communications, collection and disclosure of intercepted Communications in Nigeria.
2. The Regulations shall—
 - (a) provide legal and regulatory framework for the lawful interception of communications in Nigeria and give effect to the provisions of sections 146 and 147 of the Act;
 - (b) specify the nature and types of communications that can be intercepted;

- (c) prescribe penalties for non-compliance with the Act and these Regulations ;
 - (d) provide a notification procedure to the Commission of all warrants issued, amended, renewed or cancelled under these Regulations ; and
 - (e) ensure that the privacy of subscribers' communication as provided for in the Constitution of the Federal Republic of Nigeria is preserved.
3. These Regulations shall be applicable in the Federal Republic of Nigeria.

Interception of Communications

4. It shall be lawful for any Authorised Agency listed in regulation 12(1) of these Regulations to intercept any Communication or pursuant to any legislation in force, where –
- (a) the interception relates to the use of a Communications service provided by a Licensee to persons in Nigeria ; or
 - (b) the interception relates to the use of a Communications Service provided by a Licensee to a person outside Nigeria, provided that the Licensee shall not be liable in any civil or criminal proceedings for damages, including punitive damages, loss, cost or expenditure suffered or to be suffered, either directly or indirectly, for any act or omission done in good faith in the performance of a duty imposed under paragraphs (a) or (b) of this regulation.
5. Except as provided in these Regulations or any other legislations in force, it shall be an offence to intercept any Communication in Nigeria.
6. (1) The Authorised Agency shall store any intercepted Communication retrieved from a licensee for the period

- of their investigation and shall be destroyed upon completion of such investigation.
- (2) Once a piece of intercepted communication is admitted in evidence by a court of competent jurisdiction, all other copies of that intercepted Communication shall be destroyed by the Authorised Agency in whose custody such information resides.
 - (3) Intercepted Communication shall be kept confidentially by the Authorised Agency and only its content shall be shared for the purpose of investigation and prosecution in criminal proceedings in accordance with these Regulations or may be archived for three years and thereafter be destroyed.
 - (4) Any non-relevant information obtained by the Authorised Agency in the course of intercepting any communication, shall be destroyed upon extraction of the relevant portion of such communication.
7. (1) Subject to these Regulations, a Licensee shall act upon a warrant issued by a Judge authorising or requiring the Licensee to whom it is addressed to comply with the provisions of the warrant, to secure any one or more of the following –
- (a) intercept any communication as described in the warrant;
 - (b) disclose, in such a manner as may be described in the warrant of such intercepted communication ; or
 - (c) assist foreign authorities in accordance with an international mutual assistance agreement ; provided that there is no other lawful means of investigating the matter for which the warrant is required.
- (2) Except as provided in these Regulations, a Judge shall not issue a warrant unless –
- (a) the warrant is necessary in compliance with paragraph (3) of this regulation ; and

- (b) such information can only be obtained by lawfully intercepting such Communication as specified in the warrant.
- (3) A warrant is required for intercepting any communication, where it falls within any of the following grounds—
 - (a) it is in the interest of the national security as may be directed by the persons listed in regulation 12(1) (a) or (b) of these Regulations ;
 - (b) for the purpose of preventing or investigating a crime ;
 - (c) for the purpose of protecting and safeguarding the economic well-being of Nigerians ;
 - (d) in the interest of public emergency or safety ; or
 - (e) giving effect to any international mutual assistance agreements, which Nigeria is a party.
- 8. The interception of communication of any person shall be lawful where—
 - (a) one of the parties to the communication has consented to the interception, provided that an incontrovertible proof of such consent is available ;
 - (b) it is done by a person who is a party to the communication, and has sufficient reason to believe that there is a threat to human life and safety ; and
 - (c) in the ordinary course of business, it is required to record or monitor such communication.

Protected or Encrypted Communication

- 9. (1) Where the communication intercepted is an encrypted or protected communication within the possession of the Licensee, the Licensee shall on request, provide the relevant Authorised Agency with the key, code or access to the protected or encrypted communication.
- (2) Where the key or code is in the possession of another

person, the Authorised Agency shall request the custodian of the key or code to disclose it to the relevant Authorised Agency.

- (3) The Authorised Agency may seek assistance from a foreign authority in accordance with any international mutual assistance agreement where the key or code is in the possession of any person outside its jurisdiction.
- (4) This provision shall only be satisfied where the Licensee or person affected by paragraph (2) of this regulation has —
 - (a) provided or disclosed the key, code or access to the Protected or encrypted communication to the Authorised Agency ; or
 - (b) made a disclosure of any protected or encrypted communication in an intelligible form.

Interception Capabilities

- 10.—(1) Every Licensee shall take necessary steps as the Commission may by way of notice direct from time to time, to install interception capabilities that allows or permits interception of communications.
- (2) The specifications issued by the Commission under paragraph (1) of this regulation, may include the following —
 - (a) the technical requirements of any equipment to be installed by the Licensee ;
 - (b) standards stipulated by the Act, these Regulations or any guidelines as may be issued by the Commission from time to time ; and
 - (c) safeguards to protect information during transmission or when archived.
- (3) The specification and technical requirement of the equipment to be installed by Licensees for the purpose of intercepting communications shall be as provided for by the Commission from time to time.
- (4) It shall be the duty of every Licensee to whom a notice

is given under paragraph (1) of this regulation to comply with the notice and such duty shall be enforceable in the court of law by civil proceedings initiated by the Commission, seeking for an injunction or for specific performance or any other remedy provided for under the Act, these Regulations or the Enforcement Regulations.

- (5) Every Licensee shall comply with the provisions of these Regulations and ensure that its system updates and upgrades do not adversely impact on the implementation of these Regulations, provided that the requirement for compliance will not be demanded in circumstances where a force majeure event has occurred.
- 11. (1) Notwithstanding any other law in force, no Licensee shall provide any Communications Services which does not have the capacity to be monitored and intercepted.
- (2) Every Licensee shall within such period as may be specified by the Commission, acquire all necessary facilities and devices to enable the monitoring of communications under these Regulations realisable.
- (3) The investment, technical, maintenance and operating costs to enable the Licensee give effect to the provisions of these Regulations shall be borne by the Licensee.

Administration of Lawful Interception of Communication

- 12. (1) Pursuant to the provisions of section 148 (1) (c) of the Act, an application for a warrant under these Regulations shall be made to the Judge by any of the following Agencies—
 - (a) the Office of the National Security Adviser represented by the National Security Adviser or his designee, who shall not be below the equivalent of an Assistant Commissioner of Police ; and

- (b) the State Security Services represented by the Director or his designee, who shall not be below the equivalent of an Assistant Commissioner of Police.
- (2) Where a Warrant is required pursuant to any international mutual assistance agreement of which Nigeria is a party, the application for a warrant shall be made through the Attorney-General of the Federation, provided that the applicant shows evidence of authority from the relevant country or jurisdiction.
- (3) An application for a warrant shall –
- (a) be in writing ;
 - (b) contain full particulars of all the facts and circumstances alleged by the Authorised Agency in support of the application for the issuance of a Warrant ;
 - (c) come under any of the grounds mentioned in regulation 7(3) of these Regulations that is relevant for the issuance of a warrant ;
 - (d) state any other relevant detail as may be necessary for the consideration of the issuance of the warrant ; and
 - (e) be supported by an affidavit on oath stating that interception of such communication is the only means of obtaining the relevant information for which the Warrant is required.
- (4) Notwithstanding the provisions of these Regulations, an Authorised Agency may initiate interception of Communications without a warrant in the event of –
- (a) immediate danger of death or serious injury to any person ;
 - (b) activities that threaten the national security ; or
 - (c) activities having characteristics of organised crime;
- provided that the Authorised Agency shall apply for a Warrant to the Judge within 48 hours after the interception has occurred or began to occur before

issuance of a Warrant for such interception and where the application is not made, or denied within 48 hours, the interception shall terminate immediately and further interception shall be treated as unlawful.

- (a) the identity, if known, of the subject of interception;
 - (b) the grounds upon which the application is made;
 - (c) a detailed description of the type of Communication sought to be intercepted;
 - (d) the identity of the Authorised Agency making the application to intercept the communication;
 - (e) the duration of the warrant;
 - (f) the name and signature of the authorising Judge; and
 - (g) date of issuance of the Warrant.
- (2) The warrant may authorise the Authorised Agency to do all or any of the following –
- (a) to enter into any premises, board, any vessel, vehicle or aircraft for the purpose of enforcing the warrant or to install, maintain or remove a monitoring device or to intercept or take possession of any Communication or to install, maintain or remove a device by means of which any Communication can be intercepted for the purpose of these Regulations, provided that the monitoring device shall be the brand approved by the Commission and shall not negatively affect the provision of communications service of the Licensee ;
 - (b) to take possession of and examine any communication, or as the case may be, listen to or make recording of any communication to which the Warrant relates ;
 - (c) to return any communication that was taken into possession in terms of paragraph (b) or cause it to be returned to the Licensee or the interception subject where such communication or recording

of communication is without prejudice to the maintenance of law and order or other compelling national interest ; and

- (d) to request the assistance of any person for the purpose of enforcing the Warrant;

provided that where a Judge rejects an application for a warrant for interception which has already taken place, any information obtained before the refusal, shall be invalid and not admissible for the purpose of prosecuting any person affected by it.

- (3) A Judge may only issue a warrant under the following conditions, where the –

- (a) facts alleged in the application are reasonable and persuasive enough to believe that any of the matters mentioned in regulation 7(3) of these Regulations has occurred, is occurring or about to occur ; or
- (b) interception of such communication is the only means of obtaining the information required under the warrant.

- (4) Any application for the issuance of a warrant shall be heard and issued without the requirement of placing the applicant on notice or any party mentioned in the application for the interception of such communication.

- 14. (1) A warrant shall be granted for an initial period of 3 months or such other lesser period as the Judge may determine based on the circumstances of the application and shall cease to have effect at the expiration of the period stipulated in it unless it is renewed.
- (2) A warrant may be amended by a Judge at any stage during the validity of such warrant upon an application made by an Authorised Agency to the Judge, stating the reasons for the amendment.
- (3) A warrant may be renewed by a Judge at any time before the expiration of the period for which it was issued upon an application made by any of the Authorised Agencies

for renewal for a maximum period of 3 months or such lesser period as the Judge may by order specify.

- (4) An application for cancellation of a warrant may be made by any of the Authorised Agencies to the Judge and with a notice to the Licensee that the warrant earlier granted is no longer necessary on grounds falling under regulation 7(3) of these Regulations and the Licensee shall notify the Commission of such cancellation within 48 hours of the receipt of notice of cancellation from the Authorised Agencies.
 - (5) A warrant may only be varied, amended, extended or cancelled by the same Judge that issued it, except in circumstances where it is impossible to do so by reason of death, incapacitation, transfer, retirement, elevation to a higher court or unavailability of the Judge.
15. (1) For the purposes of execution, a warrant issued under these Regulations shall be executed by either the –
- (a) Office of the National Security Adviser ;
 - (b) State Security Services ; or
 - (c) Nigeria Police Force.
- (2) The execution of such warrant may where required by any of the parties stated in paragraph (1) of this regulation, take place in the presence of the Licensee or person who manages the facilities of such Licensee.
 - (3) Licensees shall on a monthly basis or at such regular intervals as the Commission may from time to time specify, notify the Commission in writing of any such warrant executed on it or on any person who manages the facilities of such licensee.
 - (3) For the purpose of these Regulations, provision of assistance and giving effect to warrant shall include, the disclosure of intercepted material obtained or provision of related communication data to the Authorised Agencies or its designees.
16. (1) Any person, Licensee or its officers that fail to comply with the provisions of these Regulations shall be liable to a fine of N5,000,000.00 and where such an offence is

allowed to continue, such person, Licensee or any of its officers shall be liable to a daily default penalty of N500,000.00.

- (2) The Commission may revoke the Licence of a Licensee in accordance with the provisions of section 45 of the Act for failure to comply with these Regulations.
- (3) The Commission may institute an action for non-compliance by way of an injunction or a specific performance or any order of the court as a means enforcing compliance with these Regulations.

Miscellaneous

- 17. The use of any information obtained pursuant to these Regulations as evidence in any prosecution, is subject to the consent of the presiding Judge in an application that such evidence be tendered by the party seeking to rely on it.
- 18. (1) No Authorised Agency or any other person who is or was involved in the performance of any function under these Regulations, shall disclose any information which the person obtained in the performance of such function except –
 - (a) to any other person who of necessity requires it in the performance of his or her function under these Regulations or the Act ;
 - (b) if the person, of necessity, provides the information in the performance of his functions under these Regulations or the Act ;
 - (c) such information is required under any law or as evidence in any court of law ; or
 - (d) to any competent authority which requires it for any criminal investigation or prosecution.
- (2) No employee of a Licensee shall disclose any information obtained in the course of its duty that is connected with the performance of any function under these Regulations, whether the employee is involved

in the performance of that function or not, except for the purposes mentioned in paragraph (1) (a) to (d) of this regulation.

- (3) Access to any information obtained during the interception of communications shall only be given to officers of the Relevant Authorised Agency not below the rank of an Assistant Commissioner of Police or its equivalent rank, with the consent of either the National Security Adviser, the State Security Service or the Nigeria Police Force.

- 19. (1) All Authorised Agencies shall keep logbooks of all interceptions carried out by them.
- (2) The contents of the logbooks shall be kept confidential and shall not be disclosed to anyone unless to persons authorised through a court order.
- (3) Every Authorised Agency shall prepare a report on all concluded interception cases carried out annually.
- (4) The report in paragraph (3) of this regulation shall be presented to the Attorney-General of the Federation not later than the first quarter of the following year and shall contain basic details of –
 - (a) the number of warrants obtained, renewed or cancelled for the preceding year ;
 - (b) the number of interceptions made pursuant to the warrants granted ;
 - (c) the warrants that could not be executed and the reason for non- execution ;
 - (d) general assessment of the importance of interception of Communication for investigation, detection, prevention and prosecution of crimes in Nigeria ; and
 - (e) any complaint received from the Licensees and the interception subject with respect to interception of Communications.

20. (1) Any person or Licensee who is aggrieved by any interception activity shall in writing notify the Commission and may make a formal application to the Federal High Court for a judicial review.
- (2) Every decision or direction on interception of Communications shall subsist and remain in force until it is set aside by a Court of competent jurisdiction in a final decision of the court.
21. The Commission may from time to time review and modify these Regulations pursuant to its powers under section 72 of the Act, and may request and receive advice from external advisory groups.
22. The Commission may, from time to time, issue additional rules, directions or guidelines on any aspect of these Regulations, either of general application or specific to a proceeding.
23. Terms and expressions used in these Regulations shall have the Interpretation. same meaning as in the Act. In addition, unless the context otherwise requires –
 - “Act” means, the Nigerian Communications Act, 2003 ;
 - “Apparatus” includes any equipment, machinery or device and any wire or cable ;
 - “Archived Communications” means Communication data stored as a back-up in the Communication system of a Licensee ;
 - “Authorised Agency” means the Office of the National Security Adviser, the State Security Service and the Nigeria Police Force ;
 - “Civil Proceedings” means any proceedings in or before any court or tribunal that are not criminal proceedings ;
 - “Communication” shall be as defined under the Act and includes wireless telegraphy as defined under the Wireless Telegraphy Act, 2004 ;

“Communications Data” means any of the following—

- (a) any Traffic data comprised in or attached to a communication (whether by the sender or otherwise) for the purposes of any Communications System by means of which it is being or may be transmitted ;
- (b) any information which includes none of the contents of a Communication (apart from any information falling within paragraph (a) and is about the use made by any person :
 - (i) of any Communications Service ; or
 - (ii) in connection with the provision to or use by any person of any Communications Service, of any part of a communication system ;
- (c) any information not falling within paragraph (a) or (b) that is held or obtained, in relation to persons to whom he provides the service, by a Licensee.

“Communications Service” means a service provided by means of a Communications System to any person for the transmission of Communication from, to or within Nigeria without change in the content or form ;

“Communications System” means any system (including the apparatus comprised in it) which exists in Nigeria for the purpose of facilitating any transmission, emission, or reception of signs, signals, writing, images, sounds or intelligence by means involving the use of wire, radio, visual or electromagnetic energy;

“Content” shall be as defined under the Act;

“Licensee” means any person, body or organization which provides communications services in accordance with the Licence issued to such a person by the Commission;

“Enactment” includes an enactment, regulations, guidelines, codes, rules, order or notices passed or issued before or after the issuance of these Regulations;

“Enforcement Regulations” means the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005, as may be amended from time to time;

“Guidelines” means the Commission’s issued guidelines and such other guidelines that may be issued by the Commission from time to time ;

“Interception Subject”, in relation to a Warrant, means the person whose Communications information is sought by the interception to which the Warrant relates;

“Interception” and cognate expressions shall be construed (so far as it is applicable) in accordance with these Regulations and shall include an interception of archived Communication or Communication in the course of its transmission, by means of a Communications System if, and only if, another person –

- (a) monitor by means of aural or other acquisition of the contents of any Communication ;
- (b) modifies or interferes with the system, or its operation ;
- (c) monitor’s transmission or archived data made by means of a monitoring device ;
- (d) retrieves Communications Data on a Communications System ; or
- (e) monitors transmission or stored data made by wireless telegraphy to or from apparatus comprised in the system, as to make some or all of the contents of the Communication available, while being transmitted, to a person other than the sender or intended recipient of the Communication.

“International Mutual Assistance Agreement” means an international agreement designated for the purpose of regulation 12(2) of these Regulations ;

"Judge" means a Judge of the Federal High Court ;

"Monitor" includes the recording of communications by means of a monitoring device ;

"Monitoring Device" means any instrument, device or equipment which is used or can be used, whether by itself or in combination with any other instrument, device or equipment, to listen to or record any communication ;

"Related Communication Data" means any communication connected to the intercepted material which is necessary to aid an investigation ;

"Authorised Agencies" means the Nigeria Police Force, National Intelligence Agency, State Security Services, Economic and Financial Crimes Commission, National Drug Law Enforcement Agency and any other organization or agency as the Commission may from time to time specify and publish ;

"Traffic Data", in relation to any Communication, means —

- (a) any data identifying, or purporting to identify, any person, Apparatus, equipment, device or location to or from which the Communication is or may be transmitted,
- (b) any data identifying or selecting, or purporting to identify or select, Apparatus, equipment or device through which, or by means of which, the Communication is or may be transmitted,
- (c) any data comprising signals for the actuation of Apparatus, equipment or device used for the purposes of a Communication system for effecting (in whole or in part) the transmission of any Communication, and
- (d) any data identifying the data or other data as data comprised in or attached to a particular Communication, but that expression includes data identifying a computer file or computer program access to which is obtained, or which is

run, by means of the communication to the extent only that the file or program is identified by reference to the Apparatus, equipment or device in which it is stored ; and

“Warrant” means a warrant issued or granted by a Judge for the Interception of Communications.

24. These Regulations may be cited as the Lawful Interception of Communications Regulations, 2018.

MADE at Abuja this 11th day of January, 2019.

Prof. Umar Garba Danbatta

FREAS, FA Eng, FNSE

Executive Vice Chairman

Nigerian Communications Commission

9

Licensing Regulations, 2019

Scope And Application

1. The objective of these Regulations shall be to provide a regulatory framework for effective and efficient licensing processes and procedures in the communications industry for the operation of communications systems, facilities and services in Nigeria.
2. These Regulations shall apply to—
 - (a) individual licence;
 - (b) class licence;
 - (c) frequency licence; and
 - (d) any other licence category as may be determined and published by the Commission.
3. (1) Notwithstanding the provisions of regulation 2 of these Regulations, the Commission may classify or re-classify communications service on such terms and conditions

as may be deemed necessary in compliance with sections 32, 33, 34, 35 and 36 of the Act.

- (2) A licensee of any service affected by the provisions of sub-regulation (1) of this regulation, shall be duly notified by the Commission in writing and by publication in two (2) national daily newspapers.
 - (3) Any existing licence issued by the Commission that is affected by the provisions of sub-regulation (1) of this regulation shall remain valid until its expiration date and shall be renewed in accordance with the changes to the licence.
 - (4) Where the Commission determines that a communications licence be classified or reclassified –
 - (a) under any of the classes stated in regulation 2 of these Regulations, except (2)(c), the basis for such classification or re-classification to the category shall be determined by the Commission ; and
 - (b) the Commission shall hold a consultative meeting with all licensees affected by such decision.
4. (1) The Commission may, from time to time in compliance with sections 34 – 36 of the Act, amend, modify or vary any licence condition.
- (2) Where the Commission proposes to amend, modify or vary licensing condition, it shall notify all the licensees in writing of the –
 - (a) reason(s) for the proposed amendment, modification or variation ;
 - (b) date on which the proposed amendment, modification or variation is to take effect ; and
 - (c) period within which representations may be made.
 - (3) The licensee may make written submissions to the Commission within but not later than 30 days from the date of the written notice.
 - (4) The Commission shall before making a final decision regarding the proposed amendment, modification or

variation, take into consideration any submission made by the affected licensees.

- (5) The Commission shall not be bound by the submissions made by any licensee in arriving at its final decision under sub-regulation (4) of this regulation.

Licensing Process And Exemptions

5. All communication services provided in Nigeria must be provided pursuant to a licence granted by the Commission.
6. (1) The Commission shall in granting a Licence under the Act, ensure that the terms and conditions imposed on the licensee are non-discriminatory.
- (2) For the purpose of sub-regulation (1) of this regulation, a licence is issued on non-discriminatory terms, where—
 - (a) telecommunications providers with similar types of networks or services are treated similarly ;
 - (b) the Licence does not favour any telecommunications provider or class of telecommunications providers ; and
 - (c) the issuance of the licence is likely to enhance competition in any market.
7. (1) Notwithstanding the provisions of regulation 5 of these Regulations, the Commission may issue an Exemption Order to exempt specified communication service or class of persons from the requirement of holding a licence.
- (2) The Commission shall, before granting an Exemption Order, ensure that the service to be provided will not interfere or cause harm to the service provider or consumer.
- (3) The Commission shall maintain a register of every Exemption Order granted under these Regulations.
8. The use of non-radio communications equipment for purposes not connected to the provision of public

telecommunications service or telecommunications service to consumers, whether or not it may be connected to a licensed telecommunications operator's network or system, shall be exempted from the requirement of licensing; provided that the equipment is type approved by the Commission in accordance with Section 132 of the Act.

9. (1) A Licence issued by the Commission shall authorise its holder to own, operate a communication network, or provide a communication service as prescribed in the licence.
 - (2) A licensee shall not operate any service or facility which is not expressly stated in its licence or for which the Commission has specified a separate licence or authorisation.
 - (3) A person providing a service or facility that has not been designated as a licensable telecommunications undertaking, shall immediately cease from providing the service or facility once it has been designated as a licensable telecommunications undertaking.
 - (4) The Commission may notwithstanding sub-regulation (3) of this regulation, authorise the person to carry on with the provision of the service or facility on such terms and conditions pending when a Licence is obtained.
10. (1) An application for a licence shall only be valid, where the applicant –
 - (a) is a corporate body registered under the laws in force in Nigeria;
 - (b) meets the Commission's technical requirements for operating such a licence;
 - (c) possesses sufficient financial capacity to provide long term service to the satisfaction of the Commission ;
 - (d) satisfies any other condition the Commission may require; and
 - (e) in the case of a resource dependent service, the Commission has determined the availability of

such resource such as spectrum or numbering and that the applicant has secured a reservation or assignment of such resource.

(2) Every application for a communication licence shall be –

- (a) made to the Commission in the prescribed application forms obtainable from the website of the Commission or any of its offices, accompanied with evidence of payment of the prescribed application fee and any other document as may be required; and
- (b) subject to the payment of the required licensing and administrative fees, in such amount and upon such terms as the Commission may, from time to time determine.

11. A licensee shall –

- (a) operate the Licence until its expiration or revocation in accordance with section 45 of the Act and these Regulations ; and
- (b) where a renewal of the Licence is required, apply for renewal of the licence in accordance with section 43 of the Act and regulation 23 of these Regulations.

12. Where the Commission proposes that the number of licences to be granted for the operation of a particular type of telecommunications network or the provision of a particular type of telecommunications service be limited, it shall –

- (a) publish a consultative document containing the licensing method and detailed reasons for the proposed limitation ; and
- (b) consider any representations made to it in respect of the proposed limitation, but shall not be bound by such representations in making its decision.

13. (1) Notwithstanding the provisions of section 31 of the Act, any person who provides a telecommunications service

without a valid licence shall be liable to an administrative fine of N5,000,000 for the contravention and N500,000 for each day that the contravention persists after an order to desist has been issued by the Commission.

- (2) Any person who continues to provide a telecommunications service after the expiration of a Licence duly issued by the Commission shall be liable to an administrative fine equivalent to the initial fee for the relevant licence and an additional fine of N100, 000 for each day that the contravention persists after the expiration of the licence.

- 14. Every licence shall provide good, efficient and continuous service as specified in the Quality of Service Regulations issued by the Commission.

Individual Licence

- 15. (1) The Commission may grant an individual licence listed in Schedule 2 of these Regulations using any of the following methods—

- (a) auction ;
- (b) tender ;
- (c) fixed price ;
- (d) competitive bid process ; or
- (e) any other method which the Commission may consider as appropriate.

- (2) Where the Commission adopts the—

- (a) Auction process, it shall stipulate the terms and requirements of the Auction in the Auction Information Memorandum ;
- (b) Tender process, the terms and requirements of the Tender shall be contained in the Commission's Invitation to Tender ;
- (c) Fixed Price process, it shall determine the price and stipulate the terms and requirements ; and
- (d) Competitive Bidding process, it shall issue a public notice to invite bids.

16. (1) The Commission may at any time after the receipt of an application for an individual licence, request the applicant to give additional information or documents in support of the application.
 - (2) Where any information or document required in sub-regulation (1) of this regulation is not provided by the applicant within the time specified in the request or any extension of time granted by the Commission, the application shall be deemed to have been withdrawn.
 - (3) Information contained in an application or documents submitted in connection with an application shall be accurate and complete.
 - (4) Where before the grant or refusal of an individual licence any information submitted with an application is no longer accurate and complete, the applicant shall within 14 days of such change in status, amend or request the amendment of its application so as to furnish such additional or amended information.
 - (5) Where an applicant fails to supply –
 - (a) accurate and complete information to the Commission in an application for Individual licence ; or
 - (b) additional or corrected information as required in the sub regulations above, the Commission may treat such failure as a breach under section 45(1)(b) of the Act.
17. (1) The Commission shall upon receipt of a valid application, process the application within the time and in the manner stipulated in section 41 of the Act.
 - (2) Where the Commission is satisfied with the application, it shall issue an Offer Letter to the applicant, stipulating terms which are applicable to the licence.
 - (3) An applicant shall pay the relevant licence fee within 30 days of receipt of the Offer Letter.
 - (4) The Commission may revalidate an Offer Letter that has expired upon a written request by the applicant

stating reasons why it failed to pay the licence fee within the stipulated timeframe.

- (5) An Offer Letter may be revalidated only once and upon expiration of the period, the offer will lapse and the applicant shall be required to make a new application if it is still interested in obtaining a licence.
- 18. The Commission shall not issue an Individual licence to any applicant who has –
 - (a) a controlling interest in another licensee, where the Commission is satisfied that anti-competitive issues may likely arise in the event that such licence is granted; or
 - (b) failed to meet its obligations under the conditions of another licence granted to it by the Commission.
- 19. The grant of an Individual licence shall remain conditional, until undertakings contained in the application form or as may be requested for by the Commission are duly complied with by the applicant.
- 20. The grant of a licence that is frequency or spectrum dependent, shall –
 - (a) not convey an automatic assignment of the frequency or spectrum, unless where the Commission reserved such frequency or spectrum for the applicant upon satisfying the conditions stated in regulation 30 of these Regulations; and
 - (b) be conditional upon meeting the requirements for the assignment of a frequency.
- 21. An Individual licence shall automatically terminate at the expiration of its duration unless the licensee gives the Commission notice of its intention to renew the licence not later than 6 months prior to its expiration.
- 22. Where a licence terminates for the reason provided in regulation 21 of these Regulations, a licensee shall automatically have its name removed from the register of licensees and shall not be re-listed until such licence

is renewed on terms and conditions stipulated by the Commission.

23. An Individual licence may be renewed where the –
- (a) licensee has applied for its renewal ;
 - (b) licensee has obtained and completed the forms provided for that purpose, from the Commission's website or offices ;
 - (c) licensee has fulfilled every licence obligation in respect of the licence to be renewed ; and
 - (d) application has been reviewed by the Commission and found to be satisfactory.
24. (1) A licensee may surrender a valid and subsisting individual licence at any time by submitting a written notice to the Commission; provided that –
- (a) the licensee seeking to surrender its licence shall give the Commission not less than 90 days' notice of intention to surrender prior to the date of actual submission of the written notice or the date determined by the licensee on which surrender of the licence will take effect;
 - (b) the subscribers of the licensee have been given a minimum of 60 days' notice of its intention to surrender the Licence and to terminate its operations ;
 - (c) the licensee has, by the date of submission of the application to surrender the licence, paid all outstanding regulatory fees due to the Commission and the licensee shall by the date of surrender deliver to the Commission the original licence ;
 - (d) the licensee has furnished the Commission with details of arrangements made to migrate existing subscribers to another licensee before the effective date of surrender; and
 - (e) the licensee provides an undertaking that guarantees refunds to existing subscribers for

prepaid services and has no outstanding obligation to any other licence or subscribers.

- (2) The Commission reserves the right to request for any additional information or undertaking, as may be deemed necessary for proper consideration of an application to surrender a licence.
- 25. The Commission shall approve an application to surrender a licence and shall where it deems necessary, extend the time within which the surrender of the licence shall take effect.

Class Licence

- 26. (1) An application for a class licence listed in Schedule 3 to these Regulations shall be submitted to the Commission in the prescribed application form accompanied with evidence of payment of the requisite application fee and relevant documents.
- (2) The Commission shall within 30 days of receipt of the application, decide whether a class licence shall be granted or refused and the Commission shall notify the applicant in writing of its decision.
- (3) In deciding whether or not to grant a class licence, the Commission shall consider the matters set out in the application, along with any accompanying submissions and other relevant matters as it may determine from time to time.
- (4) The Commission reserves the right to extend the time within which it shall make a decision on the application for a class licence for an additional period not exceeding 30 days.
- (5) A licensee registered under a specific class licence shall at all times operate in accordance with its licence conditions.
- 27. A class licensee shall notify the Commission of any change or inaccuracy in its corporate details, the description and scope of telecommunications systems

and services run by it and any other information submitted to the Commission.

28. A class licensee may be de-registered in accordance with the provisions of section 51 of the Act, where the licensee –

- (a) is in breach of any of the conditions attached to the licence and fails to rectify the breach within 14 days after the Commission has notified the licensee of same;
- (b) requests the Commission in writing to de-register the licence ;
- (c) ceases to carry on the activity for which the licence is granted ; or
- (d) is unable to pay its debts, goes into liquidation or is otherwise declared insolvent or convicted of any fraudulent activity by a court of competent jurisdiction.

Frequency Licence

29. (1) The Commission may issue a Frequency licence using any of the following methods –

- (a) auction;
- (b) tender;
- (c) fixed price;
- (d) competitive bidding process ;
- (e) administrative ; or
- (f) any other method which the Commission at its discretion may adopt.

(2) Where the Commission adopts the –

- (a) Auction process, it shall stipulate the terms and requirements of the auction in the Auction Information Memorandum ;
- (b) Tender process, the terms and requirements of the tender shall be contained in the Commission's Invitation To Tender ;

- (c) Fixed Price process, it shall determine the price and stipulate the terms and requirements for same;
 - (d) Competitive Bidding process, it shall issue a public notice to invite bids and shall state the requirements for bidding ; and
 - (e) Administrative process, any application for the frequency licence shall be received and evaluated by the Commission.
30. The Commission shall not grant a Frequency licence unless it is satisfied that—
- (a) the applicant is a body corporate registered under the laws in force in Nigeria ;
 - (b) an application for an Individual licence has been submitted and evaluated as satisfactory by the Commission ;
 - (c) the applicant meets the Commission's technical requirements for operating such a frequency ;
 - (d) the frequency applied for is required to provide services under an Individual licence granted to the applicant by the Commission ;
 - (e) the frequency is available for assignment ; and
 - (f) the application meets any other condition as may be prescribed by the Commission.
31. (1) The provisions of the Frequency Spectrum (Fees and Pricing, etc) Regulations shall apply to the grant of any Frequency licence.
- (2) An application for a Frequency licence shall be submitted to the Commission in the prescribed application form, obtainable from the website of the Commission or any of its offices, accompanied with evidence of payment of the prescribed application fee and any other required documents.

- (3) Upon receipt of an application for the issuance of a Frequency licence, the Commission shall—
 - (a) review the application and notify an applicant of any further information required to process the application; and
 - (b) subject to regulation 30 of these Regulations, process the application and convey its decision to the applicant within 90 days of receipt of the application.
- (4) The Commission reserves the right to extend time within which it shall make a decision on any application for a Frequency licence for an additional period not exceeding 30 days.
- 32. All applications for the grant of a Frequency licence are subject to any prior or subsequent public notice, whenever one is issued by the Commission regarding the frequency.
- 33. The Commission shall cause to be published, a notice of the applications received for the grant of a Frequency licence.
- 34. application for the grant of a Frequency licence shall be refused, where the—
 - (a) Commission does not possess any usable frequencies, which could be granted to the applicant ; or
 - (b) applicant does not provide the information which is required by the Commission to grant a Licence.
- 35. The grant of a frequency Licence shall be subject to giving the undertakings contained in the application form for a frequency Licence or as may be requested for in any other manner by the Commission.
- 36. Unless otherwise stated in the Frequency Spectrum (Fees and Pricing ; etc.) Regulations or the conditions of the Frequency licence, a Frequency Licence issued under these Regulations shall subsist for a period of 1 year in the first instance and shall expire automatically

unless the licensee gives the Commission notice of its intention to renew same not later than 3 months prior to the expiration of the licence.

37. (1) A Frequency licence may be renewed by completing the forms provided for that purpose, obtainable from the website of the Commission or any of its offices.
- (2) The Commission shall at its discretion, renew a Frequency licence upon evaluation of the effective use of such frequency by the licensee in accordance with the Frequency Spectrum (Fees and Pricing; etc.) Regulations or the conditions of the Frequency licence.
- (3) A Frequency licence shall be renewed annually and shall have a commencement date of January 1 each year.
- (4) A holder of a Frequency licence shall renew its Licence for another year, at least 30 days to the expiration date.
- (5) Notwithstanding the provisions of sub-regulation (1) of this regulation, the Commission reserves the power to refuse the renewal of a Frequency licence.
38. (1) A Frequency licence may be surrendered by completing the forms provided for that purpose, obtainable from the website of the Commission or any of its offices and upon such terms as the Commission may deem fit.
- (2) Where the completed forms have been accepted by the Commission, the surrender shall take effect from the date the letter of voluntary surrender by the licensee is received by the Commission.
- (3) Any outstanding fee due to the Commission as at the date of the surrender of a Frequency Licence will be referred to the relevant departments for recovery as a debt owed the Commission.
39. (1) Where a licensee fails to renew its Frequency licence, the Commission shall issue a reminder notifying the licensee of the expiration of the Frequency Licence and demanding that payment be made within 14 working days.

- (2) Where a licensee fails to make payment in accordance with Section 125 of the Act, the Commission shall issue a Notice of Forfeiture to the licensee.
- (3) The spectrum fee to be paid at forfeiture shall be the amount due at the expiration of the period given in sub-regulation (1) of this regulation.
- 40. — (1) A licensee shall ensure that the spectrum assigned to it by the Commission is efficiently utilised.
- (2) The Commission reserves the right to review the usage of the spectrum assigned to a licensee.
- (3) Where there is under-utilisation or non-utilisation of an assigned spectrum, the Commission may —
 - (a) refuse to renew the licence at the expiration of term of the Frequency licence ; or
 - (b) impose time-bound obligations or sanctions on the licensee.

Procedure for Transfer of Licence And Shares

- 41. (1) Where a licensee wishes to assign or transfer a licence under Section 38 of the Act, the licensee shall apply to the Commission to obtain approval and pay such administrative fees as may be determined by the Commission.
- (2) Any assignment or transfer of a licence by a licensee without notifying and obtaining due approval from the Commission shall be null and void and the Commission shall impose such appropriate sanctions as provided for in the Enforcement Regulations.
- (3) Where a licensee makes an application under sub-regulation (1) of this regulation, it shall submit —
 - (a) the resolution of its board of directors authorising the transfer ; and
 - (b) information supporting the legal, technical and financial qualifications of the proposed assignee or transferee.

- (4) Where a licensee applies for transfer or assignment of its licence, it shall pay any outstanding fees due to the Commission.
 - (5) The proposed assignee or transferee in an application made under sub-regulation (1) of this regulation shall apply for a licence and satisfy all criteria for granting a licence under the Act and these Regulations, if it is not a licensee.
- 42.** (1) Any licensee wishing to transfer ownership or control of its shares in an amount exceeding ten percent of the total share capital of the licensee shall apply to the Commission in writing at least 90 days prior to the proposed date of transfer, or such other period stated in the licence conditions or as may be determined by the Commission.
- (2) A licensee shall notify the Commission where multiple transfers of shares aggregate to any amount in excess of ten percent of the total share capital of the licensee.
 - (3) Where a licensee applies under sub-regulation (1) of this regulation, it shall submit the resolution of its board of directors authorising the transfer of shares and pay such administrative fees as may be determined by the Commission.
 - (4) Upon an application for approval made in accordance with sub-regulation (1) of this regulation, the Commission shall within 30 days decide either to refuse or grant an approval for the transfer of the shares upon such conditions as the Commission may determine.
- 43.** (1) Where the Commission approves an application pursuant to regulations 41 or 42 of these Regulations, the Commission shall issue an approval-in-principle to the licensee stating the conditions the licensee must meet before a final approval can be given.
- (2) Upon completion of a transaction to transfer a licence or shares and compliance with conditions attached to the approval-in principle, the licensee shall forward evidence of compliance to the Commission.

- (3) Where the Commission is satisfied with relevant documents showing compliance with the conditions given to the licensee under these Regulations, the Commission shall issue a final approval to the licensee.
- (4) Where a licensee fails to meet the conditions attached to the approval-in-principle, the Commission may give the licensee additional time within which to comply or withdraw the approval-in-principle.
- 44. (1) Where the Commission determines that the acquisition of ownership or control of the licensee is likely to lead to anti-competition issues in that segment of the telecommunications market, the Commission shall refuse the transfer and notify the applicant in writing, giving the reasons for the refusal.
- (2) Where the licensee proceeds to complete the transfer of control of the licensee, the Commission shall direct the licensee to reverse the transfer and impose appropriate sanctions as provided in the Enforcement Regulations.
- 45. (1) A licensee shall not encumber, pledge, or otherwise use as security, its interest in any Licence granted under the Act for any purpose whatsoever without the prior written approval of the Commission.
- (2) Where a licensee fails to obtain the approval of the Commission in respect of sub-regulation (1) of this regulation, the Commission may at its discretion revoke the licence of the licensee or impose a fine not exceeding N10,000,000.
- (3) Where the Commission exercises the option to impose a fine, the licensee shall be required to redeem the licence within 14 days and provide proof to the Commission failing which the licence will be revoked.
- 46. Where a licensee changes its name in accordance with the Companies and Allied Matters Act, it shall notify the Commission within 7 days of such changes.

47. A licensee shall notify the Commission within 7 days of any change in its registered or operational office address.
48. A licensee shall notify the Commission in writing where any of the following occurs –
 - (a) changes in a material in respect of any matters forming part of the licence application pertaining to information provided, and within the knowledge of the licence ; or
 - (b) the licensee intends to enter into any agreement to merge part or all of its telecommunications activities with any person.
49. Except in such manner as may be contained in the terms and conditions of a licence, the licensee shall seek and obtain prior approval of the Commission not later than 30 days before the coming into effect of any arrangements for –
 - (a) listing the shares of the licensee on any Stock Exchange market ; and
 - (b) dealings in any licensee shares in any unlisted market in Nigeria.

Registers

50. (1) The Commission shall maintain registers at its head office containing –
 - (a) all individual, class and frequency licences granted by the Commission ; and
 - (b) the name and registered office of each licensee.
- (2) Any register kept and maintained pursuant to sub-regulation (1) of this regulation, shall be open to public inspection during normal working hours and may be made available in electronic or any format the Commission considers appropriate.
- (3) The Commission shall make available copies or extracts of the register to members of the public upon payment of a fee prescribed by the Commission.

Sanctions

51. (1) The Commission may suspend or revoke a licence where there has been a breach of the —
- (a) terms and conditions of the licence ;
 - (b) provisions of the Act ; or
 - (c) provisions of any Regulations issued by the Commission.
- (2) In addition to the circumstances listed in Section 45 of the Act, the Commission may, before revoking a licence consider —
- (a) any fraud or misrepresentation by the licensee in the application for the licence ;
 - (b) the ineligibility of a licensee to be granted a licence ; or
 - (c) new information available to the Commission, which would have warranted a refusal to grant the licence on the original application.
52. Where the Commission intends to suspend or revoke a licence in accordance with section 45 of the Act, it shall notify the licensee of the —
- (a) reasons for the intended suspension or revocation; and
 - (b) date on which the intended suspension or revocation shall take effect; and
 - (c) period within which representations on the intention may be made.
53. Where the intention referred to in regulation 52 of these Regulations is as a result of a breach of terms and conditions, provision, or limitation of the licence, the —
- (a) notice given to the licensee shall state that the intention will be withdrawn or modified if the breach is remedied within 60 days ; and
 - (b) Commission shall within the period of 30 days following the period referred to in paragraph (a) of this regulation, confirm, modify or withdraw the intention.

54. Where a licensee fails to remedy any breach stated in regulation 52 of these Regulations, the Commission shall, not later than 7 days after the last day for the licensee to remedy the breach—
- (a) suspend the licence for a period not exceeding three (3) months hereinafter referred to as the “suspension period”, during which the licensee shall cease to carry out any activity related to its licence and shall remedy the breach ; and
 - (b) revoke the licence in accordance with the Act, where the licensee fails to remedy the breach during the suspension period.
- 55.—(1) Subject to the Enforcement Regulations, the sanctioning of any breach of the provisions of these Regulations and conditions incorporated in a licence may be commenced by the Commission investigating an alleged or suspected breach of these Regulations or licence conditions where there is—
- (a) a complaint that provides particulars of such breach by any person ;
 - (b) any matter arising from an investigation of any licensee by the Commission as part of its duties of regulating a licensee ; or
 - (c) any information obtained by the Commission through any other means, suggesting that a contravention of the licence terms or conditions or these Regulations may have occurred or is occurring.
- (2) Where the Commission determines that there is any reasonable ground to suspect that any condition of a licence or these Regulations has been contravened, the Commission shall issue an investigation notice.
- (3) The investigation notice referred to in sub-regulation (2) of this regulation shall state—
- (a) the condition of the licence or provision of these Regulations suspected to have been breached ;
 - (b) the reasons for the suspicion of a contravention

- or breach, including any matter of fact or law, which is relevant to the investigation ;
 - (c) further information required from a licensee to complete the investigations ; and
 - (d) where appropriate, steps to be taken to remedy the breach.
- (4) The Commission shall, in exercising its powers under this part against a licence, avail the licensee the rights provided under section 62(2) of the Act.
- (5) The Commission shall, upon issuing an investigation notice to a licensee, proceed to determine the matter in accordance with the Enforcement Regulations.
- (6) In arriving at its decisions on any matter concerning a breach of a condition of a licence or these Regulations, the Commission—
- (a) shall not be bound by technicalities, legal forms or rules of evidence ;
 - (b) shall act expeditiously on the matter having regard to the need to carefully investigate such breach and all incidental matters ; and
 - (c) may inform itself of any matter relevant to the breach in any way it may deem appropriate.
- (7) At any time during the enforcement proceedings, the Commission may direct a licensee to stop a specified conduct, where the Commission is satisfied that—
- (a) there is evidence that the licensee contravened the provisions of the Act, these Regulations or the condition of the licence ;
 - (b) the continuation of the licensee's conduct is likely to cause serious harm to any other telecommunications operator, consumer or the general public ;
 - (c) the potential harm in allowing a licensee to continue its conduct outweighs the burden on the licensee to refrain from the conduct ; or
 - (d) the issuance of the direction is in the interest of the public.

- (8) Where the Commission is of the opinion that a licensee has contravened any of the conditions of a licence, the Act or these Regulations, the Commission shall take any of the following enforcement actions—
- (a) direct the licensee to cease engaging in the conduct ;
 - (b) direct the licensee to take specific remedial action;
 - (c) impose financial penalties on the licensee ;
 - (d) suspend the Licence for a specified period ; or
 - (e) revoke the licence.
- (9) In imposing a financial penalty, the Commission may consider any —
- (a) aggravating factor, including —
 - (i) the gravity of the contravention,
 - (ii) the duration of the contravention,
 - (iii) whether the contravention resulted in any injury to a person or property,
 - (iv) whether the licensee acted knowingly, recklessly, or in a negligent manner,
 - (v) whether the operator has a previous history of contravention, or
 - (vi) whether the operator made any effort to conceal the contravention; or
 - (b) mitigating factor including whether —
 - (i) the contravention is minor,
 - (ii) the consequence from the contravention is minor,
 - (iii) a licensee took prompt action to correct the contravention,
 - (iv) the contravention was accidental, or
 - (v) the licensee voluntarily disclosed the contravention to the Commission.
- (10) The Commission shall in all cases of enforcement, impose sanctions that serve as a significant deterrent to any conduct that it considers as breach of licence conditions in accordance with the Enforcement Regulations.

Miscellaneous Provisions

56. An Applicant for a licence shall obtain an application form at any of the following places –
- (a) the head office of the Commission ;
 - (b) zonal offices of the Commission ;
 - (c) the Commission's website ; or
 - (d) any location specified in a public notice issued by the Commission in such a manner and duration as may be advertised.
57. (1) In addition to regulation 56(1) of these Regulations, an applicant for either an Individual licence or a Class licence shall be required to pay an –
- (a) application fee as may be determined by the Commission from time to time ; and
 - (b) administrative fee in the sum equal to 5% of the licence fee specified for the licence in the application Form.
- (2) At the expiration of the licence period, a licensee shall be required to pay a renewal fee, where applicable, as evaluated and approved by the Commission, provided the licensee has no outstanding obligations –
- (a) to the Commission in terms of Annual Operating Levy, Frequency Fees, National Numbering Plan Fees or any other regulatory fees ; and
 - (b) imposed by the Act, the Regulations or Guidelines made thereunder.
58. An applicant for a Frequency licence will be required to pay the fees as –
- (a) set out in the Frequency Spectrum (Fees and Pricing, etc.) Regulations where the licence is awarded through an administrative process ; or
 - (b) may be determined by the Commission in the case of any other method adopted for the award of the licence.
59. The Commission shall inform the licensee of any other fees which are applicable to the licensee and which are

not covered under regulations 57 and 58 of these Regulations.

60. Any licence issued pursuant to these Regulations requires the licensee to—
 - (a) provide communications service as indicated in the respective licence ;
 - (b) provide the service referred to in paragraph (a) of this regulation at the places prescribed ;
 - (c) employ prudent management and engineering practices to ensure that consumers receive the best quality of service practicable ; and
 - (d) adopt and pursue a maintenance program aimed at achieving efficient Interpretation. operations of its systems to render safe, adequate and uninterrupted service to its consumers.
61. A licensee shall operate telecommunications systems and offer services in accordance with the Act, these Regulations and the terms and conditions of the licence issued.
62. Where any condition of a licence is in conflict with any provision of these Regulations, the provision of the Regulations shall prevail.
63. Except an undertaking is incorporated in an application form, a general undertaking as set out in Schedule 1 to these Regulations shall be submitted to the Commission by any prospective applicant for individual licence, class licence and frequency Licence.
64. The terms and expressions used in these Regulations shall have the same meaning as in the Act and unless the context otherwise requires —

“Act” means the Nigerian Communications Act, 2003 ;

“Class Licence” means a licence for any or all persons to conduct a specified activity and may include conditions to which the conduct of that activity shall be subject;

"Commission" means the Nigerian Communications Commission established under the Act ;

"Frequency Spectrum (Fees and Pricing, Etc.) Regulations" means the Regulations that provide for the determination of all frequency spectrum fees for commercial activities in the telecommunications sector in Nigeria and any subsequent amendments made thereto;

"Individual Licence" means a licence for a specified person to conduct a specified activity and may include conditions to which the conduct of that activity shall be subject ;

"Licence" means a communications licence granted under the Act;

"Enforcement Regulations" means the Nigerian Communications (Enforcement Processes, Etc.) Regulations, made pursuant to the Act;

"Non-Radio Communications" means Telecommunications other than by means of Radio waves;

"Radio Communications" include telecommunications by means of Radio waves;

"Public Telecommunications Network" means a telecommunications network used in whole or in part for the provision of publicly available telecommunications services provided either by the operator of that telecommunications network or by a third party ;

"Telecommunications Network" means any form of installation or group of installations which ensure either the transmission or the transmission and routing of telecommunications signals and associated exchange of the control and operational information between network termination points ;

"Telecommunications Operator" means a provider of telecommunications services duly Licensed by the Commission to manage and operate a public

telecommunications network;

“Telecommunications Service” means a service consisting of the conveyance or reception of any sound, sign, signal, writing or image by wire, optical or other electronically guided media system whether or not such sign, signal, writing, image, sound or intelligence has been subjected to re-arrangement, computation or other process by any means in the course of its transmission, emission or reception;

“Telecommunications Equipment” means equipment, other than customer premises equipment, used by an operator to provide telecommunications services, including software integral to such equipment, and an upgrade other than switching equipment associated with the provision of switched telecommunications services; and

“Telecommunications System” means a system for the conveyance through the agency of electric, magnetic, electro-magnetic, electro-chemical, electro-mechanical or light energy of –

- (a) speech, music and other sound ;
- (b) visual image;
- (c) signal serving for the importance of any matter otherwise than in the form of sound, visual image ; or
- (d) signal serving for the actuation or control of machinery or equipment, including telecommunications equipment situated in the Republic of Nigeria.

65. These Regulations shall be cited as the Licensing Regulations, 2019. Citation.

Schedule 1

General Undertakings

System And Service Details

The applicant shall provide the following information –

- (a) service or Trade Name (if any) ;
- (b) description of the telecommunications system to be installed, including system configuration, architecture and operation and where appropriate, how the system is interconnected with other public telecommunications networks or services ;
- (c) description of the equipment (*e.g.* copper wire, fibre, radio transmitters/receivers, switches), the technical configuration and conformity information of each piece of equipment to applicable standards ;
- (d) the technical and operational configuration of the system proposed should be explained fully, the explanatory information shall include,
- (e) a description of the equipment to be used, and its technical specification ;
- (f) a statement of the equipment's conformity with applicable standards (*i.e.* confirmation of compliance with the International Telecommunications Union Telecommunications Standardization Sector [ITU-T] and the International Telecommunications Union Radio Communication Sector [ITU-R] recommendations and other specifications or standards which are specifically relevant to the proposed service),
- (g) the source and availability of the equipment,
- (h) a clear diagram showing the conveyance of messages from the beginning (*i.e.* ways of accessing the applicant's system) to the end (*i.e.* termination of the message) with directional arrows marked on the diagram and labels

indicating the company running each part of the network, and

- (i) a clear indication of where the applicant's system fits into the chain of conveyance of a call and what operation is performed by the applicant's system in respect of that call –
 - (i) the geographic service area in which it is desired to provide service and to what number and categories of consumer the services would be offered ;
 - (ii) where there is a requirement for spectrum this should be indicated and a copy of the applicant's spectrum Licence application must be attached to any application;
 - (iii) description of services to be provided, the expected commencement date for the provision of services and the implementation programme if it is proposed to introduce the service in phases. Each of the services or products to be offered should be described under subheadings for each group - for example, "*basic voice*", "*basic data*" and "*value added services*"; and
 - (iv) special operational features.

Technical Support Details

The technical support details shall contain the description of the –

- (a) technical support facilities in Nigeria ;
- (b) technical personnel responsible for day-to-day operation and maintenance of the support facilities ; and
- (c) routine maintenance procedure.

Experience In Telecommunications

The applicant shall state –

- (a) its experience in the telecommunications industry both in Nigeria and abroad ; and

- (b) whether it or any company in its shareholding structure was previously granted or refused a Licence elsewhere.

Marketing Strategy

Referring back to the services or “products” listed in “services proposed”, the applicant shall usefully summarize its marketing strategy and state its —

- (a) main target markets (e.g. other telecoms companies or retail companies *e.g.* business or domestic consumers); and
- (b) sales plan (e.g. direct selling through salesmen or advertising, or indirect selling through partnerships with retailers).

Business Plan

The applicant shall give a summary business plan detailing committed and budgeted investment, anticipated revenues and a sign of when the applicant expects to move into profit on the proposal under consideration. The applicant shall also state the Security of Financing.

Management Structure

A description of the management structure with résumés of the careers of key/managerial staff of the applicant to show its technical competence and experience.

Financial Information

The applicant shall provide —

- (a) A statement of accounts which shall contain —
 - (i) an income statement,
 - (ii) a balance sheet,
 - (iii) statement of investment portfolio and portfolio transactions,
 - (iv) a statement of changes in net assets, and
 - (v) expenditure ;
- (b) The income statement referred to in paragraph (a) above shall set out the following —
 - (i) dividend revenue,

- (ii) interest revenue,
 - (iii) other revenue,
 - (iv) management fees,
 - (v) audit fees,
 - (vi) directors' fees,
 - (vii) other fees,
 - (viii) other expenses,
 - (ix) income before taxes, and
 - (x) net income for the accounting period;
- (c) The balance sheet referred to in paragraph (a) shall set out –
- (i) cash, term deposits and short term debt instruments, if such instruments are not included in the statement of investment portfolio,
 - (ii) dividends and accrued interest receivable,
 - (iii) accounts receivable,
 - (iv) description of assets,
 - (v) total assets,
 - (vi) description of liabilities,
 - (vii) total liabilities,
 - (viii) aggregate proceeds on sale of services, and
 - (ix) realized profit or loss on trade.

Documents

The applicant shall also provide the following documents –

- (a) a Certified True Copy of Certificate of Incorporation or Business Registration Certificate; whichever is applicable;
- (b) a certified true copy of the list of current directors or a certified true copy of "*Notification of first secretary and directors*" and where applicable, a certified true copy of "*Notification of changes of secretary and directors*" issued by Corporate Affairs Commission (CAC);
- (c) documents showing the authorised, issued and paid-up share capital and the current shareholding structure of the company, e.g. "*Annual Return*" or "*Return of allotments*" ; howsoever called;

- (d) audited reports of the company and its holding companies for the last 3 years (where applicable) ;
- (e) a budgeted Profit and Loss Statement for the proposed service for the first 5 years of operation. The statement should include the number of subscribers, planned system capacity, level of charge, annual revenue and costs ;
- (f) documentary evidence to demonstrate the financial capability of the applicant in providing the capital investment required. The financial document shall be in the form of banker's confirmation on amount deposited or credit facilities available ;
- (g) brochure or catalogue of equipment or system to be installed ; and
- (h) schematic diagram showing the technical set-up and connections.

Declaration of Applicant

To : The Nigerian Communications Commission

- (a) I/We hereby declare that the information and particulars given by me/us in this form and in the documents submitted are to the best of my/our knowledge true and correct ;
- (b) I/We accept all the conditions above.

Signature :

Name (Block Letters) :

Position Held :

Date :

Schedule 2

Individual Licence include the following –

- (1) Central Equipment Identity Registry;
- (2) Electronic Directory Information Services;
- (3) Fixed Wireless Access;
- (4) Global Mobile Personal Communications by System;
- (5) Infrastructure Sharing and Collocation Services;

- (6) Interconnect Exchange ;
- (7) International Data Access Gateway ;
- (8) International Gateway ;
- (9) International Submarine Cable Infrastructure and Landing Station Licence ;
- (10) Internet Exchange ;
- (11) Internet Service Provision ;
- (12) Metropolitan Fibre Cable Network ;
- (13) National Carrier ;
- (14) National Long Distance Licence ;
- (15) Non-Commercial Closed User Services ;
- (16) Open Access Fibre Infrastructure Network (Infracore) ;
- (17) Prepaid Calling Card ;
- (18) Private Network Links (Local Exchange Operator) ;
- (19) Private Network Links (Regional/National) ;
- (20) Public Mobile Communications Licence (Trunk Radio Services) ;
- (21) Public Mobile Communications Licence (Vehicle Tracking Services) ;
- (22) Sales & Installations of Terminal Equipment ;
- (23) Unified Access Service Licence ;
- (24) Value Added Services ;
- (25) Wholesale Wireless Access Service ; and
- (26) Any other communications undertaking that the Commission may from time to time determine as individual Licence.

Schedule 3

Class Licence include the following –

- (1) Payphone ;
- (2) Cybercafe ;
- (3) Telecenter ;
- (4) Sales and Installation of Terminal Equipment ;
- (5) Repairs and Maintenance of Telecommunications Facilities ;
- (6) Cabling ; and

- (7) Any other undertaking that the Commission may, from time to time, determine as a class Licence.

MADE at Abuja this 11th day of January, 2019.

PROF. UMAR GARBA DANBATT
FREAS, FA Eng, FNSE
Executive Vice Chairman
Nigerian Communications Commission

10

Mobile Number Portability Regulations, 2014

Application and Objectives

1. These Regulations shall apply to –
 - (a) the administration and operation of Mobile Number Portability in Nigeria ;
 - (b) the NPC Administrator ;
 - (c) all licensed telecommunication service providers in Nigeria ;
 - (d) other authorised parties ; and
 - (e) Subscribers.
2. The objectives of these Regulations are to –
 - (a) provide a regulatory framework for the operation of Mobile Number Portability in Nigeria ;
 - (b) ensure an effective and efficient porting regime;

- (c) foster and strengthen the relationships between Mobile Service Providers and other authorised parties and create a harmonious level playing field for all operators ;
 - (d) safeguard Subscribers' rights and ensure Subscribers' satisfaction with the MNP process ; and
 - (e) sustain quality service delivery by Mobile Service Providers and other authorised parties in order to ensure a seamless launch and continued improvement in the MNP process and the telecommunications sector in Nigeria.
3. In the implementation of the MNP Service, the MNP Business Rules as may from time to time be amended, shall apply subject to the provisions of these Regulations.

Administration of the Number Portability Clearinghouse

4. (1) There is established, a Number Portability Clearinghouse to be administered by the NPC Administrator.
- (2) The NPC Administrator shall –
- (a) be licensed by the Commission to manage the MNP System in Nigeria ; and
 - (b) use the Number Portability Clearinghouse for the performance of the following functions –
 - (i) relaying of messages between the Donor and Recipient Operators and maintaining of status information for each individual and bulk porting transaction;
 - (ii) management of the porting process to monitor the compliance with target porting timescales by the Mobile Service Providers ;

- (iii) verification of the validity of porting transactions ;
- (iv) interworking with the Subscriber Information Database to verify Subscriber registration status and mandatory data matches to validate Subscriber porting transactions;
- (v) reception and checking of SMS from Subscribers confirming the request to port;
- (vi) communicating with the Subscribers and advising them by SMS on the status of their porting requests ;
- (vii) real-time broadcasting of information to all Mobile Service Operators of the identity of the Recipient Operator serving a number after porting for the purpose of updating routing arrangements ;
- (viii) updating the Subscriber Information Database to reflect the migration of successfully ported numbers from Donor Operators to Recipient Operators;
- (ix) collection of logs on all port activities ;
- (x) collection of statistics on porting ;
- (xi) maintenance of the servicing operator status for every mobile number in Nigeria in real-time to reflect changes effected through the completion of porting transactions;
- (xii) storage of information of the history of each porting transaction excluding any personal Subscriber data, which should be deleted once a porting has been completed;
- (xiii) coordinating porting transactions

- between Mobile Service Providers and ensuring consistency in the porting performance and adherence to the porting timescales set from time to time in the Business Rules ;
- (xiv) maintaining a Central Reference Database of all ported numbers and making provision for the download of such information by any Mobile Service Provider, especially new entrants ; and
 - (xv) management of ancillary porting functions as required, including return to Number Range Holder and emergency repatriation processes.
- (3) The Number Portability Clearinghouse and the MNP System in Nigeria shall be administered in accordance with the MNP Licence granted to the NPC Administrator and the MNP Operator User Agreement.
 - (4) The NPC Administrator shall in every case, ensure the operation of a maintenance period, for any period of time specified in the Business Rules to ensure minimal disruption to the MNP Service and the administrative system.
5. (1) The NPC Administrator shall set up and operate a Number Portability Clearinghouse helpdesk within Nigeria which shall be responsible for –
- (a) monitoring the continuity and quality of service of the Number Portability Clearinghouse ;
 - (b) identifying and resolving service impacting faults and issues ;
 - (c) receiving, reviewing and resolving queries and complaints from Mobile Service Providers and the Commission ; and
 - (d) such other things as the Commission may from time to time determine.

- (2) The NPC Administrator shall –
 - (a) operate its MNP helpdesk during the Prescribed Porting Period ; and
 - (b) set up and operate monitoring and fault resolution of the Number Portability Clearinghouse within the hours prescribed in the Business Rules.
 - (3) The hours of monitoring and fault resolution referred to in sub regulation (2) (b) of this regulation may be performed within the NPC Administrator’s Nigerian premises or from its remote external location.
 - (4) The NPC Administrator shall not be responsible for dealing directly with complaints from individual Subscribers.
6. (1) Every Mobile Service Provider shall establish a customer complaint unit with the responsibility of receiving, reviewing and resolving the complaints made by Subscribers in respect of the MNP service rendered to them.
- (2) A Subscriber may lodge a complaint by placing a call to a designated helpdesk which is routed straight to the customer complaint unit of the Recipient Operator for due attention.
 - (3) The Recipient Operator’s customer complaint unit shall notwithstanding the provisions of any other Regulations issued by the Commission, acknowledge the complaints of customers within two hours after a problem is reported.
 - (4) The Recipient Operator’s customer complaint unit shall record all MNP related customer complaints and where the resolution of such complaints are within its operational control, shall take all necessary steps to ensure that the complaint or query is resolved within a maximum of forty-eight hours from the time of making the complaint.
 - (5) The Recipient Operator’s customer complaint unit shall keep records of all complaints made to it in accordance

with the current business practice of the operator and any issues arising from such complaints shall be identified and serve as points for the review of the existing Code of Practice of the operator registered with the Commission.

- (6) The Recipient Operator and Donor Operator shall work positively and collaboratively to ensure that Customers porting complaints are investigated and resolved promptly and fairly.
 - (7) Where a Customer's complaint remains unresolved after forty-eight hours of lodgment due to the inability of the Recipient Operator or Donor Operator to resolve same, the Recipient Operator shall, not later than twenty-four hours thereafter, refer the dispute to the Commission for resolution.
7. (1) The NPC Administrator and Mobile Service Providers shall keep confidential and not disclose any data supplied by Subscribers in connection with the MNP Service or System.
- (2) The NPC Administrator and Mobile Service Providers shall –
- (a) using existing industry best practices, safeguard the data provided by porting Subscribers from unauthorised interception or unauthorised access ;
 - (b) ensure that such data is used solely for the purposes of porting of mobile numbers and not for any other purpose ;
 - (c) ensure that data collected and used to process porting requests shall be authenticated by the Subscriber Information Database ; and
 - (d) as may be required by the Commission, amend the design and operations of the porting process and systems to align with the requirements of any future changes to the Nigerian Subscriber information registration process and systems.

- (3) The provisions of sub regulation (2) (c) and (d) of this regulation shall not prevent a Mobile Service Provider from providing data or access to data for monitoring purposes to the Commission and any Relevant Authority.

Relationship between Mobile Service Providers and the NPC Administrator

- 8. The NPC Administrator and all Licensed Operators shall offer MNP services in accordance with the MNP Operator User Agreement, MNP Business Rules, these Regulations and where necessary, the Operator's Code of Practice registered with the Commission.
- 9. (1) All existing interconnect agreements or arrangements between operators shall be subject to the provisions of these Regulations as regards –
 - (a) routing of traffic to and from ported and non-ported mobile numbers using the All Call Query approach mandated by the Commission ; and
 - (b) the corresponding routing prefixing allocated by the Commission.
- (2) Where there is a conflict between the provisions of any interconnect agreement or arrangement and these Regulations, the provisions of these Regulations shall prevail.
- (3) All Mobile Service Providers in Nigeria shall establish fail-proof connectivity from their respective Mobile Number Portability Gateways to the main and disaster recovery sites of the NPC Administrator at its own cost.
- (4) A Licensed Operator having licences in more than one licensed service area may establish a common fail-proof connectivity to the main and disaster recovery sites of the NPC Administrator for all its licensed service areas.
- (5) A Licensed Operator, who is also a fixed interconnect exchange service provider or international gateway operator providing carrier service to another Licensed

Operator, may establish a common fail-proof connectivity to the main and disaster recovery sites of the NPC Administrator for all its licensed activities and share its Local Number Portability Database across its various licensed activities for the purpose of implementing Mobile Number Portability.

- (6) No Licensed Operator shall share its Local Number Portability Database with another Licensed Operator.
- (7) A Licensed Operator who is sharing its Local Number Portability Database across its licensed activities shall ensure that such sharing of Local Number Portability Database enables it to directly route traffic to ported mobile numbers.
- (8) Every Licensed Operator on whose network traffic originates shall be responsible for the correct routing of such traffic.
- (9) A Licensed Operator shall not be permitted to charge Additional Conveyance Charges for direct routed traffic originated and terminated on its network.
- (10) Calls originating from Licensed Operators with no access to the Central Reference Database shall be routed to the original block serviceprovider or a licensed interconnect exchange service provider, and where the number has been ported, the call shall be routed to the current Mobile Service Provider on whose network the number called is active.
- (11) An additional conveyance charge as determined by the Commission from time to time may be charged by the original block service provider or the interconnect exchange service provider for performing the All Call Query direct routing of the incoming traffic to a ported number.
- (12) In case of international incoming messages, the International Gateway Operator carrying such messages shall be responsible for correct routing of traffic to the terminating operator through All Call Query direct routing via its own Local Number Portability Database.

- (13) The International Gateway Operator or Number Range Holder shall as may be directed by the Commission, levy an Additional Conveyance Charge for performing the All Call Query direct routing of incoming international traffic to ported numbers.
- (14) The Additional Conveyance Charge shall be based on the commercial arrangements between the Mobile Service Provider and the International Carrier.
- 10. (1) The Donor Operator shall continue to provide all subscribed telecommunication services to a Subscriber who has sought the porting of his mobile number till completion of the porting process.
- (2) The Donor Operator shall maintain records of all mobile numbers for which porting requests have been rejected by it for a minimum period of 6 months from the date of rejection of request.
- 11. (1) The Recipient Operator shall pay the NPC Administrator, a porting transaction fee for every number successfully ported within thirty days of receipt of the bill from the NPC Administrator or within such other time limit as may be mutually agreed upon.
- (2) The porting transaction fee referred to in sub regulation (1) of this regulation shall be at a rate the Commission may from time to time specify.
- (3) The Recipient Operator shall maintain records in respect of all mobile numbers for which porting requests have been processed and granted for a minimum period of six months from the date of the successful porting of such mobile numbers.
- 12. (1) The NPC Administrator shall make all efforts to facilitate expeditious porting of numbers through effective coordination with the Donor Operator and Recipient Operator.
- (2) The NPC Administrator shall generate specific sets of statistics and reports including –
 - (a) the number of porting requests received;
 - (b) the number of porting carried out successfully;

- (c) the number of failed porting requests with reasons for failures and the response times of Mobile Service Providers at each stage of the porting process; and
 - (d) such other statistics and reports in accordance with the MNP Business Rules or as may be determined by the Commission.
 - (3) Where a Recipient Operator fails to pay the Porting Transaction Fee within the time limit specified in regulation 11(1) of these regulations, the NPC Administrator shall before taking any action –
 - (a) issue a notice to the Recipient Operator ; and
 - (b) request the Recipient Operator to pay the Porting Transaction Fee, within a period of fifteen days from the time limit specified in regulation 11 (1) of these Regulations.
 - (4) Notwithstanding the issuance of a notice to the Recipient Operator pursuant to sub regulation (3) (a) of this regulation, the NPC Administrator shall not discontinue the provision of MNP Service to a Recipient Operator where it defaults in the payment of the Porting Transaction Fees.
- 13. (1)** Any MNP dispute involving the Recipient Operator, the Donor Operator or the NPC Administrator and which does not directly impact on the Subscriber shall be resolved amicably between the concerned parties.
- (2) Where a dispute is not resolved amicably between the parties within seven days of the existence of the dispute, the dispute shall be resolved in accordance with the dispute resolution mechanism prescribed under the MNP Business Rules.
 - (3) The porting obligations of the Mobile Service Provider shall subsist during the pendency of any dispute till a final determination is made in accordance with the MNP Business Rules or by the Commission.

General Porting Guidelines

14. (1) The provision of MNP Service to all Subscribers shall be the collective responsibility of all Mobile Service Providers and the NPC Administrator on a non-discriminatory basis, within the timescales set out in the MNP Business Rules.
- (2) The Porting process is Recipient-led and shall be initiated by the Subscriber upon a visit to the Recipient Operator's representative office, customer care shop or retail point of sale or other contact with the Recipient Operator as the Commission may from time to time approve.
- (3) The Recipient Operator shall only process porting requests from eligible Subscribers.
- (4) Every Mobile Service Provider shall ensure that its network enables a Subscriber to send the porting approval SMS at no charge and even where the subscriber has zero credit balance.
- (5) A Donor Operator may not deliver the porting approval SMS if the Subscriber is already barred or suspended from making outbound calls or sending SMS.
15. A Subscriber shall be eligible to make a request for porting his mobile number where –
 - (a) in the case of a mobile number which has been ported earlier, the Port Restriction Time specified in the MNP Business Rules has expired from the date of activation of the mobile number after its last porting ;
 - (b) the mobile number has been registered on the Subscriber Information Database and the Subscriber's identity details correspond with those held by the Donor Operator and the Subscriber Information Database, in accordance with the MNP process requirements as determined by the Commission in the Business Rules;

- (c) the mobile number is not blocked or subject to restricted service provisions by the current Mobile Service Provider at the time the porting request is submitted;
- (d) there is no pending request for change of ownership of the mobile number ; and
- (e) porting of the relevant mobile number has not been prohibited by a Court of law.

16. (1) The Porting Request Form shall incorporate –

- (a) the porting eligibility criteria as specified in Regulation 15 of these Regulations ;
- (b) an undertaking by the Subscriber that –
 - (i) he is eligible or authorised to request porting of the mobile number ;
 - (ii) the number has not been reported stolen or lost ; and
 - (iii) the number is not subject to fraudulent or inappropriate activity ;
- (c) in the case of –
 - (i) a pre-paid Subscriber, an undertaking by the Subscriber to the effect that he understands and agrees that, upon porting of the mobile number, any credit on that account at the time of porting shall lapse ; and
 - (ii) a post-paid Subscriber, an undertaking by the Subscriber that he understands that porting will not extinguish the Subscriber's liability to pay the Donor Operator where there are outstanding payments due to the Donor Operator ;
- (d) an undertaking by the Subscriber to the effect that he understands and agrees that, upon porting of the mobile number, ancillary services such as voicemail, SMS and Multimedia Messages saved by the Subscriber may be lost ;

- (e) where a Subscriber ports away from an on-net package or group, an undertaking by the Subscriber that he understands and agrees that, upon porting of the mobile number, charges and bills may increase;
 - (f) an undertaking by the Subscriber that he understands and takes direct responsibility for recovering any mobile banking account registered to the mobile number that is the subject of the porting request ; and
 - (g) such details of the Subscriber as may be prescribed by the Commission from time to time.
- (2) Each porting request shall be accompanied by –
- (a) a completed Porting Request Form ;
 - (b) the Subscriber's photo identification, driver's licence, national identity card or international passport ;
 - (c) a declaration that the mobile number to be ported is registered in the Subscriber Information Database ; and
 - (d) any other information which the Commission may from time to time approve.
17. The Recipient Operator shall –
- (a) confirm the eligibility of the Subscriber as specified in Regulation 15 of these Regulations and upon such confirmation send a Porting Approval Request Message to the Number Portability Clearinghouse ; and
 - (b) at the successful initiation of the porting process, issue the Subscriber a new SIM.
18. The MNP procedure and timescales shall be as provided in the MNP Business Rules.

Transaction Charges and Reporting Requirement

19. (1) The Commission shall approve a Porting Transaction Fee which shall be levied on the Recipient Operator by the Number Portability Clearinghouse for each successful porting transaction completed.
- (2) The Porting Transaction Fee shall be paid to the Number Portability Clearinghouse directly by the Recipient Operator and no payments shall be made for unsuccessful port transactions.
- (3) All Mobile Service Providers and Interconnect Exchange Service Providers shall be provided with access to the Central Reference Database free of charge to enable proper transiting and routing of calls, provided that such Mobile Service Provider or Interconnect Exchange Service Provider has in place an All Call Query infrastructure to enable it interconnect with the Central Reference Database.
- (4) The All Call Query response system of the MNP System shall be provided by the NPC to other network providers, Interconnect Exchange Service Providers and other authorised parties at a Dipping Charge to be approved by the Commission where such parties do not have their own All Call Query infrastructure.
- (5) The Mobile Service Providers and Interconnect Exchange Service Providers shall provide other authorised parties with access to the information in the Central Reference Database at a charge to be approved by the Commission.
- (6) Where an original block operator routes a national traffic for a number originally within its numbering plan to the Recipient Operator, it shall be entitled to levy a transit charge approved by the Commission on the originator of such call.
- (7) The charge for the All Call Query response system shall be as the Commission may from time to time approve.

20. (1) The Commission may, by order or direction in writing, from time to time, intervene, for the purpose of protecting the interest of the Subscribers or the Mobile Service Providers for monitoring and ensuring compliance with these Regulations so as to promote and ensure the continued growth of the telecommunications sector in Nigeria.
- (2) The Commission may review and modify the Porting Transaction Fee and Dipping Charge at such intervals as the Commission may consider appropriate.

Sanctions And Penalties

21. (1) The Commission may exercise its supervisory and disciplinary powers against the NPC Administrator, any Licensed Operator or Mobile Service Provider in Nigeria in the manner prescribed in these Regulations.
- (2) In the enforcement of sanctions and penalties under these Regulations, the provisions of the Act and the Enforcement Regulations shall apply.
- (3) The penalties for non compliance with the provisions of these Regulations shall be in addition or in the alternative to any other penalties that may be contained in the Act or the Enforcement Regulations.
22. (1) Notwithstanding the terms and conditions contained in the MNP Licence, the Commission may revoke the MNP Licence where the NPC Administrator fails to –
 - (a) implement the MNP System and procedures within the timescales set by the Commission for the implementation of MNP in Nigeria ; or
 - (b) to establish interconnecting or interworking agreements with Mobile Service Providers and other authorised parties or discriminates between operators in honoring such existing agreements.
- (2) The penalty specified in sub regulation (1) (a) and (b) of this regulation shall not be imposed where the failure was not as a result of willful neglect of the NPC

Administrator or the issue is resolved within ten days of occurrence.

- (3) The failure of the NPC Administrator to facilitate the expeditious porting of numbers or perform its reporting obligations under these Regulations including reporting and repatriation of inactive ported numbers as required under the MNP Business Rules and in accordance with the porting timescales shall attract a penalty of five hundred thousand Naira for every default.
23. (1) The Commission may, based on the set parameters of Mobile Number Portability or performance indicators provided in the MNP Business Rules or directives issued from time to time, impose a penalty on a Mobile Service Provider or other authorised parties where—
- (a) a Mobile Service Provider fails to submit a porting approval request on behalf of each qualified requesting Subscriber within the set timeframe ;
 - (b) a Mobile Service Provider fails to comply with the approved timescale for the completion of any porting activity including the delivery or communication of porting responses to the Number Portability Clearinghouse ;
 - (c) a Mobile Service Provider fails to directly route traffic using a local routing database infrastructure in accordance with the All Call Query Direct Routing approach mandated by the Commission ;
 - (d) a Mobile Service Provider fails to take appropriate steps to accord Subscribers the desired win-back protection provided under the MNP Business Rules ;
 - (e) The Donor Operator fails to permit a Subscriber to send the porting approval SMS free of charge to the Number Portability Clearinghouse at the assigned short code or to use such other means

of communication with the Number Portability Clearinghouse as may be determined by the Commission unless the entire account of the subscriber is barred;

- (f) a Mobile Service Provider or other authorised party fails to synchronize or take downloads of data from the Central Reference Database to the local routing database upon receipt of port completion messages within the set time;
 - (g) a Donor Operator rejects a porting approval request based on a reason not provided for by the MNP Business Rules;
 - (h) a Donor Operator contacts a porting Subscriber prior to completion of the porting process ; and
 - (i) the Donor Operator uses the Emergency Repatriation process to circumvent the Porting Restriction Time.
- (2) The penalty to be imposed under sub regulation (1) of this regulation shall be a fine of –
- (a) two million Naira for each act or omission ; and
 - (b) two hundred thousand Naira for each day that the contravention continues to occur.
- (3) A Mobile Service Provider shall pay to the Commission the sum of two million Naira for each act of contravention and two hundred thousand Naira for each day that the contravention continues to occur for an act falling under any of the following –
- (a) submission of a porting approval request without the Subscriber's consent on an approved and completed Porting Request Form ;
 - (b) any contract or communication by the Donor Operator to a subscriber at the commencement of a port transaction calculated at or likely to dissuade the Subscriber from completing the port transaction ;
 - (c) provision of false, inaccurate, or misleading

information related to the porting process through any medium of communication ;

- (d) provision of false information in any report to the Commission ;
 - (e) failure of the Recipient Operator to obtain Subscriber's consent to porting on a completed Porting Request Form before submitting a porting approval request on the Subscriber's behalf;
 - (f) provision of false or misleading information by a Mobile Service Provider regarding network attributes and Subscriber proposition to a potential Subscriber with the intent of enticing the Subscriber to assent or dissent to porting ; and
 - (g) failure to provide the Commission or Relevant Authority access to employees and agents in the course of an investigation.
24. Any person who carries out or attempts an unauthorised porting of a number commits an offence and is liable on conviction to a fine of two hundred thousand Naira or imprisonment for a term not exceeding one year or both.

Miscellaneous

25. The Commission may issue additional rules, directions or guidelines on any aspect of these Regulations, which shall be of general application or specific to a Mobile Service Provider or Other Authorised Party.
26. In these regulations –
- “Act” means the Nigerian Communications Act, 2003 and any succeeding legislation thereto;
 - “Additional Conveyance Charge” means the additional incremental cost incurred to the number block holder due to the additional switching required along with the transmission capacity and other related

systems for the synchronisation with the Central Reference Database;

“All Call Query (ACQ) Direct Routing” means the process of routing traffic (calls and SMS etc) directly to ported and non-porting Subscribers on the Recipient network. All Call Query routing involves the operator on whose network the traffic is originated performing a check against the Operator’s own Local Number Portability Database for all traffic originated on the Operator’s network. The check returns a Location Routing Number which enables the Operator to route the traffic directly to the Subscriber on the network their number currently resides on;

“Central Reference Database” means the database maintained by the MNP Service Provider in electronic form, holding the details of all ported numbers, along with complete history of all transactions relating to the porting of such numbers;

“Commission” means the Nigerian Communications Commission established under the Act;

“Dipping Charge” means the Commission’s approved fee charged by the NPC Administrator on service providers for the use of the Central Reference Database ;

“Donor Operator” means the operator from which the number is being ported;

“Emergency Repatriation” occurs where the Recipient Operator arranges a second porting in the reverse direction after an initial porting has been completed. Emergency Repatriation is granted where it is proved that porting was not authorised by the Subscriber or is deemed to be fraudulent or inappropriate ;

“Enforcement Regulations” means the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005, as may be amended from time to time;

“Interconnect Exchange Service Provider” means any operator licensed by the Commission to install, maintain and operate interconnection and transmission facilities for the conveyance and exchange of voice and data traffic amongst telecommunications network service operators within the borders of Nigeria;

“International Gateway Operator” means a licensee of the Commission licensed to operate a switching system that routes international traffic between international networks and the domestic network, and includes International Data Access Operators;

“Licensed Operator” means other licensed telecommunication service providers other than the Mobile Service Providers;

“Local Number Portability Database” means the database of all ported mobile numbers maintained by a Mobile, Fixed, Clearinghouse and International Gateway Operator, maintained by each Operator and updated in real-time by the NPC as porting transactions are completed;

“Location Routing Number” means the code assigned to every Operator by the Commission for the purpose of implementing All Call Query Direct Routing of traffic to support the operation of Mobile Number Portability;

“Mobile Number Portability” or *“MNP”* means the facility that enables subscribers to move their mobile subscriptions from the donor network to the recipient network whilst retaining their mobile numbers;

“MNP Business Rules” means the rules and port order processes as may be amended from time to time, which are issued by the Commission to manage the processes of porting mobile number (MSISDN) between the NPC and mobile service providers ;

“Mobile Service Provider” means any person granted a licence by the Commission to provide mobile telecommunications service in Nigeria;

“MNP Operator User Agreement” means the Agreement between Mobile Service Provider and the NPC Administrator;

“MNP System” means all the necessary equipment/ sub-systems of the NPC engineered to provide Services in accordance with operational/ technical and quality requirements and other terms and conditions of the MNP Licence;

“New Entrant” means a Mobile Service Provider determined by the Commission after the launch of MNP to be eligible to connect to the Central Reference Database ;

“NPC Administrator” means the Number Portability Clearinghouse Administrator licensed by the NCC to establish the NPC implement and manage the MNP System in Nigeria;

“Number” means a string or a combination of letters, digits or symbols that defines the network termination point and routes all calls to the respective point that includes the information which may refer to the Subscriber, application, operator, telecommunication network or telecommunications service where relevant;

“Number Portability” means a facility that enables the Subscriber in the public telephone network to change its operator, geographical position or service type without changing Subscriber number;

“Number Portability Clearinghouse or NPC” means the centralized clearinghouse established to carry out MNP Administrative Services in Nigeria;

“Number Portability Gateway” means the network device designed to interface between the Mobile Service Operator and the NPC in order to coordinate and automate the MNP process;

“Number Range Holder” means the original operator to which the number that is subject to porting, is or was originally allocated by the Commission;

“Porting” means the act of initiating a request to the Number Portability Clearinghouse and Donor Operator for approval to transfer a number from its network to the Recipient Service Provider, the subsequent receipt of answers from the Number Portability Clearinghouse and donor network, the provisioning of a number on the recipient network, the deactivation of a number from the donor network, and the act of informing all operators that a number has been successfully transferred and is now active on the recipient network ;

“Porting Transaction Fee” means the charge payable by the Recipient Mobile Service Provider to the NPC Administrator for successfully processing the porting request in respect of a mobile number through to completion ;

“Porting Period” means the period between when a porting process is initiated to the time it ends ;

“Porting Restriction Time” means the time specified in the Business Rules when a ported number must remain with the Recipient Operator before another porting can take place ;

“Prescribed Porting Period” means the period between the hours of 00:00 hours to 24:00 hours every day of the week, from Monday to Sunday, including Nigerian public holidays but excluding approved operational maintenance periods ;

“Real-Time” means automatic, without human intervention and with negligible latency ;

“Recipient Operator” means the operator to which the number is being ported ;

“Recipient-Led” means the process whereby the customer initiates the porting process by an approach to the recipient operator. The recipient operator will then, on behalf of the customer, manage all interactions necessary for the successful transfer of the number from

the customer's existing service provider (the Donor Operator) to the Recipient Operator;

"Relevant Authority" means Nigerian Police, National Intelligence Agency, State Security Services, Economic and Financial Crimes Commission, National Drug Law Enforcement Agency and any organization or agency as the Commission may from time to time specify and publish;

"Routing" means the accurate, consistent and timely operational delivery of Subscriber traffic from an originating Operator to a terminating Operator, using the approach mandated by the Commission, for both ported and non-porting numbers;

"SIM" means Subscriber Identity Module, a small electronic card inserted into cell phones, and includes a Removable User Identity Module (R-UIM) smart card, a CDMA Subscriber Identity Module (CSIM) smart card, a Universal Subscriber Identity Module (USIM) smart card or any other mobile phone subscription medium marketed from time to time by licensees, which provides a unique identity to a phone such as the Subscriber's number and operator network ;

"SMS" means Short Message Service;

"Subscriber" means a real or legal person having acquired mobile telecommunications service from the Mobile Service Providers;

"Subscriber Information Database" means the central database of information maintained and operated on behalf of the Commission, containing a record of (at least) all Nigeria's registered numbers and the details of the corresponding Subscribers, maintained for security and operational purposes ; and

"Successful Porting" means the completion of the porting transaction with the movement of the Subscriber to the desired Mobile Operator.

27. These Regulations may be cited as the Mobile Number Portability Regulations, 2014.

MADE at Abuja this 24th day of July, 2014.

DR. EUGENE JUWAH
Executive Vice-Chairman
Nigerian Communications Commission

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Number Regulations, 2008

Scope and Operation

1. (1) These Regulations are made to provide a regulatory framework for the control, planning, administration, management and assignment of Numbers, pursuant to section 128(1) of the Act. In particular, they set out the rules for the assignment, transfer, porting and use of numbers under the national numbering and electronic addressing plan, pursuant to section 128(3) of the Act.
- (2) For the avoidance of doubt, in these Regulations—
 - (a) telephone numbers and short codes are numbers; and
 - (b) IP addresses and domain names are not numbers.

2. These Regulations are intended to promote investment, facilitate competition and protect customers by ensuring that—
 - (a) numbers are understood to be national resources that are not owned by customers or licensees ;
 - (b) numbers can be assigned efficiently, quickly, transparently and fairly, without undue discrimination against particular customer classes, licensee types and communications technologies ;
 - (c) shortages of numbers can be predicted and prevented in timely ways ; and
 - (d) uses of numbers can be monitored and controlled to avoid detriment to the interests of customers.
3. These Regulations include a Schedule that illustrates by examples Numbers and Blocks as defined in Regulation 52.

Contents of the National Numbering Plan

4. The Commission shall maintain and publish in the National Numbering Plan up-to-date versions of the Allocation Status and Usage Conditions of Blocks that do not overlap but that together contain all the Numbers.
5. The Allocation Status of a Block shall be —
 - (a) “Assigned” if the Block has been included in an Assignment to a Licensee and has not been subsequently returned by or withdrawn from the Licensee ;
 - (b) “Assignable” if the Block is available for inclusion in an Assignment subject to the Usage Conditions ;
 - (c) “Expected to become Assignable” if the Block is expected to be available in the future for

- inclusion in an Assignment subject to the Usage Conditions ;
- (d) “Unusable” if the Block is excluded from Assignments to avoid possible human errors or system constraints ; or
 - (e) “Retained” if the Block is excluded from Assignments to keep resources for unknown future developments.
6. In imposing Usage Conditions on a Block the Commission shall restrict only some or all of –
- (a) the charges for calls or messages to Numbers in the Block ;
 - (b) the contents of calls or messages to Numbers in the Block, if the charges relate in any way to the contents ;
 - (c) the networks required to route traffic to and from Numbers in the Block, if the Numbers are not telephone numbers ; and
 - (d) the means of implementing Service Provider Number Portability for the Numbers in the Block, if for the Block there are regulations that introduce Service Provider Number Portability.
7. (1) A Licensee shall not use a Number to provide a service unless the service satisfies the applicable Usage Conditions at the time of use.
- (2) For the avoidance of doubt, the service does not need to have satisfied the Usage Conditions at the time of granting any Assignment that includes the Number.

Modifications to the National Numbering Plan

8. The Commission shall review and if necessary modify the National Numbering Plan pursuant to the review processes under section 72 of the Act. In any such review, the Commission may request and receive advice from external advisory groups but shall not be bound by any such advice.

9. In reviewing or modifying the National Numbering Plan the Commission shall take into account factors including but not limited to –
 - (a) the need to meet demand in a rapidly developing market, for both existing and expected services and for both near and long terms ;
 - (b) the advantages to End Users in not changing the Numbers through which services are taken ;
 - (c) compatibility with agreements, standards and recommendations by the International Telecommunication Union and other relevant organisations ;
 - (d) the benefits and costs of a change to the National Numbering Plan ; and
 - (e) the costs of alternatives to a change to the National Numbering Plan that provide similar benefits.
10. (1) In modifying the National Numbering Plan the Commission shall do only some or all of –
 - (a) changing which Blocks have Expected to become Assignable, Unusable or Retained as their Allocation Status;
 - (b) changing the Usage Conditions ; and
 - (c) changing Numbers by replacing, inserting or deleting digits.
 (2) For the avoidance of doubt, the creation of Assignments, the return of Blocks and the withdrawal of Blocks are not modifications to the National Numbering Plan but are changes in the Allocation Status of Blocks that are maintained and published in the National Numbering Plan.
11. If the Commission modifies the National Numbering Plan by replacing, inserting or deleting digits in Numbers –
 - (a) the Commission shall ensure that advertising or advisory material, explaining the practical

consequences of the modification to customers, is made publicly available at least six (6) months before the modification occurs ;

- (b) the Commission shall inform Licensees about the modification at least twelve (12) months before the modification occurs; and
- (c) the Commission shall inform the International Telecommunication Union and any necessary foreign telecommunication administrations about the modification at least six (6) months before the modification occurs.

12. Every Licensee shall implement a modification to the National Numbering Plan at the time and in the manner that the Commission determines for the Licensee.

Utilisation of Numbers

13. Every Licensee shall at the end of each year submit to the Commission information required by the Commission for auditing Utilisations. In doing so the Licensee shall adopt the format prescribed by the Commission and state for each Assignment –

- (a) the quantity of Numbers having each Utilisation Status;
- (b) the services that use the Assignment ; and
- (c) any other information that the Commission may from time to time require to assess Utilisations.

14. The Commission shall at the end of each year summarise and publish the information submitted by Licensees under Regulation 13.

15. The Utilisation Status of a Number assigned to a Licensee shall be –

- (a) “111 Service” if an End User is taking service through the number from the Licensee or another Licensee ;
- (b) “For Withdrawal” if the Number does not have In Service as its Utilisation Status and the

Commission has informed the Licensee that the Number is proposed for withdrawal pursuant to Regulations 25 and 26;

- (c) "In Quarantine" if the Number does not have In Service or For Withdrawal as its Utilisation Status and an End User was taking service through the Number within the previous three (3) months or some longer period of time identified by the Licensee ;
- (d) "Unsuitable" if the Number does not have In Service, For Withdrawal or In Quarantine as its Utilisation Status and the Licensee considers that the Number should remain out of service to avoid possible human errors or system constraints ; or
- (e) "Available" if the Number does not have In Service, For Withdrawal In Quarantine or Unsuitable as its Utilisation Status.

Assigning Numbers

16. A Licensee may apply to the Commission for an Assignment. In doing so the Licensee shall use the forms made available by the Commission to state –

- (a) the name and contact details of the applicant;
- (b) the Licence under which the application is made;
- (c) the services intended to use the Assignment ;
- (d) the geographic areas for completing calls or transmitting messages to the Numbers to be included in the Assignment;
- (e) the quantity of Numbers requested for inclusion in the Assignment;
- (f) any particular Blocks requested for inclusion in the Assignment;
- (g) the Utilisation of the Assignment predicted for twelve (12) months after the grant of the Assignment;

- (h) the current Utilisations of existing Assignments to the applicant for the intended services;
 - (i) an indication of which, if any, portions of the application are confidential to the Commission ;
 - (j) any other information that the applicant considers necessary or appropriate to justify the application ; and
 - (k) any other information that the Commission may, from time to time, require to assess the application.
17. The Commission may refuse or grant an application for an Assignment and in granting of an Assignment it may be subject to variations in—
- (a) the quantity of Numbers included in the Assignment ; and
 - (b) the particular Blocks included in the Assignment.
18. In making a decision on an application for an Assignment, the Commission shall take into account factors including but not limited to—
- (a) any earlier decisions about Assignments to the applicant or other Licensees for service similar to the intended services;
 - (b) any statements in the Licence of the applicant about eligibility for providing services or being assigned Numbers ;
 - (c) the Usage Conditions ;
 - (d) the digit analysis capabilities of communications networks that are operated in the Federal Republic of Nigeria ;
 - (e) the Utilisation of the Assignment predicted for twelve (12) months after the grant of the Assignment over the next three (3) years ;
 - (f) the current Utilisations of existing Assignments to the applicant for the intended services ;
 - (g) the quantity and fragmentation of Blocks that do not have “Assigned” as their Allocation Status; and

- (h) any Contraventions by the Licensee pursuant to Regulation 49.
- 19. (1) The Commission shall review and make decisions regarding applications for Assignments in the order in which the applications are received by the Commission.
- (2) The Commission shall communicate its decision on an application to the applicant, including reasons for any refusal of an application, within one month of receiving the application.
- 20. (1) The Commission shall require that for each Assignment—
 - (a) each Block in the Assignment has Assignable as its Allocation Status immediately before the Assignment is created ;
 - (b) each Block in the Assignment has the same Usage Conditions ;
 - (c) the services intended to use the Assignment satisfy the applicable Usage Conditions ; and
 - (d) each Block in the Assignment adjoins another Block or another Assignment that has the same Usage Conditions, unless there is no such other Block or particular Blocks being requested in the application for the Assignment.
- (2) For the avoidance of doubt, the creation of Assignments, the return of Blocks and the withdrawal of Blocks may split or combine Blocks that would otherwise be identified separately in the National Numbering Plan.

Returning Numbers

- 21. A Licensee may apply to the Commission for approval to return a Block and in doing so, the Licensee shall use the forms made available by the Commission to state—
 - (a) the name and contact details of the applicant ;
 - (b) the particular Block to be returned to the Commission ; and

- (c) an affirmation that every Number in the Block has available as its Utilisation Status.
- 22. The Commission shall refuse or grant an application for approval to return a Block and the granting approval to return a Block it may be subject to variations in—
 - (a) the quantity of Numbers to be returned to the Commission ; and
 - (b) the particular Block to be returned to the Commission.
- 23. In making a decision about an application for approval to return a Block, the Commission shall take into account factors including but not limited to—
 - (a) the digit analysis capabilities of communications networks that are operated in the Federal Republic of Nigeria ; and
 - (b) the quantity and fragmentation of Blocks that do not have Assigned as their Allocation Status.
- 24. (1) The Commission shall review and make decisions regarding applications for approval to return Blocks in the order in which the applications are received by the Commission.
- (2) The Commission shall communicate its decision on an application to the applicant, including reasons for any refusal of an application, within one (1) month of receiving the application.

Withdrawing Numbers

- 25. The Commission may withdraw a Block from an Assignment only if—
 - (a) a Number in the Block is used for a service that does not satisfy the applicable Usage Conditions;
 - (b) no Number in the Block has been brought into service within twelve (12) months of the grant of the application for the Assignment ; or
 - (c) the Block is needed for advancing a clearly identified national interest.

26. The Commission shall notify a Licensee about the nature of and the reasons for, a proposal to withdraw a Block from an Assignment to the Licensee at least six (6) months before the Commission withdraws the Block.
27. Where the Commission notifies a Licensee about a proposal to withdraw a Block from an Assignment to the Licensee –
 - (a) the Licensee shall not thereafter bring into service any Numbers in the Block unless the Commission informs the Licensee that it has decided not to withdraw the Block ;
 - (b) the Licensee shall inform any affected customers about the reasons for the proposal to withdraw the Block and about replacements for the Numbers in the Block at least two (2) months before the Commission withdraws the Block ; and
 - (c) the Licensee shall remove from service all of the Numbers in the Block at least one (1) month before the Commission withdraws the Block.

Bringing Numbers into Service

28. Every Licensee shall provide to the Commission the contact details of the officers who are intended to receive notifications about the routing of traffic.
29. The Commission shall forward information about the contact details of officers that are provided by Licensees under Regulation 28 in response to requests for those details.
30. (1) Every Licensee shall notify other Licensees and any relevant foreign telecommunication operators that traffic is to be routed to and from a Number at least one (1) month before the Licensee brings the Number into service.
- (2) For the avoidance of doubt, the Commission shall not be responsible for notifying any party that Numbers are to be brought into service.

31. A Licensee may bring a Number into service if —
 - (a) the Licensee has been assigned the Number ;
 - (b) the Number is to be used for a service that satisfies the applicable Usage Conditions ; and
 - (c) the Number has Available as its Utilisation Status.
32. The Commission may notify Licensees that traffic is not to be routed to and from a Number if —
 - (a) the Number is in a Block that does not have Assigned as its Allocation Status ; or
 - (b) the Number is used for a service that does not satisfy the applicable Usage Conditions.
33. Every Licensee shall route traffic to and from a Number to which another Licensee is providing service unless —
 - (a) the Commission, pursuant to Regulation 32, has notified the Licensee to the contrary ; or
 - (b) the Number is in a Block that has Usage Conditions which clearly provide otherwise.

Porting Numbers

34. In developing or in the ongoing management of the National Numbering Plan and pursuant to section 128 (3) of the Act, the Commission may issue one or more decisions or directions or regulations regarding the introduction of Service Provider Number Portability. In issuing such decisions or directions, the Commission shall consult with Licensees regarding implementation factors including but not limited to —
 - (a) helping customers to understand the relation between Numbers and charges for calls and messages, and how charges may change if there is Service Provider Number Portability ;
 - (b) facilitating the use of Service Provider Number Portability, once introduced ;
 - (c) the benefits and costs of Service Provider Number Portability ; and

- (d) the costs of alternatives to Service Provider Number Portability that provide similar benefits.
- 35. Every Licensee that is providing service to a Number shall facilitate the provision of service through the Number by another Licensee if –
 - (a) the Commission, pursuant to Regulation 32, has not notified the Licensee to the contrary ;
 - (b) the other Licensee has undertaken to provide service to the Number ; and
 - (c) the Number is in a Block for which Service Provider Number Portability has been introduced pursuant to Regulation 34.
- 36. A Licensee shall not undertake to provide service to a Number assigned to another Licensee unless –
 - (a) the Licensee that is making the undertaking can provide the service under its Licence ;
 - (b) an End User is taking service through the Number at the time of the undertaking ;
 - (c) the End User was asked to take service through the Number from the Licensee that is making the undertaking ; and
 - (d) the Number is to be used for a service that satisfies the applicable Usage Conditions.
- 37. Every Licensee that has provided service to a Number assigned to another Licensee shall return the Number to the other Licensee if the Number is removed from service.

Transferring Numbers and Limitations on Rights of Licenses to Use Numbers

- 38. Every Licensee shall transfer an Assignment to another party if the Licensee transfers the Licence under which the application for the Assignment was made.
- 39. A Licensee shall not claim that it has exclusive, perpetual or other proprietary rights in particular Codes

or Numbers, including but not limited to rights in Codes or Numbers that represent a business name or brand.

Rights of End Users Relating to Numbers

40. Every Licensee shall change the End User taking service through a Number, or the Number through which an End User takes service, if—
 - (a) the End User taking service through the Number used before the change has requested the change;
 - (b) the End User intending to take service through the Number used after the change has requested the change ;
 - (c) the Number used after the change identifies the same Network Termination Point as the Number used before the change ; and
 - (d) the Number used after the change is used for a service that satisfies the applicable Usage Conditions.
41. A Licensee shall not change the Network Termination Points that are identified by a Number through which an End User is taking service unless—
 - (a) the end User taking service through the Number has requested the change ; and
 - (b) the Number is to be used for a service that satisfies the applicable Usage Conditions.
42. Every Licensee shall state in the terms and conditions for services provided to End Users through Numbers—
 - (a) that the End Users do not own the Numbers ;
 - (b) that the smallest period of time for which the Licensee will continue to provide the services through the Number even though there are no calls or messages to or from the Numbers ; and
 - (c) any compensation that the end Users may claim from the Licensee if the Licensee is not longer providing services through the Numbers.

43. Every Licensee shall supply information for public access on a Number through which an End User is taking service if—
- (a) the Commission or a person authorised by the Commission has requested the information for public access ;
 - (b) the Licensee has stated in the terms and conditions for the service that the information may be supplied ; and
 - (c) the End User has not requested that the information be withheld.
44. A Licensee shall not supply a calling line identity or presentation if the calling End User has requested its suppression.
45. A Licensee shall not supply a called line identity for presentation if the called End User has requested its suppression.

Fees for Assignments

46. The Commission shall, from time to time, determine and publish the schedule of fees for Assignments and shall supply the schedule of fees for Assignments in response to requests for that information.
47. (1) In determining the schedule of fees for Assignments, the Commission shall consider some or all of the following factors—
- (a) the administrative and operational expenses incurred by the Commission in maintaining the National Numbering Plan ;
 - (b) the Usage Conditions ;
 - (c) the distinction between initial fees that are payable on the grant of Assignments and renewal fees that are payable on anniversaries of those grants ;
 - (d) encourage the efficient use of existing Assignments ;

- (e) encourage the use of Blocks that are no larger than necessary ;
 - (f) encourage the use of Blocks that adjoin other Blocks that have Assigned as their Allocation Status ; and
 - (g) encourage the return of Blocks from existing Assignments.
- (2) Every Licensee shall pay the initial fees for Assignments and the renewal fees for Assignments as directed by the Commission.

Contravention And Enforcement

48. Every Licensee that fails to fulfil an obligation in these Regulations or the National Numbering Plan, or any other numbering related obligation under the Act, has committed a Contravention.
49. If a Licensee commits a Contravention, the Commission may take one or more of the following enforcement measures –
- (a) refusing applications for Assignments ;
 - (b) imposing administrative fines pursuant to Regulation 14 of the Enforcement Processes Regulations ; and
 - (c) issuing one or more directions pursuant to section 53 of the Act.
50. In considering the application of enforcement measures under Regulation 49, the Commission may take into account factors including but not limited to –
- (a) the factors and considerations set out in Regulation 14 of the Enforcement Processes Regulations ; and
 - (b) any failure to fulfill obligations that arise partly or wholly from the failures of another Licensee.
51. The Commission may, from time to time, review and modify these Regulations, including the Schedule, pursuant to the review processes of Section 72 of the

Act and in doing so the Commission may request and receive advice from external advisory groups but shall not be bound by any such advice.

52. The Commission may from time to time issue additional rules, directions or guidelines on any aspect of these Regulations, and either of general application or specific to a Licensee.

53. In these Regulations terms defined shall have the same meanings as in the Act and unless the context otherwise requires –

“Act” means the Nigerian Communications Act 2003 ;

“Allocation Status” means the status of a Block defined pursuant to Regulation 5;

“Assignment” include a set of Blocks that consist of Numbers that are defined by the National numbering Plan;

“Block”, as illustrated by the examples in the Schedule to these Regulations, means a set of consecutive Numbers that has as its least Number the result of multiplying the Code of the Block by the Size of the Block and that has as its greatest Number one (1) less than the result of adding its Size to its least Number;

“Charge” includes fees or tariff rates applied to Numbers;

“Code” means a positive integer that forms the most significant digits of each of the Numbers in a Block ;

“Contravention” means any failure to comply with the requirements identified in Regulation 49;

“End User” means a Customer that is not an Interconnecting Licencee or a provider of an international route to or from the Federal Republic of Nigeria;

“Enforcement Processes Regulations” means the Nigerian Communication (Enforcement Processes, etc.) Regulations 2005, S. I. 7 of 2005, as those regulations

may be amended from time to time;

“Interconnecting Licensee” means a Licencee that has an Interconnection with another Licencee at a Network Termination Point;

“IP” means the Internetwork Protocol that is defined by the Internet Engineering Task Force and that is often known as the Internet Protocol;

“National Numbering Plan” means the numbering and electronic addressing plan developed under section 128(2) of the Act, excluding these Regulations ;

“Network Termination Point” means a point at which a customer has physical access through customer equipment to a Network of a Licencee ;

“Number”, as illustrated by the examples in the Schedule to these Regulations means a sequence of digits preceded by * or # if necessary and followed by * or # if necessary that might be used to identify customers the Network Termination Points that are associated with a particular service of an End User ;

“Service Provider Number Portability” means letting an End User take service from one Licencee through a Number assigned to another Licencee ;

“Size” means a positive integer that is one (1), ten (10), one hundred (100), one thousand (1000), ten thousand (10000), one hundred thousand (100000), one million (1000000), ten million (10000000) or one hundred million (100000000) and that represents the quantity of Numbers in a Block ;

“Usage Conditions” means the conditions that shall be satisfied by services that use the Numbers in a Block;

“Utilisation” means the proportion of Numbers that have in Service as their Utilisation Status; and

“Utilisation Status” means the status of a Number defined pursuant to Regulation 15.

54. These Regulations may be cited as the Numbering Regulations 2008.

Schedule

Examples of Numbers and Blocks

1. These examples are based on the National Numbering Plan as published at the time of preparation of these Regulations.
2. In these Regulations, the trunk prefix is not regarded as part of the Number. Doing this is both convenient for the definitions in the Regulations and consistent with the recommendations of the International Telecommunication Union. In consequence, a customer dialing 012691531 in Nigeria is using the Number 12691531 with the trunk prefix 0. In the current implementation of the National Numbering Plan, this Number actually identifies the Lagos area ('1'), the Ikoyi exchange ('269' and one line out of ten thousand (10000) lines that have been assigned to this part of Lagos. In the terminology of these Regulations, there is a Block that has 1269 as its Code and 10000 as its Size. It contains all the Numbers between its least Number : 12690000 ($=1269 \times 10000$), and its greatest Number, 12699999 ($=1269 \times 10000 + 10000 - 1$). It has Assigned as its Allocation Status (because it has been assigned to a Licensee for use in that part of Lagos).
3. A customer dialing 01732531 in Nigeria is using the Number 1732531 with the trunk prefix 0. In the current implementation of the National Numbering Plan, this Number actually identifies the Lagos area ('1'), the Bagadry exchange ('732') and one line out of one thousand (1000) lines that have been assigned to this part of Lagos. In the terminology of these Regulations, there is a Block that has 1732 as its Code and 1000 as its

Size. It contains all the Numbers between its least Number, 1732000 ($= 1732 \times 1000$), and its greatest Number, 1732999 ($= 1732 \times 1000 + 1000 - 1$). It has Assigned as its Allocation Status (because it has been assigned to a Licensee for use in that part of Lagos).

4. According to the National Numbering Plan, in this part of Lagos other Blocks could be assigned but have not been assigned yet. For instance, the Block containing all the Numbers between 1734000 ($= 1734 \times 1000$), and its greatest Number, 1734999 ($= 1734 \times 1000 + 1000 - 1$) has 1734 as its Code and 1000 as its Size. It has Assignable as its Allocation Status (because it could be assigned to a Licensee for use in that part of Lagos but has not been assigned),
5. The Blocks mentioned so far have Usage Condition that restrict the geographic areas for receiving calls or messages (to Lagos or parts of Lagos). However, some Blocks in the National Numbering Plan do not have Usage Conditions like these. In particular, this is so for the Block containing all the Numbers between 8040000000 ($= 804 \times 10000000$) and 8049999999 ($= 804 \times 10000000 + 10000000 - 1$), which has 804 as its Code, 10000000 as its Size and Assigned as its Allocation Status.
6. Some Blocks have not yet been given purposes; an example is the Block containing all the Numbers between 8000000000 ($= 800 \times 10000000$) and 8009999999 ($= 800 \times 10000000 + 10000000 - 1$), which has 800 as its Code and 10000000 as its Size. In many countries a Block having this Code is used for freephone services. Possibly in Nigeria this Block should have Expected to Become Assignable as its Allocation Status, with the expectation that in due course it would be used for freephone services; it would then have a Usage Condition that would restrict the charges for calls or messages (as calls and messages would be free). However, the use of the Block for freephone, or any other services might be

confusing because of the similarity between its Code and the Codes for mobile telephone numbers; in that case the Block should have Unusable as its Allocation Status. Until the purpose of the Block is determined it should have Retained as its Allocation Status.

7. As these examples show, Blocks can have very different sizes. Assignments can split them into other Blocks, some of which have Assigned as their Allocation Status and some of which have Assignable as their Allocation Status. Blocks are intended just for ease of description, assignment and routing. In fact, a Block could be any set of consecutive Numbers that has a suitable Code and a suitable Size, provided that there is one Allocation Status and the same Usage Conditions throughout the set.
8. The International Telecommunication Union calls a telephone number such as 12691531 (without the trunk prefix) a 'National (Significant) Number'. However, telephone numbers are not the only Numbers in the terminology of these Regulations. In particular, short codes for fixed telephones and mobile telephones are also Numbers.
9. Short codes are often assigned individually. In such cases they correspond to Blocks that have 1 as their Size. For instance, the national emergency number given in the National Numbering Plan, 115, can be regarded as the Block containing all the Numbers between 115 ($=115 \times 1$) and 115 ($=115 \times 1 + 1-1$), which has 115 as its Code and 1 as its Size.
10. Nonetheless some short codes have in effect been assigned in larger Blocks. For instance, in the National Numbering Plan one set of short codes intended for prepaid and internet services is the Block containing all the Numbers between 15000 ($= 15 \times 1000$) and 15999 ($= 15 \times 1000 + 1000-1$), which has 15 as its Code and 1000 as its Size. A customer dialing 15999 in Nigeria can gain access to a prepaid calling card service and

can then dial, say, 012691531 (possibly preceded by a Personal Identification number). In such respects, a prepaid calling card service number is like a carrier selection code that in many countries would be used for call-by-call selection of the trunk network.

11. The same national emergency number should be usable on all access networks. By contrast, a prepaid calling card services number might be usable only on a particular access network. The Block containing the prepaid calling card services number would then have a Usage Condition that restricts which networks were required to route traffic to and from it. Such a Usage Condition would be inappropriate for a Block containing telephone numbers (as opposed to short codes), because telephone numbers are intended to be usable on all access networks.

MADE at Abuja this 12th day of November, 2008.

ENGR. ERNEST NDUKWE, (OFR)
Executive Vice-Chairman

12

Number Regulations, 2008

Interpretation, Objectives and Scope

1. (I) In these Regulations and the Schedules thereto, terms used shall have the same meanings as in the Act, and;
- “*Access Service*” means a service that is provided for communications to or from Network Termination Points that serves end users without making the communications pass through more than one public network;
- “*Act*” means the Nigerian Communications Act, 2003 ;
- “*Average*” or “*Mean*” means the result of dividing the sum of the numerical values in a set by the number of values in the set;
- “*Broadband Internet Access Service*” means an Internet Access Service that is not a Voiceband Internet Access Service;

"BSC" means Base Station Controller as defined in Schedule 2;

"BTS" means Base Transceiver Station as defined in Schedule 2;

"Busy Time" means the set of the same six hours in each of the same four days in each of twelve weeks of a Reporting Period during which the highest average traffic for a service is measured or expected on the basis of observations conducted in the preceding Reporting Period;

"Busy Hour (BH)" means the continuous 1-hour period lying wholly in the time interval concerned for which the traffic or number of call attempts is greatest;

"Call Attempt" means an attempt to achieve a connection to one or more devices attached to a telecommunication network;

"Commercial Launch Date" means the date when a Licensee commences commercial provision of a service in a Reporting Area;

"Commission" means the Nigerian Communications Commission;

"Contravention" means any failure to comply with the requirements identified in the Regulations;

"End User" means a Customer that is not an Interconnecting Licensee or a provider of an international route to or from the Federal Republic of Nigeria;

"Enforcement Processes Regulations" means the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005, as may be amended from time to time;

"Fixed Telephony Service" means a Telephony service that is not a Mobile Telephony service ;

"Fixed Wireless Telephony Service" means a Fixed Telephony service that requires the use of radio frequencies assigned under individual Licences to

achieve communications at the Network Termination Points of the End Users;

“Fixed Wireline Telephony Service” means a Fixed Telephony service that is not a Fixed Wireless Telephony service ;

“Interconnecting Licensee” means a Licensee that has an Interconnection with another Licensee at a Network Termination Point;

“Internet Access Service” means an Access service that is an Internet service;

“Internet Service” means a service that is provided substantially for data communications to or from Network Termination Points that have IP addresses that are assigned through delegation from the Internet Assigned Numbers Authority;

“IP” means the Internetwork Protocol that is defined by the Internet Engineering Task Force often known as the Internet Protocol;

“KPF” means Key Performance Indicators;

“Licensee” in these Regulations means a person or incorporated company granted a communications licence by the Commission to provide fixed or mobile telephony services within Nigeria;

“Measurement” means a numerical value that is obtained by using a Measurement Method;

“Measurement Method” means a method of measuring a Parameter that is identified in sub-regulation (2) of Regulation 5 of these Regulations;

“Mobile Telephony Service” means a Telephony service that requires the use of radio frequencies assigned under individual Licences to achieve communications at the Network Termination Points of the end users and that permits the end users to move between different geographic locations without losing communications ;

“MSC” means Mobile Switching Centre;

“Network Termination Point” means a point at which

a customer has physical access through customer equipment to a network of a Licensee;

"Parameter" means a measurable characterization of the quality of an aspect of a service;

"Published Measurement" means a Measurement that is intended for publication with content and format that is identified in Regulation 10 of these Regulations ;

"Quality of service standards" means-

- (a) parameters, defining the applicable quality of service standards for specific services;
- (b) the methods of taking measurements that measure service performance against prescribed parameters described as "Measurement Methods" in sub-regulation (2) of regulation 5 of these Regulations; and
- (c) any applicable targets for the prescribed parameters identified in Schedule I of these Regulations;

"Reporting Area" means a geographic area for which Measurements are taken and recorded, determined in accordance with regulation 6 of these Regulations;

"Reporting Period" means the period of time over which Measurements are taken and recorded and against which a fine can be calculated when a Licensee or the Commission performs quality of service measurement, reporting, enforcement and record keeping tasks once for each Reporting Area, parameter and service, determined in accordance with sub-regulation (I) of regulation 5 or as may be specified in other parts of these Regulations or as determined and communicated by the Commission from time to time;

"Service" means application, content, network or facilities service or any combination of these services, that is provided substantially for communications between Network Termination Points;

"Target" means a value that is reached by a given parameter where the relevant service identified in these Regulations or its Schedules is satisfactory;

"Telephony Service" means a Service that is provided substantially for voice communications to or from Network Termination Points that has telephone numbers that are allocated according to the Numbering and electronic addressing plan; and

"Voiceband Internet Service" means any Internet Access service that provides communications from Network Termination Points and that requires the use of a Telephony Access Service to achieve communications.

- (2) In these Regulations, particularly, for the purpose of measuring standards indicated or specified herein, whenever there is a difference between the definitions expressed in words and those alternative definitions expressed in mathematical terms, the meanings attributed to the latter definitions shall prevail and Mathematical definitions shall supersede the definitions in words.
 - (3) The Licensee shall ensure that, where exact counters are not provided in its network or systems, formulas with similar effect are used for each parameter computations.
2. The objectives of these Regulations are to—
- (a) ensure the protection and promotion of the interests of consumers against unfair practices including matters relating to tariffs and charges, the availability and quality of communications services, equipment and facilities;
 - (b) improve service quality by identifying service deficiencies and by encouraging, enforcing, effecting or requiring appropriate changes and solutions;
 - (c) maintain service quality, while recognizing environmental and operating conditions;

- (d) make available information that will help customers make an informed choice of services and service provider;
 - (e) improve the operation and performance of interconnected networks ; and
 - (f) assist the development of related telecommunications markets.
3. These Regulations stipulates the minimum quality and standards of service, associated measurements, reporting and record keeping tasks.

Measurement, Reporting and Record Keeping

4. (I) The quality of service standards under these Regulations have been developed in accordance with-
- (a) measurements required for features of services that are significant, with an emphasis on services that are subject to limited competition ;
 - (b) measurement methods and related reporting of information to enable the Commission compare the service quality of Licensees fairly which should not unnecessarily restrict the measurement or other quality of service monitoring practices of Licensees ; and
 - (c) any applicable targets or Key Performance Indicators ('KPIs') and other characteristics of the identified quality of service standards appropriate to the Federal Republic of Nigeria.
- (2) A Parameter shall be used to report for a service and measurements and related reporting of the parameters shall be required where it is one of those stated in these Regulations or listed in the Schedule to these Regulations.
5. (I) Unless otherwise stated in these Regulations, the Reporting Periods, which are the periods of time over which measurements are taken and recorded, shall be one month starting from the 1st day of every applicable calendar month to the last day of the month or as the

Commission may, from time to time, determine and communicate to the relevant Licensees.

- (2) The Commission shall in carrying out Measurement and Data Acquisition functions use any of the following methods :
 - (i) Drive test ;
 - (ii) Mobile Station Probes tests ;
 - (iii) Consumer survey ; and
 - (iv) Data collection from Operators, the Commission's Network Operating Centers ('NOCs') or Network Management Centers ('NMCs').
 - (3) The Commission's NOC or NMC may rely on real-time data acquired from feeds from Operators NOCs or NMCs.
 - (4) KPI Measurements may be carried out at all network segments including BTS, Cell, BSC or MSc levels.
6. (1) The Reporting Areas which are the geographic areas for which Combined measurements are taken and recorded, shall be- Reporting
- (a) a specific geographic area or driving routes;
 - (b) the States of the Federal Republic of Nigeria; or
 - (c) the Federal Capital Territory;
- taken separately unless the prior written approval of the Commission has been obtained that two or more Reporting Areas be combined into one Reporting Area for particular Licensees, parameters, services and Reporting Periods.
- (2) The reporting areas must be such that performance of different clusters representing different geographic areas in the states as specified by the Commission is easily obtainable.
 - (3) In considering whether to grant approval that two or more Reporting Areas be combined into one Reporting Area under regulation 6, the Commission shall take the

following factors into account-

- (a) the value of information about variations in quality of service between separate Reporting Areas;
 - (b) the relationship between the network structure and corporate organisation of the relevant Licensees and the physical boundaries of the Reporting Areas ;
 - (c) the numbers of consumers using the relevant services in the Reporting Areas; and
 - (d) the difference in costs between taking measurements for separate Reporting Areas and taking measurements for combined Reporting Areas.
7. For each parameter that is Reportable for a Service, Reporting Area and for each Reporting Period, a Licensee shall perform the following measurement, reporting and record keeping tasks-
- (a) take the measurements according to the Measurement Method defined;
 - (b) submit the measurements to the Commission within one week after the end of the Reporting Period and ensure availability of real-time performance data from the performance measurement or management systems of the Licensee to the Commission via a mode specified by the Commission ;
 - (c) submit any additional information requested by the Commission, including details of the times, places , Network segments and other particulars of the measurements, within one month after the end of the Reporting Period or as may be directed by the Commission ; and
 - (d) retain quality of service data, including all measurements and related records , for a minimum of twelve months after the end of the

Reporting Period or as may be directed by the Commission.

8. (1) The Licensee shall resolve any consumer complaint within the resolution-time stated in these Regulations or as may be approved by the Commission from time to time.
- (2) Where a Licensee fails to resolve a consumer complaint in accordance with sub-regulation (I) of this regulation, the Licensee shall compensate the consumer in addition to paying any fines that may be imposed by the Commission.
- (3) A Licensee shall be sanctioned by the Commission where the rate of occurrence of a particular complaint exceeds the maximum number stated in

Publications

9. (1) The Commission may after due analysis, mandate or request Licensees to make necessary amendments or corrections to the measurements submitted by Licensees under regulation 7 of these Regulations .
- (2) The Commission may publish some or all the KPI measurements within two months after the end of each Reporting Period to which the measurements apply with or without additional notes or comments.
10. (1) For each parameter that is Reportable for a service, Reporting Area, identified network segments, and for each Reporting Period, measurements as published or to be used for enforcement by the Commission under these Regulations shall be set out in tables that contain, for each Licensee-
 - (a) the name of the service provided by the Licensee;
 - (b) an identification of the Reporting Area, driving route or Network segments for which the measurements were taken ;
 - (c) the measurements collected from or submitted by the Licensee ;

- (d) an indication of any target for the parameter and the service that has not been achieved by the Licensee ;
 - (e) any explanatory remarks by the Licensee, accepted by the Commission, including but not limited to remarks about changes in environmental or operating conditions that could not have been reasonably foreseen by the Licensee ; and
 - (f) any other information or comparison of service quality that the Commission determines to be appropriate, including information to help the Commission or subscriber to assess the performance of competing Licensees.
- (2) In considering whether to approve explanatory remarks by a Licensee under paragraph (e) of sub-regulation (1) of this regulation, the Commission may take the following factors into account-
- (a) service deficiencies that arise partly or wholly from the services of another Licensee ;
 - (b) changes in environmental or operating conditions that could not have been reasonably foreseen by the Licensee; and
 - (c) expectations about quality of service that are appropriate to the tariffs and other commercial terms for the services of the Licensee.

Investigation

11. (1) The Commission may audit some or all of the quality of service data acquired from the Licensee under sub-regulation (2) of Regulation 5 or data retained by Licences
- (2) In carrying out its obligations under sub-regulation (1) of this regulation, the Commission may vary the frequency of the audits, data collection, the Licensees services, parameters, Reporting Areas, network segments and Reporting Periods that require audits.

- (3) The Commission may also utilize data acquired under regulations 5(2) and 7(b) in its auditing processes.
- 12. (1) The Commission may investigate the quality of service measurement, reporting and record keeping procedures of a Licensee pursuant to the provisions of sections 61 and 89 of the Act.
- (2) In carrying out its duties under sub-regulation (1) of this regulation, the Commission may exercise its powers of information gathering pursuant to sections 64-68. and section 141 of the Act.

Contraventions and Enforcement

- 13. For each parameter for a service, Reporting Area, prescribed Network Contraven-Segment and for each Reporting Period, a Licensee providing the service shall have contravened the provisions of these Regulations; if the Licensee-
 - (a) fails to perform the measurement, reporting and record keeping tasks set out in regulation 7 of these Regulations;
 - (b) fails to achieve the set target for the parameter and the service:
 - (i) after the commencement date of these Regulations ; or
 - (ii) the date when the target was most recently specified ; or
 - (iii) the date when the target was changed to require a higher standard of quality than was earlier required ;
 - (c) fails to submit, during a time-frame specified by the Commission, information requested by the Commission pursuant to regulation 7 or regulation 10 of these Regulations ;
 - (d) submits or publishes false or misleading information about its quality of service ; or
 - (e) obstructs or prevents an investigation or real-time collection of performance data by the

Commission in respect of quality of service measurement, reporting and record keeping procedures.

- I 4. Where a Licensee contravenes any of the parameters set out in these Regulations, Enforcement the Commission may take one or more of the following enforcement measures : Measures.
 - (a) require the Licensee to submit or publish additional information about the .quality of the relevant service including but not limited to its implementation of a remedial plan within a time-frame agreed with the Commission.
 - (b) any information submitted may be cross-checked against the performance data collected by the Commission under regulations 5(2) and 7(b) of these Regulations;
 - (c) issue directions pursuant to section 53 of the Act including but not limited to directing Licensees to compensate subscribers or consumers for poor quality of service ; and
 - (d) impose a fine on the contravening Licensee as determined under Schedule 3 to these Regulations.
15. In considering the application of enforcement measures under regulation 14 of these Regulations, the Commission may take into account factors including the-
 - (a) factors and considerations set out in regulation 15 of the Enforcement Processes Regulations, 2005 or any applicable section of an amendment of the said Regulations ;
 - (b) time interval between a failure to perform the measurement, reporting and record keeping tasks and due compliance ;
 - (c) time interval between identification and the resolution of faults or problems inhibiting real-

- time data acquisition under paragraph (b) of regulation 7 of these Regulations ;
- (d) time taken to achieve targets specified by the Commission in these Regulations;
- (e) numbers and nature of the services, Parameters, Reporting Areas, relevant Network Segment, Reporting Periods and Targets which the Licensee has contravened ;
- (f) service credits or rebates, as well as public information that have been provided by the Licensee to subscribers who may have been inconvenienced or otherwise affected by the contraventions ; and
- (g) factors set out in Table 2 of Schedule I to these Regulations where the rate of occurrence of a particular complaint exceeds the maximum number specified.

Miscellaneous

16. (1) The Commission may from time to time review or modify these Regulations, including the Schedules, pursuant to section 72 of the Act.
- (2) In carrying out a review or modification of these Regulations the Commission may request and receive advice or comments from external advisory groups which advice shall not be binding on the Commission.
17. The Commission may time issue additional rules, directives or guidelines on any aspect of these Regulations which shall be of general application or specific to a Licensee.
18. (1) The Quality of Service Regulations, S. I. No.3, 2012, is hereby revoked.
- (2) The revocation of the Regulations specified in sub-regulation (1) of this regulation shall not affect anything done or purported to be done under or pursuant to the revoked regulation.

19. These Regulations may be cited as the Quality of Service Regulations, 2013.

Fines for Contravention

Fines will be calculated on the basis of the provisions of regulation 13 hereof for each Parameter and Key performance indicator for a service, for each Reporting Area, for each identified network segment or node and for each Reporting Period a Licensee shall have contravened these Regulations as follows:

<i>Offence</i>	<i>Maximum fine per Contravention</i>
Failure by a Licensee to perform measurement, reporting and record keeping tasks set out in regulation 10.	N15,000,000 for each act of contravention and N2,500,000 for each day that the contravention continues to occur.
Failure by a Licensee to meet and maintain a Target for the Parameter and the Service.	N15,000,000 for each act of contravention and N2,500,000 for each day that the contravention continues to occur.
Failure by a Licensee to submit, during a time period specified by the Commission, information requested by the Commission pursuant to regulation 10 (c) or regulation 15.	N15,000,000 for each act of contravention and N2,500,000 for each day that the contravention continues to occur.
Submission or publication of false or misleading information about quality of service by Licensee.	N15,000,000 for each act of contravention and N2,500,000 for each day that the contravention persists.

Obstructing or preventing an investigation by the Commission in respect of the quality of service measurement, reporting, data collection, and record keeping procedures by a Licensee, its officers, agents, servants, privies etc.	N-15,000,000 for each act of contravention and N2,500,000 for each day that the contravention persists.
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In imposing a fine for each Contravention, pursuant to the applicable provisions of the Nigerian Communications Commission (Enforcement Processes, etc.) Regulations, 2005 or any amendment thereof, or in accordance with the provisions of these Regulations, where there is any difference or conflict between the fines specified in the Nigerian Communications (Enforcement Processes etc) Regulations 2005 or any other Regulation and those specified in these Regulations, the fines specified in the most recent of the Regulations shall prevail.

MADE at Abuja this 22nd day of March, 2013.

DR. E UGENE JUWAH
Executive Vice-Chairman
Nigerian Communications Commission.

13

Registration of Telephone Subscribers Regulations, 2011

Interpretation, Objectives and Scope

1. (1) The terms and expressions used in these Regulations which are defined in the Act shall have the same meaning as in the Act unless the context otherwise requires.
- (2) In these Regulations, unless the context otherwise indicates—
 - “Act” means the Nigerian Communications Act, No. 19 of 2003 ;
 - “activate” means to allow full access to a Licensee’s Network Service, including the ability to make and receive calls, to send and receive short message services and other range of services usually provided by Mobile Telecommunication Service providers and the words “activated”, “activation”,

“deactivate” and *“deactivation”* shall be read and construed accordingly;

“activation window” means the period of one month from the day a subscriber acquires a new line on the network of a licensee, within which a new subscriber is required to register with the relevant licensee and during which, the new subscriber will be granted limited Access ;

“biometric information” refers to finger prints and facial image of a subscriber in accordance with the Registration Specifications (as may be amended from time to time) provided by the Commission for the registration of subscribers;

“Central Database” means subscriber information database, containing the biometric and other registration information of all Subscribers;

“Commission” shall have the same meaning as in the Act ;

“Constitution” means the Constitution of the Federal Republic of Nigeria, 1999;

“effective date” means the date on which these Regulations come into force;

“existing subscriber” means a person who is a subscriber prior to the effective date of these Regulations;

“Foreign Licensee” refers to a Network Service provider licensed by a telecommunications regulator other than the Commission, to provide telecommunication services in a country other than Nigeria;

“General Consumer Code of Practice for Telecommunications Services” means the General Code (as amended from time to time) attached as Schedule 1 to the Nigerian Communications Commission Consumer Code of Practice Regulations, 2006 (as may be amended from time to time);

“Independent Registration Agent” means a company contracted by the Commission for the registration of existing subscribers on such terms as may be agreed upon between the Commission and the company;

“Licensee” mean a provider of Mobile Telephone Services that utilises a subscription Medium in the Federal Republic of Nigeria;

“limited access” means the limitation by a licensee of services available to a subscriber to receive calls and short message services and making of calls to emergency centre numbers and the licensee’s call centre only;

“National Assembly” means the National Assembly of the Federal Republic of Nigeria;

“new subscriber” means a person who becomes a subscriber after the commencement of these Regulations;

“Network service” shall have the same meaning as in the Act;

“personal information” refers to the full names (including mother’s maiden name), gender, date of birth, residential address, nationality, state of origin, occupation and such other personal information and contact details of subscribers specified in the Registration Specifications ;

“Mobile Telephone Services” mean telephone services that utilise a subscription medium ;

“Registration Specifications” mean the Data Dictionary, Guidelines on Fingerprint Quality, specifications for Digital Image Standards and Quality, the XML Schema, Transmission protocol and the Technical Interface specifications and such other specifications and amendments thereto that may be made or issued by the Commission, from time to time, to guide the registration of subscribers and the interaction of Licensees’ or Independent Registration

Agents' databases with the Central Database;

"Security Agency" or "Security Agencies" refers to any or all of the following law enforcement and security agencies:

- (a) Nigerian Police Force
- (b) the Economic and Financial Crimes Commission
- (c) the State Security Service
- (d) the Federal Road Safety Corps
- (e) the National Intelligence Agency
- (f) the Office of the National Security Adviser ; and
- (g) any other law enforcement or Security Agency established by the Federal Government;

"Subscription Medium" means a Subscriber Identity Module (SIM) smart card, a Removable User Identity Module (R-UIM) smart card, a CDMA Subscriber Identity Module (CSIM) smart card, a Universal Subscriber Identity Module (USIM) smart card or any other mobile phone subscription medium marketed from time to time by licensees, containing the telephone number of a subscriber, encoded network identification details, the personal identification number and other user data normally provided by a licensee for the provision of Network Services;

"Subscribers Registration Solution Provider" refers to a company contracted by the Commission for the conceptualisation, design, development and delivery of Registration Solutions covering all Licensees and providing detailed Subscriber Information in a manner facilitating seamless integration into the Central Database;

"subscriber" means a person who subscribes to Mobile Telecommunication Services by purchasing a subscription medium or entering into a subscription contract with a Licensee;

"subscriber information" refers to the Biometrics and other Personal Information of a Subscriber recorded and

stored by licensees or the Independent Registration Agents ; and

“Subscriber Registration Period” means the six months period from the effective date or such other date as the Commission may specify and any extensions thereto that may be announced by the Commission, within which existing subscribers are required to register their Subscription Mediums pursuant to these Regulations.

- (3) Where in these Regulations the context so requires, words in the singular include the plural and words in the plural include the singular.
2. The objectives of these Regulations are to provide –
 - (a) a regulatory framework for the registration of subscribers to Mobile Telephone Services utilising subscription medium in the Federal Republic of Nigeria ; and
 - (b) for the establishment, control, administration and management of the Central Database.
3. These Regulations shall apply to all persons and licensees including –
 - (a) corporate, private and commercial subscribers to Mobile Telephone Services utilising Subscription Medium in the Federal Republic of Nigeria ; and
 - (b) subscribers of foreign licensees who are roaming on the network of a licensee in Nigeria;

Provided that subscribers of foreign licensees shall not be required to register where they have registered their subscriber information in the jurisdiction of the relevant foreign licensee and there exists necessary arrangements between the Commission and the relevant regulatory authority of the foreign licensee to access such subscriber information.

Central Database

4. (1) The Commission shall establish and maintain a database of all registered subscribers' information to be known as "the Central Database".
 - (2) The Central Database shall be domiciled within the Commission and shall provide a platform for the central processing and storage of subscribers information.
 - (3) The Central Database shall be segregated across Network Services in such a manner as to ensure easy access to data by authorised persons in respect of subscribers' information of the different licensees.
5. (1) The Central Database shall be the property of the Government of the Federal Republic of Nigeria.
 - (2) The management, care and control of the Central Database shall be vested in the Commission subject to the provisions of these Regulations.
6. (1) Licensees and independent registration agents shall, on a monthly basis or at such regular intervals as the Commission may from time to time specify, transmit all subscriber Information captured and registered within the preceding month or such other period as may be stipulated by the Commission, to the Central Database.
 - (2) The Administration of the Central Database shall be in accordance with the latest standards issued from time to time by the International Organisation for Standardization in relation to security and management of electronics and personal data.
7. A licensee shall have the right to retain and use its subscribers information on its network in accordance with the provisions of Part VI of the General Consumer Code of Practice for Telecommunications Services and any other instrument issued from time to time by the Commission.
8. (1) Notwithstanding the provisions of these Regulations restricting access to Subscriber Information on the

Central Database and subject to the provisions of any Act of the National Assembly, subscriber information on the Central Database shall be provided only to Security Agencies; provided that a prior written request is received by the Commission from an official of the requesting Security Agency who is not below the rank of an Assistant Commissioner of Police or a co-ordinate rank in any other Security Agency.

- (2) The written notice by the Security Agency pursuant to sub-regulation (1) of this regulation shall indicate the rank of the official of the requesting Security Agency and the purpose for which the information is required.
9. (1) In furtherance of the rights guaranteed by section 37 of the Constitution of the Federal Republic of Nigeria, 1999 and subject to any guidelines issued by the Commission including terms and conditions that may from time to time be issued either by the Commission or a licensee, any subscriber whose personal information is stored in the Central Database or a licensee's database, shall be entitled to view the said information and to request updates and amendments thereto.
- (2) The subscriber information contained in the Central Database shall be held on a strictly confidential basis and no person or entity shall be allowed access to any subscriber information on the Central Database except as provided in these Regulations.
- (3) Licensees, Independent Registration Agents and Subscriber Registration Solution Providers shall not under any circumstances retain, duplicate, deal in or make copies of any Subscriber Information or store in whatever form any copies of the subscriber information for any purpose other than as stipulated in these Regulations or in an Act of the National Assembly.
- (4) Licensees, Independent Registration Agents, Subscriber Registration Solution Providers and the Commission shall each take all reasonable precautions in accordance with international practises to preserve the integrity and

prevent any corruption, loss or unauthorised disclosure of subscriber information obtained pursuant to these Regulations and shall take steps to restrict unauthorized use of the Subscriber Information by their employees who may be involved in the capturing or processing of such subscriber information.

- (5) Licensees shall utilise personal information retained pursuant to these Regulations, solely for their operations and in accordance with the provisions of Part VI of the General Consumer Code of Practice for Telecommunications Services and any other instruments of the Commission or any Act of the National Assembly regulating the specific purposes for which the personal information may be used.
 - (6) Licensees, Independent Registration Agents and Subscriber Registration Solution Providers shall not retain the Biometrics of any subscriber after transmission thereof to the Central Database.
10. (1) Release of Personal Information to Security Agents shall be in accordance with the provisions of the Act, these Regulations and any guidelines or instrument issued from time to time by the Commission and in a format to be determined by the Commission.
- (2) Subscriber information shall not be released to a licensee, Security Agency or any other person, where such release of Subscriber Information would constitute a breach of the Constitution or any other Act of the National Assembly, for the time being in force in Nigeria or where such release of subscriber information would constitute a threat to national security.
 - (3) Licensees shall not release personal information of a subscriber to any third party without obtaining the prior written consent of the subscriber.
 - (4) No subscriber information shall be transferred outside the Federal Republic of Nigeria without the prior written consent of the Commission.

- (5) For the purpose of sub-regulation (3) of this regulation, the term “third party” shall exclude Security Agencies as defined in these Regulations.

Registration

11. (1) Every Licensee shall register a subscribers’ information as specified under sub-regulation (2) of this regulation.
- (2) From the commencement of these Regulations, Licensees, Independent Registration Agents and Subscriber Registration Solution Providers shall in accordance with registration specifications and at no cost to the Commission or the subscriber capture, register and transmit to the Central Database the –
- (a) biometrics and other personal information of subscribers who requests for the activation of the licensee’s subscription medium ; and
 - (b) in the case of a corporate body or other juristic person, the biometrics and other personal information of the authorised representative of the corporate body or other juristic person and the name, address and where applicable, the registration number of the juristic person issued by the Corporate Affairs Commission.
12. (1) Upon the commencement of these Regulations, licensees shall only provide new subscribers with subscription mediums enabled for limited access to their network services and such limited access shall last for the duration of the activation window.
- (2) It shall be the responsibility of a new subscriber to, at any time within the activation window, present personal information to the licensee from whom the subscription medium is obtained for registration in accordance with the requirements of these Regulations.
- (3) Upon the capturing and registration of the biometrics and the personal information of a new subscriber, the licensee shall activate the subscription medium on its

network service and transmit the subscriber's information to the Central Database.

13. (1) Subject to the terms of any contractual arrangement with the Commission, the Licensees, Independent Registration Agents and Subscriber Registration Solution Providers shall carry out the capturing and registration of the biometrics and other personal information of existing subscribers within the subscribers' registration period in accordance with the provisions of regulation 11. (2) of these Regulations and the registration specifications.
- (2) Where the Commission deems it necessary, it may authorise the licensees to undertake the registration of existing subscribers on their respective networks and upon the issuance of any directive authorising such registration, these Regulations shall apply with necessary modifications to such registration, as if reference to new subscriber means existing subscriber.
- (3) Licensees shall support and promote the registration of existing subscribers by the Independent Registration Agents and shall promptly, upon being notified by the Commission, deactivate any subscription where the Personal Information of the Subscriber has not been entered into the Central Database by the end of the Subscriber registration period or such extensions thereof as the Commission may prescribe.
- (4) A deactivated subscription shall be reactivated upon the registration of the Biometric Information and other personal information of the relevant subscriber in accordance with the relevant provisions of these Regulations and confirmation by the Commission of the entry thereof into the Central Database.
14. (1) Subject to the provisions to Regulation 3 of these Regulations and any instrument or guidelines issued from time to time by the Commission, a licensee who is providing roaming services in Nigeria to a subscriber of a foreign licensee shall register the personal

information of such subscriber in accordance with the provisions of these Regulations before providing such subscriber with roaming services.

- (2) For the purposes of sub regulation (1) of this regulation, the activation window shall be a period of 48 hours.
- 15. (1) A licensee may deactivate and deregister a subscription medium upon a request by a subscriber after verification and confirmation of the subscriber information on the subscription medium.
- (2) Records on any deactivation or deregistration shall be transmitted to the Central Database by the licensee in accordance with specifications issued by the Commission.
- 16. There shall be no proxy registration of any subscription medium.
- 17. A person may register any number of Subscription Mediums with any Licensee.
- 18. A subscriber shall be liable for activities carried out using a Subscription Medium registered with that subscriber's personal information.

Penalties

- 19. (1) Any licensee who fails to capture, register, deregister or transmit the details of any individual or corporate subscribers to the Central Database as specified in these Regulations or as may be stipulated from time to time by the Commission is liable to a penalty of N200,000.00 for each subscription medium.
- (2) A licensee who activates any Subscription Medium without capturing, registering and transmitting the personal information to the Central Database commits an offence and shall on conviction be liable to a fine of N200,000.00 for each unregistered activated Subscription Medium.
- 20. (1) Any licensee who activates or fails to deactivate a subscription medium in violation of any provision of these Regulations is liable to a penalty of N200,000.00

for each unregistered but activated subscription medium.

- (2) Where the Commission is satisfied that a body corporate is culpable, the Director, Chief Executive Officer, Manager or Secretary shall also be liable to pay a fine of N200,000 unless, having regard to the nature of his functions in that capacity and to all the surrounding circumstances, he proves that –
 - (i) the offence was committed without his knowledge, consent or connivance ; and
 - (ii) he took all reasonable precautions and exercised due diligence to prevent the commission of the breach.
21. (1) Any entity including licensees, independent registration agents or subscriber registration solution providers who retains, duplicates or deals with Subscriber's information in contravention of any of the provisions of these Regulations is liable to a penalty of N200,000.00 per Subscription Medium.
- (2) Where an entity, including licensees, independent registration agents or subscriber registration solution providers is found to have utilised a subscriber's information in any business, commercial or other transactions, such entity is liable to a penalty of N1,000,000.00 per Subscription Medium.

Miscellaneous

22. The Business Rules and Registration Specifications made or issued by the Commission which may be amended from time to time, shall apply as a part and parcel of these Regulations.
23. These Regulations may be cited as the Nigerian Communications Commission (Registration of Telephone Subscribers) Regulations, 2011.

DR EUGENE JUWAH
Executive Vice Chairman
Nigerian Communications Commission

14

Telecommunications Networks Interconnection Regulations 2007

Rights and Obligations for Interconnection

1. (1) A licensed telecommunications operator shall on receipt of a request for interconnection from another licensed telecommunications operator have an obligation to interconnect its telecommunications network with that licensed telecommunications operator's network in accordance with the principles of section 97 of the Act, these Regulations and any guidelines on interconnection adopted by the Commission.
- (2) A licensed telecommunications operator shall, for each number area for which it has been allocated numbers by the Commission within the range ascribed for fixed services in the national numbering plan, designate a minimum of one point of interconnection located in the

geographic location of that number area in accordance with paragraphs 1(3) and (4).

- (3) A point of interconnection shall be designated by notice in writing to the Commission setting out the location of that point of interconnection and details of the number area that it serves.
- (4) Where a licensed telecommunications operator cannot, within [three months] from the date these Regulations take effect, designate a point of interconnection in a number area for which it has been allocated numbers, the licensed telecommunications operator shall designate on an interim basis for a limited period of no more than [three months] an existing point of interconnection located as close as possible to the geographic location of that number area as the designated point of interconnection for that number area and other areas, such interim designation to be made only with the prior approval of the Commission.
- (5) The Commission may agree to limit the obligation required under paragraph (1) of this regulation, if, as determined by the Commission in its reasonable discretion:
 - (a) an interconnection agreement is prohibited by law; or
 - (b) the licence issued to an operator does not authorise the services for which interconnection is requested; or
 - (c) the requested interconnection is rendered impossible as a result of technical specifications; or
 - (d) such interconnection would endanger life or safety or result in injury or harm to the licensed telecommunications operator's property or hinder the quality of the services provided by the licensed telecommunications operator.
- (6) Any limitation imposed by the Commission pursuant to paragraph (5) of this regulation shall be published

in accordance with paragraph (1) of regulation 16 of these Regulations.

2. (1) The Commission shall -

- (a) encourage and secure adequate interconnection and interoperability of services;
- (b) carry out its functions in a way that promotes efficiency, sustainable competition and gives the maximum benefit to users;
- (c) take all necessary measures to remove any restrictions which may prevent licensed telecommunications operators from effectively negotiating interconnection agreements between themselves; and
- (d) take all necessary measures to ensure that licensed telecommunications operators who receive information during the course of negotiations following a request for interconnection shall only use that information for the purpose for which it is given and that such information is not passed to any person to whom it may provide a competitive advantage.

(2) The Commission may -

- (a) on its own initiative, intervene in negotiations on agreements for interconnection where no agreement is brought about between the negotiating parties within six weeks of the commencement of the negotiations;
- (b) where the requested party is required to have in place a Reference Interconnection Offer on its own initiative or at the request of the party requesting interconnection, intervene in negotiations on agreements for interconnection after the expiry of a period of seven days from the date on which the requesting party has confirmed in writing to the requested party that it accepts the terms and conditions set out in that Offer and where the requested party has not

executed an interconnection agreement on expiry of that seven day period;

- (c) on its own initiative and at any time or if requested by either party, set time limits within which negotiations on interconnection are to be completed which time limits shall be no more than [six weeks] unless the Commission in its reasonable discretion considers that a longer period is justified;
- (d) also intervene if so requested by either party, in order to specify issues that shall be covered in the interconnection agreement, which at a minimum may include the descriptions, terms and conditions included in the model interconnection offer as amended from time to time in accordance with regulation 2(3) and require changes to be made to interconnection agreements already concluded.

(3) The Commission shall -

- (a) following consultation with licensed telecommunications operators develop a set of service descriptions, terms and conditions for interconnection which shall be published as a Model Interconnection Offer and kept up to date by the Commission;
- (b) amend the Model Interconnection Offer from time to time, following publication of a notice stating that the Commission intends to amend the Model Interconnection Offer, setting out the amendments and inviting comments on the amendments. Licensed telecommunications operators may establish a group to consider the Model Interconnection Offer and to propose to the Commission amendments to the Model Interconnection Offer. Where the Commission considers that as a result of any proposals made by the group, the Model Interconnection Offer

should be amended, the Commission shall initiate the procedure described in this regulation 2(3);

- (c) consider, when intervening on its own initiative or at the request of one or both parties to a negotiation for interconnection, that, except where one of the parties is required to have in place a Reference Interconnection Offer, the Model Interconnection Offer forms the minimum set of service descriptions, terms and conditions that must be offered by the parties for the provision of interconnection to each other under an interconnection agreement; and
 - (d) when determining a dispute concerning the terms and conditions that should apply to interconnection arrangements between licensed telecommunications operators under these Regulations, consider the Model Interconnection Offer as forming the minimum set of service descriptions and terms and conditions that must be offered by the parties for the provision of interconnection to each other under an interconnection agreement, unless, at the Commission's reasonable discretion, it considers that other service descriptions, terms or conditions should be imposed upon the parties.
- (4) Where the agreement is not reached within the time allowed, the Commission shall in accordance with regulation 2(2) above take steps to facilitate the conclusion of the interconnection agreement.
- (5) Where a licensed telecommunications operator –
- (a) enters into an interconnection agreement with another licensed telecommunications operator, the Commission has the right to review such interconnection agreement to ensure conformity with the provisions of the Act, these Regulations

and any guidelines on interconnection adopted by the Commission;

- (b) has not interconnected its facilities, the Commission has the right to require the operator concerned to interconnect its facilities in order to protect essential public interests and, where appropriate, may set the terms and conditions of interconnection.

(6) Licensed telecommunications operators shall ensure that -

- (a) where information is acquired from another licensed telecommunications operator during the process of negotiating interconnection agreements, the information shall be used solely for the purpose for which it was supplied and that at all times the confidentiality of the information transmitted or stored is respected; and
- (b) the information shall not be passed to any other party, in particular, other departments, subsidiaries or partners for which such information may provide competitive advantage.

3. (1) Interconnection agreements shall be negotiated freely and in good faith between the parties involved and each negotiating party shall not -

- (a) intentionally mislead the other party; or
- (b) coerce the other party into making an agreement that it would not otherwise have made; or
- (c) intentionally obstruct negotiations.

(2) The terms and conditions for interconnection of telecommunications networks shall be set on the basis of the agreement reached between the interconnecting licensed telecommunications operators and taking into account regulation 2(3) and regulation 3(10), may include at a minimum the service descriptions, terms and conditions included in the Model Interconnection

Offer published by the Commission under regulation 2(3).

- (3) The interconnection agreement shall be in writing and comply with -
 - (a) the provisions of the Act, these Regulations and any guidelines on interconnection adopted by the Commission; and
 - (b) the principles of neutrality, transparency, non-discrimination, fair competition, cost orientation, universal coverage, access to information, equality of access and equal terms and conditions.
- (4) An interconnection agreement shall cover all the issues set out in the Schedule to these Regulations and in particular, each interconnection agreement shall contain mutual obligations and responsibilities of the interconnecting licensed telecommunications operators to protect the interests of the users as well as the interconnecting operators.
- (5) All interconnection agreements entered into by a licensed telecommunications operator shall be registered with the Commission not later than thirty days from the date of the execution of the interconnection agreement or such other period as may be specified in the licence granted to that operator and in any event before any interconnection links are brought into service.
- (6) Copies of interconnection agreements shall be made available by the Commission on request to interested parties in accordance with regulation 16 of these Regulations.
- (7) Any party to an interconnection agreement may, upon the registering of such agreement with the Commission, mark provisions containing trade or operating secrets, in which case, such party shall additionally submit to the Commission for review a modified version of the

agreement which does not, in that party's view, disclose the said trade or operating secrets.

- (8) Where the Commission considers the marking unjustified, it shall consult with the relevant licensed telecommunications operator prior to taking a decision on allowing third parties to inspect such agreements in whole or in part and it may subsequently restrict inspection to the modified version of the interconnection agreement.
- (9) The parties to an interconnection agreement shall furnish to the Commission any additional information that the Commission requires in respect of an interconnection agreement.
- (10) The Commission may evaluate the terms and conditions and the charges set out in the interconnection agreement where in its reasonable view, the agreement does not include all or any of the service descriptions, terms and conditions included in the Model Interconnection Offer published by the Commission under regulation 2(3).
- (11) Where the Commission considers that an interconnection agreement registered with it should be evaluated, it shall notify the parties to that agreement within ten days of the registration of the agreement.
- (12) The Commission shall complete its evaluation of an interconnection agreement within six weeks of the date of notification to the parties that an evaluation is to take place. The parties shall be given the opportunity to provide comments on any terms and conditions and charges that the Commission considers may be inconsistent with the provisions of the Act, these Regulations and any guidelines on interconnection adopted by the Commission and which should be revised.
- (13) An interconnection agreement shall be approved or deemed to be approved as the case may be where -
 - (a) the Commission has not notified the parties within ten days of the registration of the

interconnection agreement, that an evaluation of the terms and conditions and the charges will occur;

- (b) following completion of an evaluation by the Commission, the Commission has notified the parties that the interconnection agreement has been approved; or
- (c) following completion of an evaluation by the Commission, the Commission has required the parties to revise the agreement and the revisions have been registered with the Commission, in which case, the evaluation and approval process set out in regulation 3(10), (11) and (12) and regulation 3(13) (a) or (b) will apply as if the revisions were an interconnection agreement.

4. (1) The parties to an interconnection agreement already approved by the Commission may amend or modify such agreement by giving the Commission thirty days prior written notice, together with a copy of the proposed amendment or modification, before that amendment or modification takes effect.
- (2) Where the Commission does not request additional information on the modification or does not rule on the amendment or modification of the interconnection agreement within thirty days of the receipt of the notice, then the amendment or notification shall be deemed to be approved by the Commission.
- (3) Where modifications to the interconnection agreement are requested, the parties shall negotiate and make the necessary amendments to the agreement in order to comply with the Commission's decision.
- (4) Where the terms and conditions of any agreement or amendment made cease to be reasonable, the requested party shall, within thirty days, offer to the requesting party or agree with the requesting party, as the case may be, to amend the interconnection agreement, so that its terms and conditions are reasonable.

- (5) The termination of interconnection agreements shall be strictly in line with the terms and conditions of the interconnection agreement between the parties.
- (6) The licensed telecommunications operator providing interconnection shall give the other party a six months written notice of its intention to terminate the agreement specifying the grounds of termination.
- (7) In the case of breach, the operator providing interconnection shall give the other party a three months written notice to remedy the breach and if the party in breach fails to remedy the breach within the period, it may then terminate the agreement without giving further notice.
- (8) A licensed telecommunications operator shall not terminate an interconnection agreement without the prior written consent of the Commission and, where requested by the operator seeking prior consent, the Commission shall notify the operator of its decision no more than thirty five days after receipt by the Commission of the request for termination.

Interconnection Procedures

- 5. (1) Where the requesting party desires to interconnect its telecommunications network with that of the requested party, a request shall be made to the requested party.
- (2) All requests made pursuant to paragraph (1) of this regulation shall –
 - (a) be made in writing to the requested party;
 - (b) contain sufficient information in relation to the form of interconnection, the suggested date for the commencement of negotiations, the date from which the interconnection is required and an estimate of the interconnection capacity required; and
 - (c) be brought to the notice of the Commission by the requesting party.

- (3) The requested party shall inform the requesting party in writing within fourteen days of the receipt of a request for interconnection, if:
 - (a) supply the form of interconnection requested; and
 - (b) it shall be able to do so within the time frame requested by the requesting party.
- (4) The request for interconnection may be refused only on reasonable grounds and shall be justified in writing by the party requested to provide the interconnection and the Commission shall be notified of the reason for the refusal.
- (5) Where the requested party is required to have in place a Reference Interconnection Offer and, unless that party notifies the requesting party of a refusal under regulation 5(4), an interconnection agreement on the terms and conditions set out in the Reference Interconnection Offer must be executed within a period of no more than seven days from the expiry of the fourteen day period specified in regulation 5(3) unless the requesting party considers that the terms and conditions set out in the Reference Interconnection Offer are not acceptable and has notified the requested operator accordingly.
- (6) Where the requested party is not required to have in place a Reference Interconnection Offer and unless that party notifies the requesting party of a refusal under regulation 5(4), an interconnection agreement must be executed within a period of no more than forty two days from the expiry of the fourteen day period specified in regulation 5(3), unless the requesting party considers that the terms and conditions being offered by the requested party are not acceptable and has notified the requested operator accordingly.
- (7) Where the parties cannot agree within twenty eight days from the date of first request on the date upon which to commence negotiations, the Commission has the power

to compel both parties to commence negotiations on an interconnection agreement on a date prescribed by the Commission.

6. (1) Subject to any default interconnection charges that may be approved by the Commission and to any interconnection charges determined by the Commission, the charges set by operators, with special focus put on the dominant operators providing interconnection to their telecommunications network, shall -
 - (a) be set on objective criteria, the principles of transparency and cost orientation;
 - (b) be sufficiently unbundled to ensure that an operator requesting interconnection is not required to pay for network elements or facilities not strictly required for the service to be provided;
 - (c) not include hidden cross-subsidies, particularly of an anti-competitive nature;
 - (d) reflect underlying cost categories;
 - (e) include a fair share, according to the principle of proportionality, of joint and common costs and the costs incurred in providing equal access and number portability and the costs of ensuring essential requirements; and
 - (f) be approved (or, if needed, set) by the Commission.
- (2) Interconnection charges that do not conform to the provisions of these Regulations may be varied by a determination of the Commission.
- (3) In determining or setting interconnection charges, the Commission may provide for service descriptions and types for each of which determined charges apply. The service descriptions and types can include, but are not limited to, the following:
 - (a) fixed call termination using near-end hand-over;
 - (b) fixed call termination using far-end hand-over.

7. (1) Points of interconnection and interconnection links shall-
- (a) only be requested after the execution of an interconnection agreement and approval or deemed approval of the agreement by the Commission; and
 - (b) where agreement on the number and location of interconnection links cannot be reached, be provisioned by each interconnecting licensed telecommunications operator according to their own requirements.
- (2) A licensed telecommunications operator seeking interconnection has the right to request from another licensed telecommunications operator that interconnection be provisioned and maintained at any technically feasible and economically reasonable point in that licensed telecommunications operator's telecommunications network.
- (3) The requesting party shall provide sufficient details to the requested party in relation to a point of interconnection in order to enable the requested party to assess what system conditioning may be required and to estimate the costs of provisioning the point of interconnection.
- (4) The costs of interconnection incurred by both interconnecting operators may vary depending on the points of interconnection.
- (5) Licensed telecommunications operators shall provide to any requesting operator and to any interconnected licensed telecommunications operator details of the standard points of interconnection of their telecommunications networks at which the networks of other operators can interconnect with them.
- (6) The information specified in paragraph (5) shall also be provided to the Commission and may be published by the Commission in accordance with regulation 16 of these Regulations in a form that disguises the exact

physical location of the point of interconnection and meets any other reasonable concerns about security of such points of interconnection specified by the operator.

- (7) Where a licensed telecommunications operator desires to interconnect at points other than the standard points of interconnection, such interconnection shall be made available upon request and the requesting party may be required to pay charges that reflect the cost of the construction of the necessary additional facilities.
- (8) Where the requested party has not notified the requesting party in writing that a point of interconnection requested has insufficient capacity, points of interconnection shall be provisioned and ready for use within such period as may be agreed by the parties or, in the absence of agreement, not later than forty-five days from the date of the request.
- (9) Where the requested party has notified the requesting party that a requested point of interconnection has insufficient capacity, it shall provide to the requesting party a date by which the requested point of interconnection shall be ready for use.
- (10) The requested party shall, at the same time as it notifies the requesting party, notify the Commission that a requested point of interconnection has insufficient capacity, providing to the Commission an explanation for the determination that insufficient capacity is available at the time of the request together with an explanation of the steps it plans to take in order to provision the point of interconnection so that it is ready for use by the requesting party by the date provided to that party.
- (11) The Commission, following a review of such information, may determine that the timeframe provided by the notifying party or other relevant information concerning the steps to be taken is not appropriate and may impose on the notifying operator,

by notice in writing, requirements for such other steps to be taken, including in relation to the timeframe for provision of capacity as may in the Commission's reasonable discretion be necessary.

- (12) Calling Line Identification and all necessary signalling data shall be passed between the interconnecting parties in accordance with accepted international standards, the provisions of these Regulations and any guidelines on interconnection adopted by the Commission and any Industry Code of Practice on Calling Line Identification.
 - (13) Licensed telecommunications operators shall establish a technical committee to develop a Code of Practice comprising specifications, protocols and procedures to be recommended to the Commission relating to Calling Line Identification.
8. (1) Interconnected telecommunications networks shall be technically compatible and parties to an interconnection agreement shall ensure that -
- (a) they provide to each other sufficient technical information to enable each party to plan its interconnection arrangements, including information on the technical characteristics of its telecommunications network;
 - (b) they do not, on the grounds that the standards and specifications are proprietary, withhold information necessary to ensure efficient interconnection arrangements for both sides; and
 - (c) they take full account of the standards defined as being suitable for the purpose of interconnection, including the international standards and specifications adopted by the International Telecommunications Union.
9. (1) Where the requesting party requests a new form of interconnection, it shall do so in writing and provide the requested party with reasonable information in

relation to the following matters:

- (a) the form of interconnection;
 - (b) the approximate date the interconnection is required; and
 - (c) an estimate of the capacity required.
- (2) All requests for new interconnection services, including new points of interconnection and capacity at those points of interconnection, shall be filed with the Commission at the time the request is made to the requested operator.
- (3) The requested party shall inform the requesting party in writing within twenty eight days of the provision of the information above if:
- (a) it is able to supply the form of interconnection requested; or
 - (b) it shall be able to do so within the time frame requested by the requesting party.
- (4) Where the requested party has informed the requesting party that it is able to provide the interconnection, it shall ensure that the system conditioning and the provisional procedures required to provide that interconnection are undertaken within the time frame required by the requested party.
- (5) Where the requested party rejects the interconnection request of the requesting party as unreasonable, the requesting party may appeal to the Commission in accordance with regulation 17 of these Regulations.
- (6) An interconnected licensed telecommunications operator shall provide six months written notice to an interconnected operator of planned changes to its telecommunications network that may materially impact the telecommunications services of the interconnected operator.

Interconnection Obligations Imposed on Dominant Telecommunications Operators

10. (1) A telecommunications operator that has been determined by the Commission as being a dominant operator shall:
- (a) meet all reasonable requests for access to its telecommunications network, in particular access at any technically feasible point on its telecommunications network;
 - (b) adhere to the principle of non-discrimination with regard to interconnection offered to other licensed telecommunications operators, in particular, it shall apply similar conditions in similar circumstances to interconnected licensed telecommunications operators providing similar services and provide interconnection facilities and information to other licensed telecommunications operators under the same conditions and of the same quality as it provides for its own services or those of the group of companies or partners;
 - (c) make available on request to other licensed telecommunications operators considering interconnection with its telecommunications network, all information and specifications reasonably necessary in order to facilitate conclusion of an agreement for interconnection, including information on changes planned for implementation within the next six months, unless agreed otherwise by the Commission;
 - (d) submit to the Commission for approval and publish a Reference Interconnection Offer, sufficiently unbundled, giving description of the interconnection offerings broken down into components according to market needs and the

associated terms and conditions including tariffs;
and

- (e) provide access to the technical standards and specifications of its telecommunications network with which another operator shall be interconnected.

- (2) The Commission may impose or prohibit conduct by a dominant telecommunications operator, if the operator is violating the obligations imposed on it, and declare interconnection agreements wholly or partially invalid to the extent that such dominant telecommunications operator abuses its dominant position in the market.
 - (3) The Commission shall, before taking the action in paragraph (2) of this regulation, first of all request the dominant telecommunications operator to refrain from the abuse to which the objection has been made.
11. (1) A dominant telecommunications operator shall, except where the Commission has determined interconnection rates, set charges for interconnection on objective criteria and observe the principles of transparency and cost orientation and the burden of proof that charges are derived from actual costs lies with the licensed telecommunications operator providing the interconnection service to its facilities.
- (2) The Commission has the right to request that the dominant telecommunications operator justify fully its interconnection charges and where appropriate may request for the adjustment of the charges.
 - (3) The burden of proof that charges are derived from relevant costs, including a reasonable rate of return on investment, shall lie on the dominant operator providing interconnection to its facilities.
 - (4) The Commission has the right to request dominant operators to provide full justification for their interconnection charges and the dominant operators shall comply with any adjustment required by the Commission.

- (5) The dominant operators may set different tariffs, terms and conditions for interconnection of different categories of telecommunications services where such differences can be objectively justified on the basis of the type of interconnection provided.
- (6) The Commission shall ensure that the differences mentioned in paragraph (5) of this regulation, do not result in the distortion of competition and in particular that the dominant operators apply the appropriate interconnection tariffs, terms and conditions when providing telecommunications for its own services or those of its subsidiaries or affiliates in accordance with the principle of non-discrimination.
- (7) A dominant telecommunications operator shall -
 - (a) give written notice of any proposal to change any charges for interconnection services in accordance with the procedure set out in the guidelines on interconnection adopted by the Commission and the provisions of the operating licence;
 - (b) offer sufficiently unbundled charges for interconnection, so that the licensed telecommunications operator requesting the interconnection is not required to pay for any item not strictly related to the service requested;
 - (c) maintain a cost accounting system which:
 - (i) in the opinion of the Commission is suitable to demonstrate that its charges for interconnection have been fairly and properly calculated, and
 - (ii) provides any information requested by the Commission;
 - (d) make available to any person with a legitimate interest, on request, a description of its cost accounting system showing the main categories under which costs are grouped and the rules for the allocation of costs to interconnection and the

Commission or any other competent body independent of the dominant telecommunications operator and approved by the Commission, shall verify compliance of the dominant telecommunications operator with the cost accounting system and the statement concerning compliance shall be published by the Commission annually.

12. (1) If interconnection services are not provided through a structurally separated subsidiary, a dominant operator shall keep separate accounts as if the telecommunications activities in question were in fact carried out by legally independent companies, so as to identify all elements of cost and revenue with the basis of their calculation and the detailed attribution methods used.
- (2) A dominant operator shall maintain separate accounts in respect of interconnection services and its core telecommunications services and the accounts shall be submitted for independent audit and thereafter published.
- (3) A dominant operator shall supply financial information to the Commission promptly on request and to the level of detail required by the Commission.
- (4) The Commission may publish such information in order to contribute to an open and competitive telecommunications market, while taking account of considerations of commercial confidentiality.

Interconnection Principles Applicable to all Licensed Telecommunications Operators

13. (1) All licensed telecommunications operators shall maintain the highest level of service and meet any priorities set by the Commission and shall take full account of the obligations on emergency situations under their operating licences when requesting and

providing interconnection and when designing, implementing and operating their interconnection arrangements.

- (2) The Commission shall take all necessary steps to -
 - (a) impose, where appropriate, conditions on interconnection, to ensure that the availability of the public telecommunications network is maintained in the event of catastrophic network breakdown or in exceptional cases of force majeure, such as extreme weather condition, earthquakes, flood, lightning or fire;
 - (b) ensure that the integrity of the public telecommunications network is maintained and the need to maintain network integrity does not however, constitute a valid reason for refusal to negotiate terms of interconnection.
- (3) The Commission shall ensure that all the conditions for interconnection relating to the protection of telecommunications network integrity are proportionate and non-discriminatory in nature and are based on objective criteria identified in advance.
- (4) The Commission may impose conditions in interconnection agreements in order to ensure:
 - (a) interoperability of services, including conditions designed to ensure satisfactory quality for the end-to-end services provided to users and such conditions may include implementation of specific technical standards, specifications or codes of conduct and any quality of service standards specified by the Commission;
 - (b) the protection of data, to the extent necessary to ensure compliance with relevant legal and regulatory provisions on the protection of data, including protection of personal data, the confidentiality of information processed, transmitted or stored and the protection of privacy.

- (5) Where the Commission imposes conditions in an interconnection agreement based on the essential requirements set out in this Regulation, these conditions shall be published in accordance with paragraph (1) of regulation 16 of these Regulations.
- 14. (1) Where a licensed telecommunications operator has the right to install facilities on, over or under a private land or take advantage of a procedure for the expropriation or use of property, the Commission shall encourage the sharing of such facilities and property with other licensed telecommunications operators, in particular, where other licensed telecommunications operators do not have access to viable alternatives.
- (2) The terms and conditions for collocation or sharing of facilities shall be subject to a commercial and technical agreement between the parties concerned and the Commission nevertheless may intervene to resolve disputes arising thereof.
- 15. Licensed telecommunications operators shall publish details of and provide technical interfaces for interconnection according to the relevant Nigerian legislation and take full account of the administrative documents of the telecommunications sector and the standards currently in force in the Federal Republic of Nigeria which are elaborated on the basis of international standards or recommendations adopted by International Telecommunications Union.
- 16. (1) The Commission shall, from time to time, publish or ensure that there is published up-to-date information on interconnection agreements and the information shall be published in such a way as to provide easy access for users of that information and be made available on request to interested parties during normal working hours.
- (2) All licensed telecommunications operators shall provide the Commission with all such technical,

operational and accounting information as the Commission may reasonably require.

- (3) The Commission shall ensure that any information provided to it which is expressed to be confidential is maintained as such in accordance with the provisions of paragraphs (7) and (8) of regulation 3 of these Regulations.

Interconnection Disputes Resolution

- 17. (1) Where in negotiations for the conclusion of an interconnection agreement or where an interconnection agreement exists between the parties and negotiations concern a change to that agreement, no agreement is reached between the negotiating licensed telecommunications operators within the time periods applicable to such circumstances as specified in these Regulations, either party may appeal to the Commission and the Commission shall, except where the Commission considers that regulation 17(4) applies, decide on the case, taking into due consideration the interests of both parties.
- (2) An appeal shall be made in writing, setting out the reasons on which it is based, in particular the areas of agreement and dispute, including but not limited to when interconnection was requested, what telecommunications network or service offerings were requested and on what issues agreement failed to be reached.
- (3) An appeal may be withdrawn.
- (4) The Commission may only refuse to resolve a dispute where in its reasonable opinion, the matter in dispute is frivolous or trivial.
- (5) Upon any of the interconnecting parties filing an appeal:
 - (a) the Commission shall give the parties concerned the opportunity to state their case;
 - (b) a preliminary enquiry phase shall be introduced

- when initial consideration is given, so that the Commission can decide if there is a case to answer or to proceed to a detailed investigation;
- (c) the Commission shall inform the complainant of the outcome of the preliminary enquiry phase within three weeks;
 - (d) the preliminary enquiry phase shall be followed by an investigation phase involving the gathering of analysis and assessment of more detailed information;
 - (e) the Commission may require written argument with supporting facts and research, if necessary, to assist in clarifying the issues in dispute;
 - (f) where appropriate, the Commission may give representatives of business circles affected by the dispute the opportunity to state their case; and
 - (g) the Commission may also consider inviting other interested parties to comment on the issues.
- (6) The Commission shall decide on the dispute based on oral or written submissions and public proceedings and subject to the agreement of the parties concerned, a decision can be reached without oral submission.
 - (7) Where the presence of the public may pose a threat to public order, specifically to national security or to an important business or operating secret, the public may, at the request of one of the parties concerned or by a determination of the Commission be excluded from the proceedings or from any part thereof.
 - (8) The Commission shall take into due consideration the interests of the users and the entrepreneurial freedom of each licensed telecommunications operator in its decision.
 - (9) The Commission:
 - (a) may, given the urgency of the case, issue an interim order before arriving at a decision;
 - (b) shall decide the case within four months, beginning from the date of the appeal.

- (10) The parties to the dispute shall be:
 - (a) notified of the Commission's decision and the decision shall be published;
 - (b) given the statement of the reasons on which the decision is based.
- (11) The Commission shall have the power to set the effective date of any determination retroactively to the date at which the dispute was referred to the Commission.
- (12) The Commission is without prejudice to the rights of the parties to appeal on its decision to the Federal High Court, provided that the Commission's decision shall remain binding until the final determination of the appeal.
- (13) A copy of the notice of appeal shall be lodged with the Commission within thirty days from the date of the decision.

Miscellaneous Provisions

- 18. A licensed tele communications operator who contravenes any of the provisions of these Regulations is in breach of these Regulations and is liable to such fines, sanctions or penalties as may be determined by the Commission, from time to time.
- 19. In these Regulations, terms shall have the same meaning as in the Act unless the context requires otherwise and the following terms shall have the meanings set out below:
 - "Act"** means the Nigerian Communications Act 2003 and any succeeding legislation thereto;
 - "Commission"** means the Nigerian Communications Commission;
 - "Dominant operator"** means a licensed telecommunications operator determined by the Commission under the Act and the [Competition Practices Regulations 2006] to have a dominant position in one or more communications markets relating to interconnection;

“Far-end hand-over” is effected where a call intended for fixed call termination is delivered to the terminating operator at a point of interconnection which has been designated by that operator as serving the number range including the called number at the interconnection rate for far-end hand-over;

“Fixed call termination” means termination by the receiving operator of a call intended for a number within a range ascribed to fixed services in the national numbering plan and allocated to the receiving operator which call has been delivered to that operator by an interconnected operator (which operator may be the originating operator or another operator, including an operator providing transit of the call through its telecommunications network) at a point of interconnection and routed by the terminating operator through its telecommunications network;

“Industry Code of Practice on Calling Line Identification” means any rules and procedures formulated by an industry group set up to develop a code of practice for Calling Line Identification which has been notified to and approved by the Commission.

“Licence” means a licence granted or having effect as if granted under section 32 of the Act;

“Licensed telecommunications operator” means a network services provider or a network facilities provider licensed under section 32 of the Act and for the avoidance of doubt, “licensed telecommunications operator” shall include interconnect exchange operators;

“Near-end hand-over” is effected where a call intended for fixed call termination is delivered to the terminating operator at a point of interconnection not designated by that operator as serving the number range including the called number at the interconnection rate for far-end hand-over.

“Public telecommunications network” means a telecommunications network used in whole or in part for the provision of publicly available telecommunications services provided either by the operator of that telecommunications network or a third party;

“Requested party” means a licensed telecommunications operator who has been asked by another licensed telecommunications operator to provide interconnection to the telecommunications network of the other licensed telecommunications operator;

“Requesting party” means a licensed telecommunications operator who desires to interconnect its telecommunications network with the telecommunications network of another licensed telecommunications operator;

“Telecommunications network” means any form of installation or group of installations which ensure either the transmission or the transmission and routing of telecommunications signals and the associated exchange of the control and operational information between network termination points;

“Telecommunications services” means services whose provision consists wholly or partly in the transmission and routing of signs, signals, texts, images, sounds or data or a combination of these functions on telecommunications networks using telecommunications process;

“Users” means a person, (including but not limited to an operator, reseller or value-added service provider) who has entered into a contract with an operator for the provision of telecommunications services on the operator’s terms and conditions approved in accordance with relevant conditions of the operator’s licence.

20. The Telecommunications Networks Interconnection Regulations of 2003 and the Guidelines on Interconnection of Telecommunications Networks, 2003 are hereby repealed.
21. These Regulations may be cited as the Telecommunications Networks Interconnection Regulations 2007.

List of Issues to be Covered in Telecommunications Interconnection Agreements

1. Description of interconnection services to be provided.
2. Terms of payment, including billing procedures.
3. Points of interconnection and interconnection facilities.
4. Technical standards for interconnection.
5. Tests on interoperability.
6. Measures to comply with essential requirements.
7. Intellectual property rights.
8. Interconnection charges and their evolution over time.
9. Dispute resolution procedure between parties before requesting for the intervention of the Commission.
10. Procedures for alterations being proposed to the telecommunications network or service offerings of one of the parties.
11. Achievement of equal access.
12. Provision of facility sharing, including collocation.
13. Access to ancillary, supplementary and advanced services.
14. Traffic and network management.
15. Operational and maintenance procedures.
16. Maintenance of end-to-end quality of interconnection services.
17. Confidentiality of non-public parts of the agreements.
18. Publication and access to interconnection agreements and other periodic publication duties.
19. Duration and renegotiation of agreements.
20. Termination procedures.

21. Definition and limitation of liability and indemnity.
22. Force majeure situation.
23. Assignment of agreement.
24. Training of staff.
25. Any other general contract terms and conditions,
(applicable laws, regulatory approvals, legal
interpretation).
26. Any other terms and conditions as may be agreed upon.

DATED at Abuja this 3rd day of July 2007.

ENGR. ERNEST NDUKWE (OFR)
Executive Vice Chairman

15

Type Approval Regulations 2008

Scope and Operation

1. (1) These Regulations provide a framework for the approval of communications equipment for connection to communications networks in Nigeria, pursuant to sections 130 to 134 of the Act and in particular they describe rules and processes for the exercise of functions of the Commission identified in sections 4(1)(1), 4(1)(*m*), and 4(1)(*n*) of the Act.
- (2) These Regulations are accompanied by initial versions of the Type Approval Guidelines and the Type Approval Standards, which provide further definition of applicable processes and equipment standards.
- (3) These Regulations apply to every person that provides communications services or supplies communications equipment and such a person is hereinafter called an “Equipment Holder”.

- (4) For the avoidance of doubt, and in addition to the requirements of these Regulations, every Equipment Holder that is a Licensee remains subject to all conditions regarding equipment standards and radio spectrum interference set out in its Licence(s). Equipment Holders also remain subject to any other product standards applicable in Nigeria.
- 2. These Regulations are intended to—
 - (a) promote interpretability between communications networks ;
 - (b) ensure that communications equipment used in communications networks is safe ;
 - (c) ensure that communications equipment used in communications networks is subject to limits on causing or being affected by electromagnetic radiation;
 - (d) promote the development of communications networks, including the supply of communications equipment by qualified suppliers;
 - (e) define processes for the Type Approval of communications equipment; and
 - (f) identify applicable technical standards, including those promulgated by international bodies.

Guidelines, Standards and Lists of Approved Equipment, Etc.

- 3. The Commission shall maintain and publish in the Type Approval Guidelines up-to-date versions of the Type Approval processes. The initial version of the Type Approval Guidelines is being published by the Commission with these Regulations.
- 4. The Commission shall maintain and publish in the Type Approval Standards up-to-date versions of the technical standards and specifications applicable to identified Equipment Types. The initial version of the Type

Approval Standards is set out in Schedule I to the Type Approval Guidelines.

5. The Commission shall maintain and publish an up-to-date list of approved Equipment Types.
6. The Commission shall convene a Working Group on Equipment Standards, comprising knowledgeable industry representatives and other stakeholders to ensure that timely recommendations are made to the Commission regarding the list of Equipment Types, applicable Type Approval Standards and processes, and other implementation of these Regulations.
7. (1) The Commission shall maintain and publish an up-to-date list of test laboratories that are regarded by the Commission as suitable for performing tests required by a Declaration of Conformity.
- (2) The list of test laboratories may include, but may not be limited to, those accredited by international accreditation mechanisms, including under the International Laboratory Accreditation Co-operation Mutual Recognition Agreement.

Modifications to the Guidelines and Standards

8. (1) The Commission shall, from time to time review and if necessary, modify the Type Approval Guidelines and the Type Approval Standards.
- (2) In undertaking any such review, the Commission shall consult with relevant stakeholders and may also request and receive advice from the Working Group on Equipment Standards or other advisory groups, but shall not be bound by any such advice.

Type Approval Obligations

9. (1) An Equipment Holder may use or supply communications equipment for a communications network in Nigeria if –
 - (a) the Commission has approved the Equipment Type of the equipment ; or

- (b) the Equipment Type is exempted from Type Approval pursuant to Regulation 19 or Regulation 20.
- (2) For the avoidance of doubt, the Equipment Holder does not need to be the applicant for the Type Approval of the Equipment Type.
- 10. An Equipment Holder shall not claim or suggest that communications equipment is approved for use in Nigeria unless the Commission has either approved the Equipment Type or the Equipment Type is exempted from Type Approval pursuant to Regulation 19 or Regulation 20.
- 11. Every Equipment Holder shall be prepared to supply supporting documentation, assembled under these Regulations and the Type Approval Guidelines, to the Commission on request for at least five years after the Equipment Holder last used or supplied the communications equipment to which the documentation refers.
- 12. (1) Every Equipment Holder shall ensure that each item of communications equipment sold and having an approved Equipment Type has a label in one or more of the following places :
 - (a) on the equipment itself ; or
 - (b) in the accompanying documentation.
- (2) Labels shall comply with the format and other requirements identified in the Type Approval Guidelines.

Approving Equipment

- 13. An Equipment Holder may apply to the Commission for Type Approval and in doing so, the Equipment Holder shall assemble an application in accordance with the Type Approval Guidelines, including :
 - (a) the name and contact details of the applicant;
 - (b) the Equipment Type requested for Type Approval with its manufacturing brand name,

product name, model number, version number and function;

- (c) a declaration of Conformity for which there is valid test and other supporting documentation that the Equipment Holder can supply to the Commission on request ;
- (d) an indication of which, if any, portions of the application are confidential to the Commission ;
- (e) any other information that the applicant considers necessary or appropriate to support the application; and
- (f) any other information that the Commission may, from time to time, require to assess the application.

14. (1) The Commission shall refuse or grant an application for Type Approval and in making a decision on an application for Type Approval, it shall accept a Declaration of Conformity supported by equipment tests performed by laboratories included in the list maintained and published by the Commission pursuant to Regulation 7.
- (2) In making a decision on an application for Type Approval, the Commission may request the supply of test and other supporting documentation assembled by an Equipment Holder under these Regulations and the Type Approval Guidelines.
- (3) For communications equipment that the Commission identifies as being particularly important to the functioning of communications networks, more specifically those equipment for which test and certification has been undertaken by Laboratories other than those designated by the Commission, it may also require verification of test results and test documentation by factory visit or other identified process.

15. (1) The Commission shall review and make decisions regarding applications for Type Approvals in the order in which the applications are received by the Commission.
- (2) The Commission shall communicate its decision on an application to the applicant, including reasons for any refusal of an application, within one (1) month of receiving the application.
16. If the Commission approves an application for a Type Approval, it shall place the Equipment Type on the list of approved Equipment Types maintained pursuant to regulation 5.

Revoking Type Approvals and Exemptions from Type Approval

17. The Commission may revoke a Type Approval or annul an exemption from Type Approval if there is significant evidence that equipment of the Equipment Type :
 - (a) does not comply with the applicable Type Approval Standards;
 - (b) interferes with the operation of a communications network or other communications equipment; or
 - (c) constitutes a public hazard.
18. The Commission shall publish a notice to inform Equipment Holders about the revocation of a Type Approval or the annulment of an exemption from Type Approval.
19. Communications equipment shall not require any other Type Approval if, for an Equipment Type that has already been approved by the Commission, the equipment :
 - (a) complies with the Type Approval Standards applicable to the approved Equipment Type, according to valid test documentation that the Equipment Holder can supply to the Commission on request;

- (b) has the same manufacturing brand name, product name, model number and function as the approved Equipment Type;
 - (c) uses no radio frequencies besides those used by the approved Equipment Type ; and
 - (d) requires no kinds of physical network interface besides those required by the approved Equipment Type.
- 20. Communications equipment shall be exempted from Type Approval for twelve months after the Commencement Date of these Regulations if the equipment :
 - (a) was installed in or otherwise connected to a communications network in the Federal Republic of Nigeria for at least six months before the Commencement Date of these Regulations;
 - (b) does not interfere with the operation of that or any other communications network; and
 - (c) does not constitute any public hazard.

Investigation

- 21. The Commission may at any time perform tests on communications equipment or request the supply of test and other supporting documentation assembled by an Equipment Holder under these Regulations and the Type Approval Guidelines.
- 22. If test results obtained under Regulation 21 are unsatisfactory or inconclusive the Commission may require that further tests be performed at the cost of the Equipment Holder.
- 23. The Commission may investigate the use or supply of communications equipment by an Equipment Holder pursuant to section 61 of the Act and in so doing, it may exercise its powers of information gathering pursuant to section 64 of the Act.

Fees For Type Approvals

24. The Commission shall, from time to time, determine and publish the schedule of fees for Type Approvals and shall also supply the schedule of fees for Type Approvals in response to requests for that information.
25. In determining the schedule of fees for Type Approvals, the Commission shall consider some or all of :
 - (a) the administrative and operational expenses incurred in processing requests for Type Approval and maintaining and implementing the Guidelines and Standards ;
 - (b) the number and nature of any laboratory tests, performed by or under the direction of the Commission, on the communications equipment for which type approval is requested ; and
 - (c) any other function of the Commission pursuant to section 4(1) of the Act that the Commission may, from time to time, require to be funded partly or wholly from fees for Type Approvals.
26. Type Approval fees may distinguish between fees payable on application and fees payable on approval and every applicant for Type Approvals shall pay the fees for Type Approvals at the times specified by the Commission in the Guidelines or schedule of fees.

Contravention and Enforcement

27. Every Equipment Holder that fails to fulfill an obligation in these Regulations, the Type Approval Guidelines or the Type Approval Standards shall have committed a Contravention.
28. If an Equipment Holder commits a Contravention, the Commission Enforcement may take one or more of the following enforcement measures, without prejudice to the application of sections 131 and 133 of the Act :
 - (a) impose administrative fines pursuant to regulations 12 and 14 of the Enforcement Processes Regulations;

- (b) exercise any of the testing, seizure, detention or sealing of premises powers pursuant to regulation 5 of the Enforcement Processes Regulations; and
 - (c) issue one or more directions pursuant to section 53 of the Act.
- 29. In considering the application of enforcement measures under regulation 28 the Commission may take into account factors including but not limited to :
 - (a) the factors and considerations set out in Regulation 14 of the Enforcement Processes Regulations ; and
 - (b) any failures to fulfill obligations that arise partly or wholly from the failures of another Equipment Holder.

Miscellaneous

- 30. The Commission may, from time to time, review and modify these Regulations pursuant to the review processes of section 72 of the Act and in doing so, the Commission may request and receive advice from external advisory groups but shall not be bound by any such advice.
- 31. The Commission may, from to time, issue additional rules or directions on any aspect of these Regulations, and either of general application or specific to an Equipment Type or Equipment Holder.
- 32. In these Regulations terms defined in the Act shall have the same meanings as in the Act and in addition to the following :
 - “Act” means the Nigerian Communications Act 2003 ;
 - “Contravention” means any failure to comply with the requirements identified in regulation 27 ;
 - “Declaration of Conformity” means a declaration, meeting the requirements identified in the these Regulations and the Type Approval Guidelines, that

an Equipment Type complies with applicable Type Approval Standards ;

“Enforcement Processes Regulations” means the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005, S. I. 7 of 2005, as those regulations may be amended from time to time;

“Equipment Holder” means a provider of communications services or a supplier of communications equipment ;

“Equipment Type” means a type of communications equipment specified in terms of its manufacturing brand name, trade name, model number, version number and function;

“Type Approval” means an authorisation by the Commission to use or supply an Equipment Type;

“Type Approval Guidelines” (“Guidelines”) means any guidelines published by the Commission pursuant to Section 70(2) of the Act and these Regulations, identifying applicable Type Approval processes, including the initial Guidelines published with these Regulations ; and

“Type Approval Standards” (“Standards”) means any standards published by the Commission pursuant to Section 70(2) of the Act and these Regulations, which shall be the applicable technical standards and specifications for identified Equipment Types, including the initial standards set out in Schedule I to the Guidelines.

33. These Regulations may be cited as the Type Approval Regulations, 2008.

MADE at Abuja this 12th day of November, 2008.

Engr. Earnest Ndukwe (OFR)
Executive Vice-Chairman.

16

Universal Access and Universal Service Regulations, 2007

Objectives, Applications and Scope

1. (1) These Regulations are made to provide a framework for the design and Objectives implementation of a system of universal access and universal service provision pursuant to Chapter VII of the Act and all matters related thereto.
- (2) The ultimate objectives of the system of universal access and universal service provision described in subparagraph (1) of this regulation are to :
 - (a) promote greater social equity and inclusion for the people of Nigeria ; and
 - (b) contribute to national economic, social, and cultural development of Nigeria.

2. These Regulations apply to the provision of universal access and universal service in the whole or in any part of Nigeria.

Administration – USP Board

3. The USP Board shall be established in accordance with section 115 of the Act.
4. The functions of the USP Board shall include the following :
 - (a) supervising and providing broad policy directions for the management of the USP Fund and the USP Fund Managers;
 - (b) appointing and removing the USP Fund Managers, in consultation with the Commission;
 - (c) appointing and removing auditors of the USP Fund ;
 - (d) approving Operating Plans, which shall include one or more USP Programs and USP Projects and a budget for all operations and expenses of the USP Board, USP Fund Managers and all other matters to be financed by the USP Fund during the period of the Operating Plan;
 - (e) approving standing orders to establish and regulate the activities of the USP Fund Manager, and revisions to such standing orders from time to time ;
 - (f) approving all processes, procedures, guidelines and decisions necessary to give full force and effect to these Regulations ; and
 - (g) performing all other functions assigned to the USP Board pursuant to the Act and these Regulations.
5. For the purposes of these Regulations, the USP Board is constituted when 6 of the total 11 USP Board members specified in section 116 (1) of the Act have been appointed in accordance with section 115 (3) of the Act.

6. The USP Board shall hold an ordinary meeting at least once every calendar quarter.
7. Unless and until the USP Board specifics to the contrary in the standing orders it approves to regulate its meetings and proceedings pursuant to regulation 10, the following shall apply to the meetings of the USP Board:
 - (a) to achieve quorum at the meetings of the USP Board, a minimum of 6 members must be present;
 - (b) when quorum is not achieved at a meeting, the USP Board shall not hold a vote on USP Board business ;
 - (c) a motion presented at a meeting of the USP Board shall be deemed passed where a majority of the USP Board members present at the meeting vote in favour of the motion ; and
 - (d) where the vote on a motion presented at a meeting of the USP Board is tied, the Chairman shall cast the deciding vote.
8. The remunerations and allowances payable to USP Board members shall be equivalent to the remunerations and allowances payable to the Commissioners on the Board of the Commission, as may be determined and reviewed from time to time in accordance with the Act.
9. The Secretariat shall submit recommendations for standing orders to regulate the USP Board's meetings and proceedings for approval of the USP Board pursuant to regulation 10 within 1 month of the coming into force of these Regulations.
10. The USP Board shall approve standing orders to regulate its meetings and proceedings pursuant to section 117(1) of the Act within 2 months of the coming into force of these Regulations.

11. The standing orders approved by the USP Board pursuant to regulation 10 shall include, at a minimum, provisions addressing the following issues :
 - (a) the processes and procedures related to the holding of ordinary USP Board meetings ;
 - (b) the processes and procedures related to the holding of extraordinary USP Board meetings ;
and
 - (c) all other necessary matters for the functioning of the USP Board pursuant to the Act and these Regulations.
12. Subject to sections 115 and 116 of the Act and regulations 13 and 14, and to ensure that the continuity, knowledge and experience of the USP Board is maintained, the USP Board members specified in section 116 (1) (g) of the Act shall each serve :
 - (a) for a maximum term of 4 years on the USP Board;
and
 - (b) for a term that varies in length in comparison to the other members specified in section 116 (1) (g).
13. A USP Board member may resign his or her office by giving 3 months written notice thereof addressed to the President through the Chairman.
14. Subject to regulation 15, the USP Board shall require a USP Board member to be withdrawn pursuant to its powers under section 116 (4) of the Act where the USP Board member:
 - (a) has demonstrated inability to effectively perform the duties of his office ;
 - (b) has been absent from 3 consecutive meetings of the USP Board without the consent of the Chairman ;
 - (c) is guilty of serious misconduct in relation to his duties as a USP Board member ;
 - (d) in the case of a person possessed of professional qualifications, he is disqualified or suspended

from practising his profession in any part of the world by an order of a competent authority ; or

- (e) in the case of a person appointed as a representative of an organization, he is no longer a member of the organization he was appointed to represent ; or
- (f) fails to continue to meet one or more of the following requirements for USP Board members:
 - (i) the conflict of interest provisions contained in regulations 18 and 19,
 - (ii) the criteria specified for USP Board members in section 116 (2) of the Act ; or
 - (iii) the following criteria :
 - (a) he is a Nigerian citizen;
 - (b) he is ordinarily resident in Nigeria;
 - (c) he is not a serving member of the National Assembly, a State House of Assembly or any Local Government Council;
 - (d) he is not incapacitated by any physical illness ;
 - (e) he has not been certified to be of unsound mind;
 - (f) he is not an undischarged bankrupt ;
 - (g) he has not been convicted in Nigeria or elsewhere of a criminal offence, being a misdemeanour or felony ; or
 - (h) he has not at any time been removed from an office of trust on account of misconduct.

15. Prior to requiring a USP Board member to be withdrawn pursuant to regulation 14 :

- (a) the USP Board shall inform the USP Board member by written notice, within a reasonable time, of its intention to require the USP Board member to be withdrawn from office and the reasons therefore ; and
- (b) the affected USP Board member shall be given a reasonable opportunity to make written submissions to the USP Board within a time period specified in the notice and such time

period shall not be less than 14 days from the date of the notice ; and

- (c) the USP Board shall consider the written submissions in making its final decision on requiring the USP Board member to be withdrawn from office.

16. There is a vacancy in the USP Board if a member :
 - (a) dies ;
 - (b) resigns from office ;
 - (c) completes the term of office specified for the USP Board member ; or
 - (d) is removed from office in accordance with the sections 115 or 116 of the Act or regulation 14.
17. A vacancy in the USP Board shall be filled by the appointment of another person to the vacant office in accordance with sections 115 and 116 of the Act, as soon as is reasonably practicable after the occurrence of such vacancy.
18. Each member of the USP Board shall present a written declaration to the USP Board, upon appointment and annually thereafter for as long as he serves the USP Board, disclosing all direct or indirect financial interests or investments in any aspect of the Nigerian communications industry that he knowingly has or that he knows any member of his immediate family to have.
19. A member of the USP Board shall not vote on a matter before the USP Board where he or any member of his immediate family has a direct or indirect financial interest or investment in the matter.
20. The USP Board may waive, on a case by case basis, the application of the prohibition specified in regulation 19 to any USP Board member if the USP Board determines that the financial interest or investment of the member is not of a material nature or is minimal. In making such a determination the USP Board shall consider factors including, but not limited to the factors listed in section 8 of the Second Schedule of the Act.

21. For the purposes of regulations 18 and 19, “immediate family” means a person’s spouse and children who are under the age of 18 years.

Administration – USP Secretariat

22. The Commission shall establish the USP Secretariat. In accordance with section 118 (3) of the Act, the Commission shall be responsible for appointment of the staff of the USP Secretariat. Such staff may be seconded from the staff of the Commission. In the alternative, the Commission may recruit suitably qualified personnel from outside the Commission, as required to meet the staffing needs of the USP Secretariat.
23. The Commission shall appoint an individual person to serve as the head of the USP Secretariat (the “USP Secretary”) who shall be responsible for the day to day operations of the secretariat. The USP Secretary shall be an employee of the Commission that has been seconded from the Commission’s staff to serve as the USP Secretary on a full-time basis.
24. The functions of the USP Secretariat in addition to those listed in the Act shall include the following:
 - (a) preparing and recommending to the USP Board the Operating Plans, which shall include one or more USP Programs and USP Projects and a budget for all operations and expenses of the USP Board, USP Secretariat, USP Fund Managers and all other matters to be financed by the USP Fund during the period of the Operating Plan;
 - (b) preparing and recommending to the Commission the standing orders to establish and regulate the structure and activities of the USP Secretariat, and revisions to such standing orders from time to time;
 - (c) preparing and recommending to the USP Board the standing orders to establish and regulate the

activities of the USP Fund Manager, and revisions to such standing orders from time to time;

- (d) co-ordinating with the Commission in order to carry out these functions ;
- (e) preparing and recommending to the USP Board all processes, procedures, guidelines and decisions necessary to give full force and effect to these Regulations; and
- (f) performing all other functions assigned to the USP Secretariat pursuant to the Act and these Regulations.

25. All contracts involving payments from the USP Fund and all authorizations for payments from the USP Fund shall be signed in accordance with the standing orders approved by the USP Board pursuant to regulation 24 (b), and in accordance with the following additional requirements:

- (a) all such contracts and authorizations must be approved by the USP Board prior to signature, in accordance with the following:
 - (i) where a contract or authorization is within the budget of the current Operating Plan, approved by the USP Board pursuant to regulation 37, USP Board approval of the contract or authorization shall be deemed to result from approval of the Operating Plan,
 - (ii) where a contract or authorization falls outside the budget of the current Operating Plan approved by the USP Board, the USP Secretary shall obtain a separate USP Board approval for that contract or authorization ;
- (b) when signing such contracts or authorizations, the persons authorized to sign by the standing order provisions shall be acting in the capacity

of both an authorized representative of the USP Board and an employee of the Commission. All such contracts and authorizations shall be executed in the name of the Commission, pursuant to its standing as a body corporate pursuant to section 3 of the Act.

26. The USP Secretariat shall report to the Commission in accordance with such reporting requirements as may be established by the Commission.

Administration – USP Fund Managers

27. In consultation with the Commission, the USP Board shall appoint an independent and competent investment management firm as USP Fund Managers pursuant to section 119 of the Act within 6 months of the coming into force of these Regulations.
28. The USP Secretariat shall conduct a public, transparent and competitive selection process to select an investment management firm for recommendation to the USP Board pursuant to regulation 29.
29. The USP Secretariat shall recommend an investment management firm to serve as USP Fund Managers for approval of the USP Board pursuant to regulation 27 within 3 months of the coming into force of these Regulations.
30. Pursuant to section 119 (1) (g) of the Act, the USP Fund Managers shall report every quarter to the USP Board and the USP Secretariat, at least two weeks-in advance of the ordinary meeting of the USP Board held every calendar quarter, on the status of the USP Fund, including:
 - (a) a report on the financial situation and performance of the USP Fund, including a:
 - (i) statement of the current amount of monies or other investments held in USP Fund accounts, and

- (ii) description of the cash management-procedures used to ensure maximum return on investments while meeting short-term cash requirements for disbursements of the USP Fund;
 - (b) a report on the Commission's USP Contribution;
 - (c) where the Commission has established a USP Levy pursuant to regulation 72, a report on the USP Levy, including the:
 - (i) reported gross and net revenues of all licensees subject to the USP Levy,
 - (ii) amount of resulting USP Levy,
 - (iii) USP Levy amounts collected; and (iv) USP Levy amounts outstanding.
- 31. In consultation with the Commission, the USP Secretariat shall prepare and submit recommendations for standing orders to establish and regulate the activities of the USP Fund Managers for approval of the USP Board pursuant to regulation 32 within 4 months of the coming into force of these Regulations.
- 32. The USP Board shall approve standing orders to establish and regulate the activities of the USP Fund Managers pursuant to section 119 of the Act within 6 months of the coming into force of these Regulations.
- 33. The standing orders approved by the USP Board pursuant to regulation 32 shall include provisions addressing but not limited to the following issues:
 - (a) the processes and procedures to be followed in carrying out the responsibilities of the USP Fund Manager as specified in section 119 (1) of the Act, including the interaction of the USP Fund Manager with the USP Board and the USP Secretariat in carrying out such responsibilities; and
 - (b) all other necessary matters for the functioning of the USP Fund Manager pursuant to the Act and these Regulations.

Co-ordination Between USB Board and Commission

34. In all matters where the USP Board is to work in consultation or co-ordination with the Commission pursuant to the Act or these Regulations, the USP Secretariat shall :
- (a) develop an initial recommendation for discussion with the Commission, and such initial recommendation shall be in accordance with the policies and directions of the USP Board;
 - (b) then work with the Commission to develop the initial recommendation into a recommendation that is acceptable to the USP Board ; and
 - (c) then present the recommendation to the USP Board for its approval or further direction.

USP Operating Plans

35. The USP Secretariat shall prepare USP Programs and USP Projects as follows:
- (a) “USP Programs” are the general macro-level USP initiatives aimed at achieving one or more of the USP Objectives, typically over the course of several years. USP Programs shall define specific targets in terms of specific sets of networks and/ or services to be implemented in stages over the course of the USP Program ;
 - (b) “USP Projects” are the specific micro-level implementation activities related to each USP Program. One or more USP Projects may be implemented at the same time under a given USP Program. USP Projects may be designed by the USP Secretariat or may be proposed by other persons for consideration of the USP Secretariat.
36. The USP Secretariat shall prepare a strategic management plan for the approval of the USP Board setting out its Vision, Mission and objective and

incorporating its long term plans over a five year period. The strategic management plan shall be reviewed from time to time.

37. The USP Board shall, from time to time, and at least once a year, approve a plan to direct the operations of the USP Board and USP Fund Managers in implementing the specific USP Programs and USP Projects included in the plan (the "Operating Plan").
38. The USP Secretariat shall, from time to time, and at least once a year, prepare an Operating Plan for approval of the USP Board.
39. Each Operating Plan shall include one or more USP Programs and USP Projects, and a budget for all operations and expenses of the USP Board, USP Secretariat, USP Fund Managers and all other matters to be financed by the USP Fund during the period of the Operating Plan.
40. The USP Secretariat shall prepare an initial Operating Plan for approval of the USP Board within 9 months of the coming into force of these Regulations.
41. The USP Board shall approve an initial Operating Plan within 12 months of the coming into force of these Regulations.
42. The initial Operating Plan shall include the following :
 - (a) definitions for the following terms (the "Basic USP Terms"), in accordance with regulation 44 and Section 113 of the Act :
 - (i) "designated population", "institutions", "unserved areas" "underserved areas" and "underserved groups within a community" (together the "USP Areas and Populations") ; and
 - (ii) "universal access", "universal service", "universal coverage" and "served areas".
 - (b) USP Targets and USP Priorities with respect to achieving universal access and universal service

in the USP Areas and Populations (the “USP Objectives”) as follows :

- (i) “USP Targets” are the specific goals for achievement of both universal access and universal service, or either universal access or universal service as the case may be, for one or more of the USP Areas and Populations. Such goals may be expressed in number of years or another quantitative basis.
 - (ii) “USP Priorities” represent the relative importance of the USP Targets as reflected in the comparative emphasis and sequencing of the USP Targets.
 - (c) one or more initial USP Programs and USP Projects ;
 - (d) identification of which specific geographic areas and populations of Nigeria are to be included in the USP Areas and Populations covered by each USP Project included in the initial Operating Plan ; and
 - (e) any other information required to be included in the initial Operating Plan by these Regulations.
43. For the purposes of these Regulations to achieve:
- (a) “universal access” means that 100% of a designated population can obtain, at a minimum, public access to a particular service at a specified quality, through reasonably available and affordable public or community facilities ; and
 - (b) “universal service” means that 100% of a designated population are reasonably able to privately subscribe to and use a particular service at a specified quality on an individual, household or institutional basis.

44. As initial definitions to be confirmed or modified in the initial Operating Plan, the Basic USP Terms shall have the meanings identified as follows :

(a) in reference to universal access :

- (i) “served areas” means the geographic areas where universal access is currently available,
- (ii) “unserved areas” means the geographic areas where no level of access is currently available,
- (iii) “underserved areas” means geographic areas where some level of access is currently available but where universal access is not currently available,
- (iv) “designated population” means the individuals, households, groups, communities, institutions, etc. determined by the USP Secretariat to be the target beneficiaries of universal access,
- (v) “institutions” means the public entities included in a designated population, which may include, but are not limited to, educational, health, administrative and other public entities, and
- (vi) “underserved groups within a community” means the groups included in a designated population, which consist of a significant but not majority proportion of individuals within a community that share a set of distinct characteristics and that, unlike the rest of the community, do not have universal access ;

(b) in reference to universal service :

- (i) “served areas” means the geographic areas where universal service is currently

- available,
 - (ii) “unserved areas” means the geographic areas where no level of service is currently available,
 - (iii) “underserved areas” means geographic areas where some level of service is currently available but where universal service is not currently available,
 - (iv) “designated population” means the individuals, households, groups, communities, institutions, etc. determined by the USP Secretariat to be the target beneficiaries of universal service,
 - (v) “institutions” means the public entities included in a designated population, which may include, but are not limited to, educational, health, administrative and other public entities, and
 - (vi) “underserved groups within a community” means the groups included in a designated population, which consist of a significant but not majority proportion of individuals within a community that share a set of distinct characteristics and that, unlike the rest of the community, do not have universal service.
45. In preparing the Operating Plan, the USP Secretariat shall have regard to the scope of the activities to be financed by the USP Fund (the “Scope of the USP Fund”) as estimated by the USP Secretariat for the five year period commencing on the expected implementation date of the Operating Plan. The Scope of the USP Fund

shall be determined by the USP Secretariat based on the:

- (a) projected amount of USP Fund monies available over the course of the five year period commencing on the expected implementation date of the Operating Plan ;
- (b) USP Objectives ; and
- (c) issues specified in regulation 46.

46. In determining the Scope of the USP Fund, the USP Secretariat shall undertake analysis and make related decisions with respect to the following issues :

- (a) whether the USP Fund shall provide universal access or universal service or both to the USP Areas and Populations ;
- (b) what specific types of services and network facilities are to be provided to the USP Areas and Populations, in accordance with the following :
 - (i) as an initial priority to be confirmed or modified in the initial Operating plan, the USP Secretariat shall focus on the provision of voice service, Internet service, and the related network facilities to the USP Areas and Populations, and
 - (ii) the USP Secretariat may consider any available technology in preparing definitions for “voice service”, “Internet service” and “related network facilities” for the purposes of these Regulations, and may modify the definitions from time to time to take into account technological developments ;
- (c) whether the USP Fund is to be used to finance the maintenance of existing services and network facilities for the USP Areas and Populations or only the provision of new networks and services

for the USP Areas and Populations, in accordance with the following:

- (i) as an initial priority to be confirmed or modified in the initial Operating Plan, the USP shall focus exclusively on the provision of new services, and
 - (ii) network facilities to the USP Areas and Populations;
- (d) what methodology and economic criteria are to be used for selecting which types of USP Projects are eligible to receive financing from the USP Fund, in accordance with the following :
- (i) as an initial methodology to be confirmed or modified in the initial Operating Plan, the USP Secretariat shall prepare a financial analysis that estimates the comparative financial characteristics and subsidy requirements of different possible USP Projects that could be undertaken to provide the services and network facilities designated by the USP Secretariat to the USP Areas and Populations, and
 - (ii) based on procedures to be developed by the USP Secretariat, the USP Secretariat shall categorize these possible USP Projects as follows:

“Commercially Profitable USP Projects” - such USP Projects are estimated by the USP Secretariat to be commercially profitable without any subsidy,

“Commercially Unprofitable USP Projects” – for such USP Projects to be commercially profitable, the USP Secretariat estimates a subsidy requirement of less than 50% of the estimated USP Project capital costs,

“Commercially Unviable USP Projects” - for such USP Projects to be commercially profitable, the USP

Secretariat estimates a subsidy requirement:

- (a) of more than 50% of the estimated USP Project capital costs ; or
 - (b) for ongoing operating costs after a start-up period of time determined to be reasonable for the USP Project by the USP Secretariat ;
 - (c) as initial economic criteria to be confirmed or modified in the initial Operating Plan:
 - (i) Commercially Unprofitable USP Projects shall be eligible to receive financing from the USP Fund and shall be the primary focus of the USP Board.
 - (ii) Commercially Unviable USP Projects and Commercially Profitable USP Projects shall be eligible to receive financing from the USP Fund, but shall be a secondary focus of the USP Board. Such USP Projects shall only receive financing where the USP Board determines there are strong social, economic or other strategic development reasons for undertaking such USP Projects.
47. One or more of the following, as established in the initial Operating Plan, may be revised, in whole or in part, in subsequent Operating Plans approved by the USP Board:
- (a) the Basic USP Terms, including, but not limited to, the USP Areas and Populations ;
 - (b) the USP Objectives, including, but not limited to, one or more of the USP Targets and/or USP Priorities ; and
 - (c) the Scope of the USP Fund, including, but not limited to, the types of USP Projects that are eligible to receive financing from the USP Fund and/or one or more of the other components of the Scope of the USP Fund.

Competitive Selection Process

48. USP Projects shall be awarded to one or more bidders, as the case may be, using a competitive selection process designed and implemented by the USP Secretariat in accordance with these Regulations.
49. The competitive selection processes used by the USP Secretariat may include minimum subsidy auctions or such other processes designed by the USP Secretariat that are in accordance with these Regulations. As an initial position to be confirmed or modified in the initial Operating Plan, the USP Secretariat shall use minimum subsidy auctions as its preferred form of competitive selection process.
50. Both service providers that are current Nigerian licensees and parties that are potential new entrants to the Nigerian communications sector shall be eligible to bid in a competitive selection process, subject to the qualification criteria established for the competitive selection process.
51. The publicity for the competitive selection process for each USP Project shall:
 - (a) be sufficient to notify a reasonable pool of potential bidders in advance of the competitive selection process; and
 - (b) conform, at a minimum, with the Public Notice requirements specified in Regulations 63 to 65.
52. The USP Secretariat shall develop qualification criteria which bidders must meet or exceed to be eligible for award of a USP Project Agreement and USP Licence.
53. Specific qualification criteria shall be developed for each USP Project to establish to the satisfaction of the USP Secretariat that qualified bidders are capable of successfully undertaking the USP Project, and shall address at least the following matters :
 - (a) the bidder must demonstrate that it has a financial capacity sufficient to implement the USP Project;

- (b) the bidder must demonstrate that it has operational experience sufficient to implement the USP Project ;
 - (c) the bidder must demonstrate that it is in compliance with any existing licences held by the bidder; and
 - (d) the bidder must demonstrate that it is otherwise eligible for award of the USP Project Agreement and USP Licence under the laws of Nigeria and any other applicable requirements.
54. Evidentiary requirements for bidders to demonstrate compliance with the qualification criteria for each USP Project shall also be established by the USP Secretariat.
55. The USP Secretariat shall evaluate bids for each USP Project as follows :
- (a) all bids submitted prior to the deadline specified in the request for proposals (RFP) shall be reviewed;
 - (b) a determination shall be made regarding whether a bid is compliant with each of the qualification criteria established for the USP Project;
 - (c) all bids will be separated into two categories :
 - (i) qualified bids ; and
 - (ii) unqualified bids ;
 - (d) unqualified bids shall be disqualified and removed from further consideration in a competitive selection process, and notice of same shall be sent to the unqualified bidders ;
 - (e) qualified bids shall be eligible for further consideration in a competitive selection process as follows:
 - (i) where the competitive selection process is a minimum subsidy auction the financial bids of each qualified bidder shall be reviewed and the qualified

bidder that has submitted the lowest financial bid shall be awarded the USP Project Agreement and USP Licence, and notice of same shall be sent to the qualified bidders,

- (ii) where the competitive selection process is another process designed by the USP Secretariat, the USP Project Agreement and USP Licence shall be awarded to a qualified bidder in accordance with the rules of award established for that process, and notice of same shall be sent to the qualified bidders,
- (iii) where the bidder awarded the USP Project Agreement and USP Licence does not execute the USP Project Agreement, collect the USP Licence or comply with any other requirements of the competitive selection process in the time period specified by the USP Secretariat, another qualified bidder shall be awarded the USP Project Agreement and USP Licence, and notice of same shall be sent to the qualified bidders, in accordance with the following:
 - (a) “where the competitive selection process is a minimum subsidy auction”, the qualified bidder that has submitted the next lowest financial bid shall be awarded the USP Project Agreement and USP Licence ; and
 - (b) “where the competitive selection process is another process designed by the USP Secretariat”, the USP Project Agreement and USP Licence shall be awarded to another qualified bidder in accordance with the rules of award established for that process.

56. Bidders shall be disqualified and removed from further consideration in a competitive selection process for anyone or more of the following reasons :
- (a) failure to submit the bid by the prescribed deadline;
 - (b) failure to submit a complete bid in accordance with the RFP;
 - (c) failure to comply with any of the procedures or other requirements established by the RFP ;
 - (d) failure to submit the Bid Bond amount specified in the RFP;
 - (e) serious inaccuracy or misrepresentation of any material facts in any part of the bid;
 - (f) any “corrupt practice”, meaning the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in relation to the competitive selection process established by the RFP, the execution of the USP Project Agreement or issuance of the USP Licence ;
 - (g) any “fraudulent practice”, meaning a misrepresentation of facts in order to influence the results of the competitive selection process established by the RFP, the execution of the USP Project Agreement or issuance of the USP Licence to the detriment of the USP Board;
 - (h) any “collusive practice”, meaning a scheme or arrangement between two or more bidders (prior to or after bid submission), with or without the knowledge of the USP Board, designed to establish bid prices at artificial, non-competitive levels and to deprive the USP Board of the benefits of free and open competition ; and
 - (i) any “coercive practice”, meaning harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the competitive selection process

established by the RFP, or to affect the execution of the USP Project Agreement or issuance of the USP Licence.

57. If evidence of any of the activities referred to in regulation 56 is disclosed after the USP Project Agreement and USP Licence have been awarded, the USP Board, in consultation with the Commission, may terminate the USP Project Agreement and revoke the USP Licence without compensation. The provisions of this regulation are in addition to any criminal or civil legal action which may be available to or taken by any government or regulatory authority.
58. The USP Board shall declare a bidder ineligible, either indefinitely or for a stated period of time, to be awarded a USP Project if it at any time determines that the bidder has engaged in corrupt, fraudulent, collusive or coercive practices in applying for, or in executing, a USP Project.
59. Before taking action pursuant to regulations 56, 57 or 58, the USP Board shall send a written notice to the bidder identifying the circumstances and practices relied on by the USP Board to support such action, and inviting the bidder to submit a written response within a period of not less than 10 days from receipt of the notice.
60. Where less than two qualified bids have been submitted prior to the deadline specified in the RFP, the USP Secretariat shall cancel the competitive selection process without awarding of a USP Project Agreement and USP Licence.
61. Where a competitive selection process has been cancelled pursuant to, regulation 60, the USP Secretariat shall undertake a review to determine the most likely reasons that an insufficient number of qualified bids were submitted. Based on the results of this review, the USP Secretariat may:
 - (a) restart the competitive selection process in its original form;

- (b) restart the competitive selection process following revision of one or more of its terms and conditions, including, but not limited to, the subsidy available; or
- (c) abandon the competitive selection process.

Competitive Selection Process Documents

- 62. For the competitive selection process used to select a service provider to implement each USP Project, the USP Secretariat shall prepare and use the documents specified in regulation 63, or such other documents as determined by the USP Secretariat.
- 63. (1) The USP Secretariat shall issue a public notice (to be known as “the Public Notice”) to announce the competition for the USP Project and alert potential bidders.
- (2) The Public Notice shall be issued on the Commission website and in at least two widely circulating national newspapers in Nigeria. Where parties that are potential new entrants to the Nigerian communications sector are eligible to bid in a competitive selection process, the Public Notice shall also be issued in at least one reputable international periodical or trade publication of wide circulation, as determined by the USP Secretariat.
- (3) The Public Notice shall contain :
 - (a) a brief description of the USP Project ;
 - (b) an indication of the date on which the RFP for the USP Project shall be made available ; and
 - (c) a telephone number, e-mail address and mail address at which potential bidders may contact the USP Secretariat for further information regarding the USP Project.
- (4) The Public Notice shall be in a standard form approved by the USP Board.

64. (1) The USP Secretariat shall issue a request for proposals document (to be known as the “Request for Proposals” or “RFP”) to specify the details of the USP Project and the related competitive selection process for potential bidders.
- (2) The RFP shall be in a standard form approved by the USP Board.
- (3) The RFP shall be issued on the Commission website, either concurrently with or subsequent to the issuance of the Public Notice for the USP Project.
- (4) The RFP shall contain detailed descriptions of :
- (a) the technical and operational requirements of the USP Project ;
 - (b) the maximum subsidy available from the USP Fund for the USP Project; and
 - (c) the competitive selection process for the USP Project, including:
 - (i) an estimated timeline for key steps in the competitive selection process ;
 - (ii) the minimum service, qualification and other requirements for eligible bidders, and related evidentiary requirements ; and
 - (iii) the rules for evaluating bids and selecting one or more winning bidders.
65. (1) The USP Secretariat shall specify in the RFP a form of financial security (hereafter in these Regulations referred to as the “Bid Bond”) to be submitted to the USP Secretariat by bidders for a USP Project to secure their bids.
- (2) The Bid Bond shall be in the form of a stand-by letter of credit issued by a reputable bank located in or outside of Nigeria that is acceptable to the USP Secretariat, or such other form as determined by the USP Secretariat.
- (3) The specified form of Bid Bond shall contain :
- (a) the required amount of the Bid Bond ;
 - (b) details of the events triggering forfeiture of the

Bid Bond; and

- (c) the date by which the Bid Bond will be released by the USP Secretariat.
- (4) All Bid Bonds shall be released by the USP Secretariat :
 - (a) in accordance with the requirements specified in the RFP; and
 - (b) not later than 30 days following execution of the USP Project Agreement and issuance of the Licence to the successful bidder for the USP Project.
- 66. (1) The USP Secretariat shall specify in the RFP a form of agreement (hereafter in these Regulations referred to as the “USP Project Agreement”) to be awarded by the USP Board and executed between the Commission and a winning bidder to establish the winning bidder’s obligation to implement the USP Project, the USP Board’s obligation to pay the corresponding subsidy and all related necessary matters, as determined by the Secretariat.
- (2) The specified form of USP Project Agreement shall be a standard form approved by the USP Board prior to issuance of the RFP.
- 67. (1) The USP Secretariat shall specify in the RFP a form of licence (hereafter in these Regulations referred to as “USP Licence”) to be issued by the Commission to a winning bidder to authorize the winning bidder to provide the services necessary to implement the USP Project.
- (2) The specified form of USP Licence shall be a standard form approved by both the USP Board and the Commission prior to issuance of the RFP.
- (3) If the service provider awarded a USP Project Agreement already holds a licence issued by the Commission to provide the services required implementing the USP Project, the USP Secretariat may determine that it is not necessary to issue the USP Licence to the service provider.

68. (1) The USP Board and USP Secretariat shall coordinate with the Commission on all matters relating to the licensing of service providers to implement USP Projects, which shall conform at all times with the licensing requirements of the Act.
- (2) Matters for co-ordination with the Commission pursuant to sub-regulation (1) of this regulation include:
 - (a) the form and content of USP Licences ;
 - (b) the eligibility requirements for licensees ; and
 - (c) the licensing process.
69. (1) The USP Secretariat shall specify in the RFP a form of financial security (hereafter in these Regulations referred to as “the Performance Bond”) to be submitted to the USP Secretariat by a winning bidder for a USP Project to secure its USP Project obligations.
- (2) The Performance Bond shall be in the form of a stand-by letter of credit issued by a reputable bank located in or outside of Nigeria that is acceptable to the USP Secretariat, or such other form as determined by the USP Secretariat.
- (3) The specified form of Performance Bond shall contain :
 - (a) the required amount of the Performance Bond ;
 - (b) details of the events triggering forfeiture of the Performance Bond ; and
 - (c) the date by which the Performance Bond will be released by the USP Secretariat.
- (4) All Performance Bonds shall be released by the USP Secretariat in accordance with the requirements specified in the USP Agreement.

Financing of the USP Fund

70. The USP Fund shall be financed by one or more of :
 - (a) the sources specified in section 114 (2) of the Act; and
 - (b) such other sources as specified in this Part IX.

71. (1) In accordance with section 114(2)(b) of the Act, the Commission shall make financial contributions (hereafter in these Regulations referred to as the "Commission USP Contributions") to the USP Fund based on a portion of the annual levies paid to the Commission by licensees, as determined pursuant to sub-regulation (2) of this regulation.
- (2) The Commission shall determine, from time to time, the amount of the Commission USP Contributions, in accordance with the following :
- (a) the initial amount of the Commission USP Contributions shall be equal to 1% of net revenues of the licensees from which the Commission collects annual levies, as "net revenues" is defined by the Commission for the purposes of calculating its annual levies.
 - (b) prior to making a determination to increase or decrease the amount of the Commission USP Contributions, the Commission shall take into consideration:
 - (i) the estimated financing needs of the current USP Operating Plan ;
 - (ii) any related recommendations prepared and submitted to the Commission by the USP Secretariat ; and
 - (iii) any other information the Commission determines to be appropriate.
 - (3) The Commission USP Contributions shall be paid each calendar quarter into the USP Fund, in accordance with procedures established between the Commission and the USP Board.
72. (1) Where the Commission determines that the Commission USP Contributions shall be insufficient to meet the estimated financing needs of the current USP Operating Plan, the Commission shall establish a fee (hereafter in these Regulations referred to as the "USP

Levy”) to be levied on licensees of the Commission to support USP activities.

- (2) The USP Levy established in sub-regulation (1) of this regulation shall be charged in accordance with procedures determined by the Commission. The procedures shall be published on the Commission website.
 - (3) The amount of the USP Levy shall –
 - (a) be set from time to time by the Commission to correspond to the difference between the estimated Commission USP Contributions and the estimated financing needs of the current USP Operating Plan, or such other amount the Commission determines to be appropriate ;
 - (b) be charged only to the licensees from which the Commission collects its annual levies; and
 - (c) not exceed 1% of net revenues of the licensees from which the Commission collects annual levies, as “net revenues” is defined by the Commission for the purposes of calculating its annual levies.
 - (4) The USP Levy shall be paid into the USP Fund, in accordance with procedures established between the Commission and the USP Board.
73. The difference between the amount collected or received by the USP Fund and the amount actually disbursed pursuant to the current Operating Plan shall be retained by the USP Fund for the financing of future Operating Plans.
 74. The only non-USP Project subsidy expenses permitted to be charged to the USP Fund are the administrative and operational expenses for the USP Fund in accordance with section 114 (3) of the Act.
 75. (1) The administrative and operational expenses for the USP Fund shall be estimated in each Operating Plan.
 - (2) The actual administrative and operational expenses charged to the USP Fund shall in no case exceed the

total of the estimated administrative and operational expenses in the current Operating Plan plus an additional amount for unexpected expenses equal to 3% of the USP Fund.

76. The USP Fund shall consist of one or more accounts established in one or more reputable Nigerian banks with direct foreign currency trading rights.
77. The assets of the USP Fund may be invested in one or more of the following :
 - (a) fixed bank deposits ;
 - (b) treasury bills and securities of the Government ;
 - and
 - (c) other means approved by the USP Board and in accordance with applicable financial regulations.

Audit and Report

78. The financial year of the USP Board shall start on January 1st of each year and end on December 31st of the same year.
79. (1) The USP Board shall keep proper records of the USP Fund accounts in respect of each financial year and shall cause the USP Fund accounts to be audited within 6 months from the end of each financial year by auditors whose appointment shall be approved by the USP Board and shall be subject to reappointment on an annual basis provided that such auditors are on the list of auditors approved from time to time by the Auditor-General for the Federation.
- (2) The USP Secretariat shall recommend auditors of the USP Fund accounts for approval of the USP Board pursuant to sub-regulation (1) of this regulation within 9 months of the coming into force of these Regulations.
80. (1) The USP Board shall prepare and submit an annual report to the National Assembly, through the President, not later than 6 months after the end of each financial year.

- (2) The USP Board annual report shall include, but not be limited to:
 - (a) a description of the activities of the USP Board for the preceding financial year ;
 - (b) the USP Fund's audited accounts for the year under review together with the auditors report thereon ;
 - (c) the most recent USP Fund Managers quarterly report ;
 - (d) the most recent approved Operating Plan ; and
 - (e) any other information the USP Board considers relevant and appropriate for inclusion in the USP Board annual report.
- 81.** (1) The USP Secretariat shall establish a website for the USP Fund within 6 months of the coming into force of these Regulations.
- (2) The USP Fund website shall contain information regarding the activities undertaken by the USP Secretariat for the promotion of universal access and universal service in Nigeria. Such information shall include, but not be limited to :
 - (a) a description of the functions of the USP Board and the USP Secretariat;
 - (b) a description of the individual USP Board members and the USP Director;
 - (c) an organization chart of the USP Secretariat, including the relationship between each of the departments;
 - (d) the Act, these Regulations and any subsequent legislation, regulations, guidelines or procedures regarding the promotion of universal access and universal service in Nigeria;
 - (e) the USP Board annual reports;
 - (f) the USP Fund Managers quarterly reports;
 - (g) the approved Operating Plans;

- (h) all documents required to be published on the USP Board website pursuant to the Act or these Regulations; and
- (i) any other information the USP Secretariat considers relevant and appropriate for inclusion on the USP Board website.

Transitional Provisions

- 82.** (1) If the USP Board is not yet constituted at the time these Regulations come into force, the Commission may undertake activities for the promotion of universal access, universal coverage and universal service in Nigeria. Such activities shall be undertaken in accordance with the powers of the Commission under the Act and in a manner consistent with the principles established in these Regulations.
- (2) If the Commission has undertaken activities for the promotion of universal access universal coverage and universal service in Nigeria in accordance with subregulation (1) of this regulation, then within 2 months of the coming into force of these Regulations, the following shall occur :
- (a) the Commission shall provide the USP Board with a report on any USP related activities undertaken by the Commission pursuant to this regulation, and discuss the appropriateness of transferring responsibility for management of such ongoing activities to the USP Board; and
 - (b) where the Commission determines it is appropriate to do so, the Commission may take steps to transfer to the USP Board the responsibility for management of any USP-related activities undertaken by the Commission pursuant this section which are in progress at the time the USP Board is constituted. Any such transfer of responsibility for management shall be in accordance with procedures established between the Commission and the USP Board.

General

83. Any person who contravenes any of the provisions of these Regulations is in breach of these Regulations and is liable to such fines, sanctions or penalties as may be determined by the Commission, from time to time.
84. (1) The terms and expressions defined in the Act shall have the same meaning in these Regulations and also in these Regulations, unless the context otherwise requires—
- “Act” means the Nigerian Communications Act, 2003 and any succeeding legislation thereto;
 - “Basic USP Terms” has the meaning ascribed in regulation 42 (a) ;
 - “Bid Bond” means the financial security to be submitted to the USP Secretariat by bidders to secure their bids for a USP Project;
 - “coercive practice” has the meaning ascribed in regulation 56 (i) ;
 - “collusive practice” has the meaning ascribed in regulation 56 (h) ;
 - “Commercially Profitable USP Projects” means USP Projects that are estimated by the USP Secretariat to be commercially profitable without any subsidy;
 - “Commercially Unprofitable USP Projects” means USP Projects that, to be commercially profitable, the USP Secretariat estimates a subsidy requirement of less than 50% of the estimated USP Project capital costs;
 - “Commercially Unviable USP Projects” means USP Projects that, to be commercially profitable, the USP Secretariat estimates a subsidy requirement :
 - (a) of more than 50% of the estimated USP Project capital costs, or
 - (b) for ongoing operating costs after a start-up period of time determined to be reasonable for the USP Project by the USP Secretariat;
 - “Commission” means the Nigerian Communications Commission;

"Commission USP Contributions" has the meaning ascribed in regulation 71 (1) ;

"corrupt practice" has the meaning ascribed in regulation 56 (1);

"designated population" has the meaning ascribed in regulation 44 ;

"fraudulent practice" has the meaning ascribed in regulation 56 (g);

"institutions" has the meaning ascribed in regulation 44 ;

"Operating Plan" means the plan to direct the operations of the USP Board, USP Secretariat and USP Fund Managers in implementing the specific USP Programs and USP Projects included in the plan, prepared in accordance with regulation 37;

"Performance Bond" means the financial security to be submitted to the USP Secretariat by a winning bidder for a USP Project to secure its USP Project obligations;

"Public Notice" means a public notice to announce the competition for a USP Project and alert potential bidders;

"Regulations" means these Universal Access and Universal Service Regulations 2007 ;

"Request/or Proposals" or *"RFP"* means a request for proposals document to specify the details of a USP Project and the related competitive selection process for potential bidders, issued by the USP Secretariat pursuant to regulation 64;

"Scope of the USP Fund" has the meaning ascribed in regulation 45;

"served areas" has the meaning ascribed in regulation 44;

"underserved areas" has the meaning ascribed in regulation 44;

"underserved groups within a community" has the meaning ascribed in regulation 44;

"universal access" means that 100% of a designated

population can obtain, at a minimum, public access to a particular service at a specified quality, through reasonably available and affordable public or community facilities;

“universal coverage” means that 100% of a designated population can privately subscribe to a particular service on an individual, household or institutional basis;

“universal service” means that 100% of a designated population are reasonably able to privately subscribe to and use a particular service at a specified quality on an individual, household or institutional basis ;

“unserved areas” has the meaning ascribed in regulation 44;

“USP Areas and Populations” has the meaning ascribed in regulation 42 (a) (i) ;

“USP Secretary” means the individual person appointed to serve as the head of the USP Secretariat pursuant to regulation 23;

“USP Levy” has the meaning ascribed in regulation 72 (1);

“USP Licence” means a licence to be issued by the Commission to a winning bidder to authorize the winning bidder to provide the services necessary to implement a USP Project;

“USP Objectives” has the meaning ascribed in regulation 42 (b);

“USP Priorities” means the representation of the relative importance of the USP Targets as reflected in the comparative emphasis and sequencing of the USP Targets;

“USP Programs” means the general macro-level USP initiatives aimed at achieving one or more of the USP Objectives, typically over the course of several years, prepared in accordance with regulation 35;

“USP Projects” means the specific micro-level implementation activities related to each USP Program,

prepared in accordance with regulation 35;

“USP Project Agreement” means an agreement to be executed between the USP Board and a winning bidder to establish the winning bidder’s obligation to implement a USP Project, the USP Board’s obligation to pay the corresponding subsidy and all related necessary matters; and

“USP Targets” means the specific goals for achievement of universal access and/or universal service, as the case may be, for one or more of the USP Areas and Populations.

(2) Where in these Regulations the context so requires, words in the singular include the plural and words in the plural include the singular.

85. These Regulations may be cited as the Universal Access and Universal Service Regulations, 2007.

MADE at Abuja this 3rd day of July, 2007.

Engr Ernest Ndukwe, (OFR)
Executive Vice-Chairman

Part Three

Guidelines

Dispute Resolution Guidelines

- 1. Nigerian Communications Commission Short Form Procedure Applicable for Small Claims Consumer Disputes Arbitration**

Explanatory Notes

This Guideline is made pursuant to the powers conferred on the Nigerian Communications Commission (NCC) under sections 4(p) and 75(2) of the Nigerian Communications Act 2003. The Guideline is principally intended for small claims consumer disputes involving amounts in dispute not exceeding N1,000,000 (One million Naira).

The procedure is simple, quick, informal and inexpensive. Each party may present a written statement of its arguments in the dispute together with supporting documents and comment on the argument and evidence of the other party. The arbitrator shall make the decision without an oral hearing on documents only and it is important to include all evidence upon which a party wishes to rely.

By applying for arbitration the parties agree to the non disclosure of the proceedings, award and reasons for the award to any stranger to the proceedings unless it is necessary to do so in order to enforce the award.

The Guideline is not designed to deal with complicated disputes, which should be dealt with by more formal oral hearing and evidence to ensure their proper resolution. A decision on the applicability of this procedure shall be at the discretion of the Commission. The applicable rules are the NCC short form consumer dispute resolution guidelines.

The Commission shall appoint the arbitrator. All appointments are within the Commission's exclusive control. The decision of the arbitrator shall be final and binding on the parties.

Introduction

- 1.1 The Nigerian Communications Commission (hereinafter referred to as the "Commission") has established this procedure pursuant to the provisions of sections 4(p) and 75(2) of the Nigerian Communications Commission Act 2003.
- 1.2 The object of arbitration is to obtain the fair resolution of disputes by an impartial arbitration without unnecessary delay and expense. The parties and the arbitrator undertake to do all things necessary in the achievement of this objective.
- 1.3 The procedure is designed to provide a forum for inexpensive, fair, impartial and effective arbitration as a means of resolving consumer-related disputes in the telecommunications sector.
- 1.4 The guideline does not apply to claims in which the amount in dispute or compensation claimed exceeds N1,000,000 (One million Naira) or that which involves complicated issues of law or where there is likely to be examination of witnesses.

- 1.5 As the procedure is designed for cost effective and inexpensive arbitration the rules provide for a “documents only” determination with provision for the submission of any other required additional evidence. Any documentation submitted by either party to the Arbitrator shall remain confidential.
- 1.6 The Commission administers arbitrations under the procedure independently. Arbitrators are selected by appointment from the Commission’s panel of experienced arbitrators.
- 1.7 An application for arbitration under these Rules does not relieve either party of any obligation to pay any amounts, which are due to the other party and are not in dispute.
- 1.8 Registration fees are payable by the Claimant when an application for arbitration is submitted. These fees are charged on the scales set out in the application form and are refundable only in accordance with Rule 7.1.

2. Commencement of Arbitration

- 2.1 A party wishing to commence an arbitration under these rules (the Claimant) must have exhausted all dispute resolution procedures laid down by the service provider without resolution of the complaint.
- 2.2 Where there is no existing arbitration agreement with the other party, the party wishing to commence an arbitration under these rules (the Claimant) shall collect a Request for Arbitration form - **Form NCC I** from the Commission upon payment of the registration fee.
- 2.3 Upon due completion of the Request for Arbitration Form the form shall be served upon the other party (the Respondent) with copy to the Commission.
- 2.4 The Respondent shall sign and date same and forward it back to the Claimant with copy to the Commission. The Claimant shall then forward the duly signed

original form back to the Commission. The arbitration commences when the Commission confirms in writing that it has received the original application form as signed by both parties and has accepted the arbitration request.

- 2.5 Within 21 days of confirmation of acceptance from the Commission the Claimant shall forward to the Commission in duplicate a statement establishing its case together with the supporting documents (hereinafter collectively referred to as the "claim documents")
- 2.6 A copy of the claim documents will be sent by the Commission to the Respondent who shall within 21 days of its receipt send to the Commission in duplicate its defence and any counterclaim together with the supporting documents (hereinafter collectively referred to as the "defence documents").
- 2.7 A copy of the defence documents will be sent by the Commission to the Claimant who shall within 21 days of its receipt send to the Commission in duplicate its response together with any supporting documents (hereinafter collectively referred to as "reply documents"). The reply documents will be sent by the Commission to the Respondent and must be restricted to points arising from the respondents defence or counterclaim. No additional new points must be included.
- 2.8 In circumstances where parties have entered into an arbitration agreement prior to the dispute arising, the Claimant shall collect from the Commission upon payment of the stipulated registration fee a "Notice of Arbitration" form **Form NCC 2**.
- 2.9 Upon due completion of the Notice of Arbitration the Claimant shall attach a Statement establishing its case with all supporting documents and serve same on the respondent with copy to the Commission. The

arbitration commences when the Respondent receives the Notice of Arbitration.

- 2.10 Within 21 days of the service of the Notice of arbitration and accompanying documents the respondent shall serve its defence with all necessary supporting documents on the Claimant. In the event that a counterclaim is alleged, all necessary supporting documents must be submitted. The written defence and all supporting documents must be copied to the Commission.
- 2.10 The Claimant upon receipt of the Respondent's defence and where applicable any counterclaim has 21 days within which to submit a response together with any documentation in support which must be copied to the Commission. The response must be restricted to points arising from the Respondents defence or counterclaim. The Claimant may not include any new points of claim.

3. Appointment of Arbitrator

- 3.1 A sole arbitrator appointed by the commission at such stage as considered appropriate shall conduct the arbitration. The Commission shall notify the parties of the arbitrator appointed.
- 3.2 If an arbitrator is unable to act for any reason the Commission shall appoint another arbitrator to act in his place.
- 3.3 The arbitrators appointed in accordance with the provisions of this clause shall be and remain at all times independent of any of the parties and the Commission and shall determine the dispute in an impartial and timely manner.

4. Form of Procedure

- 4.1 The arbitration will be conducted on a documents only basis.
- 4.2 The parties claim and defence documents shall contain

the following-

- a. All allegations of facts or matters of opinion.
- b. The evidence in proof of the facts.
- c. The law to be relied upon.
- d. Signed and dated affidavits containing statement of the evidence of any witness upon whose evidence the party relies.
- e. The relief sought or remedies claimed.
- f. Detailed calculation of any sums claimed.

5. Powers of the Arbitrator

- 5.1 The Arbitrator upon his appointment shall communicate with or issue directions to the parties and have the widest discretion permitted by law to resolve the dispute in a just speedy, economical and final manner in accordance with natural justice and without any need to comply with the provisions of the Evidence Act. No rules or requirements in respect of the law relating to admissibility of evidence shall be applicable to these proceedings.
- 5.2 The arbitrator's powers shall include the following:-
 - (a) Allow the parties' statements to be amended provided that same is not amended in a manner that the amount claimed exceeds N1,000,000 (One million Naira).
 - (b) Extend any time limits provided hereunder or under his directions.
 - (c) Allow submission of further evidence and the amendment of claim or defence.
 - (d) Order the parties to produce goods, documents or any other required item property for inspection.
 - (e) Appoint an expert to report on specific issues or take legal advice.
 - (f) Conduct any further inquiries or inspections as

deemed necessary. The parties shall accord the arbitrator all necessary assistance and facilities for the conduct of any such inquiries or inspection.

- (g) Determine the arbitration on the basis of the documents submitted if either of the parties fails to comply with his directives within the time stipulated or at any other extended time, provided 14 days notice has been given that the arbitration shall be so determined.
- (h) Inform the parties if he believes that the dispute is not suitable for determination by this procedure and invite the parties to submit to an agreement for determination of the dispute by the appropriate Commission's procedure.

6. Communication between the Parties and the Arbitrator

- 6.1 Any communication sent by a party to the arbitrator shall be copied by the party to the other party or parties and marked as having been so copied.
- 6.2 Any communication sent by the arbitrator to one party shall be copied to the other party or parties and marked as having been so copied.

7. Costs

- 7.1 Registration fees are payable by the Claimant upon collection of a Request for Arbitration or Notice of Arbitration form. In the event that the dispute is resolved amicably prior to the appointment of an arbitrator by the Commission or the dispute is considered not suitable for determination by this procedure the fees shall be refunded. Registration fees are regarded as part of the costs of the Arbitration and the provisions of clause 7.3 hereof apply to its ultimate apportionment.

- 7.2 Costs of the arbitration shall include registration fees, the arbitrator's fees and expenses and those of any experts and administrative costs in accordance with the prevailing rates established by the Commission.
- 7.3 Costs of the arbitration shall be ultimately borne by the losing party, but subject to the overriding discretion of the arbitrator as to which party will bear what proportion of the costs of the arbitration. The arbitrator shall have the discretion to order one party to pay any part of the other's costs where the former has acted unreasonably in any manner including exaggerating its claim or otherwise caused the opposing party unnecessary delay or expense or hindered the timely process of the arbitration procedure.
- 7.4 Each party shall bear its own costs of preparing and submitting its case.
- 7.5 The Commission may direct the parties to make one or several interim or final payments on account of the costs of the Arbitration. Such amounts shall be held by the Commission and may from time to time be released to the Arbitrator.

8. Miscellaneous

- 8.1 Neither the Commission nor the arbitrator shall be liable to any party for any act or omission in connection with the arbitration conducted under these rules.
- 8.2 Subject to the right of a party to draw the arbitrator's attention to any accidental slip and omission which he has power to correct, neither the Commission nor the arbitrator can enter into any correspondence regarding an Award issued under this scheme.
- 8.3 Arbitration proceedings must be concluded within sixty days (60) from the date of commencement.
- 8.4 Awards made under this procedure are final and binding on the parties until set aside by a competent court of law.

- 8.5 Nothing in these rules shall preclude the Nigerian Communications Commission from attempting to resolve the dispute if the parties so agree after the commencement of arbitration proceedings.
- 8.6 These rules are subject to revision and the edition of the Rules in force at the time the arbitration commences shall govern the proceedings.

Request For Arbitration Form

**The Rules Of The Nigerian Communications Commission
Small Claims Consumer Dispute Resolution Guideline**

Application For Arbitration

(N.B Before completing this form please refer to the accompanying Explanatory Notes)

To: Nigerian Communications Commission

1.

Claimant of (Address).....

.....

Tel

and

..... Respondent

of (Address)

.....

Tel

Hereby apply to the Nigerian Communications Commission for the following dispute to be referred to arbitration under the current Rules of the short form procedure small claims Consumer Dispute Resolution Guideline for determination by an Arbitrator appointed by the Commission.

2. The dispute concerns the following issues:

.....

(NOTE: Only an outline is required here to enable the dispute

to be identified by the parties. The Claimant will be asked to submit a specific claim in detail (statement of case) as soon as the commission accepts the arbitration request).

3. The amount (if any) claimed is N.....

and the amount (if any) Counter claimed is N.....

4. We, the parties to this application, have read the current Rules of the Guideline. We agree to be bound by these Rules and by the award of the Arbitrator appointed to determine the dispute.

5. We require this dispute to be resolved by arbitration.

6. A cheque for the sum of in respect of the Claimant's registration fee, is enclosed.

Signed Date

 (by or for the Claimant)

Signed Date

 (by or for the Respondent)

Cheques should be in favour of "Nigerian Communications Commission"
Notice of Arbitration

**The Rules of the Nigerian Communications Commission
 Small Claims Consumer Dispute Resolution Guideline.**

(N.B Before completing this form please refer to the accompanying Explanatory Notes)

To: Respondent
 of (Address)

 Telephone

1. The Claimant

.....

 of (Address).....

 Tel

Hereby gives you notice that the following dispute which has arisen between us be referred to arbitration in accordance with the provision of Clause of our agreement dated the and be determined under the rules of the Nigerian Communications Commission small claims short form procedure for dispute resolution.

2. The dispute concerns the following issues:-

OUTLINE (Additional paper may be attached)

3. Attached herewith are the following:-

(i) Statement of Case

(ii) **Additional Documents (List any Other Enclosed) Additional Documents**

SIGNED

Copy to: -

The Executive Vice Chairman
Nigerian Communications Commission

- This Form apply where there is an existing arbitration agreement between the parties.
 - Cheques should be made in favour of "Nigerian Communications Commission"
2. **Nigerian Communications Commission Arbitration Rules**
 1. **Introduction**

These Rules shall be known as Nigerian Communications Commission Arbitration Rules.

- 1.1 This procedure has been established by the Nigerian Communications Commission (NCC) pursuant to the provisions of sections 4(p) and 75(2) of the Nigerian Communications Commission Act (hereinafter referred to as the Act) 2003 as a means of resolving disputes in the telecommunications sector.
- 1.2 The procedure is designed to provide a forum for inexpensive, fair, impartial and effective arbitration as a means to resolving disputes in the telecommunications sector.
- 1.3 Nothing in these rules shall preclude Nigerian Communications Commission from attempting to resolve the dispute if the parties so agree after the commencement of arbitration proceedings.
- 1.4 An application for arbitration under these Rules does not relieve either party of any obligation to pay any amounts, which are due to the other party and are not in dispute.
- 1.5 Registration fees are payable by a party or the parties submitting a Request for Arbitration or filing a Notice of Arbitration (which ever is applicable) at the current rates of the Commission. The fees are utilized towards defraying the administrative costs of the arbitral proceedings and are regarded as part of the costs of the arbitration to be ultimately borne by the losing party.

2. Commencement of the Arbitration

- 2.1 Any party wishing to commence an arbitration under these rules (the Claimant) shall serve upon the other party to the dispute (the Respondent) with copy to the Commission a Notice of Arbitration which shall include the following information:-
 - (a) A demand that the dispute be referred to arbitration under the auspices of the

Commission's arbitration panel

- (b) The names and addresses of the parties to the arbitration
 - (c) Copies of the contractual documents (if any) in which the arbitration agreement is contained or under which the arbitration arises.
 - (d) A reference to the contract out of or in relation to which the dispute arises.
- 2.2 The Notice of Arbitration shall be supported with a statement setting out facts of the case, the evidence and contention of law relied upon and the damages or other relief claimed, and all documents considered relevant.
- 2.3 Within 21 days of the service of the Notice of Arbitration the Respondent shall serve a statement setting out its comments as to the nature and circumstances of the dispute giving rise to the claims and any counter claim alleged. The statement shall include the facts, the evidence and any law relied upon. All documents considered relevant should be attached.
- 2.4 Within 21 days of the receipt of the respondent's statement the claimant shall file a reply to any counterclaim. The reply should contain the facts, the evidence and the law relied upon. All relevant documents are to be attached.
- 2.5 For the purpose of these rules the arbitration is deemed to have commenced on the date when the Respondent receives the Notice of Arbitration.

3. Submission Agreement

- 3.1 If the Commission is requested by a party, hereinafter referred to as the initiating party wishing to have its dispute with any other party arbitrated under the auspices of the Commission it will approach the other party and seek to persuade it to enter into a submission agreement with the initiating party. Alternatively the

initiating party may propose to the other party that the dispute be arbitrated under the auspices of the NCC arbitration guideline. Upon agreement the parties will enter into the Commission's Arbitration Submission Agreement.

- 3.2 The arbitration commences upon the parties entering into a Submission Agreement.
- 3.3 The arbitral tribunal upon its constitution by the Commission shall issue directions to the parties including that pertaining to the filing of statement of claim / defence and all supporting documents.

4 Appointment of Arbitrators

- 4.1 On receipt of a Notice for Arbitration pursuant to the provisions of Clause 2 hereof or the execution of a Submission Agreement pursuant to the provision of Clause 3 the Commission shall appoint a tribunal from its panel of arbitrators. The tribunal shall consist of three persons. However a sole arbitrator may be appointed if the circumstance and the case so warrant.
- 4.2 The Arbitrator shall be and remain at all times independent of the parties and determine the dispute in an impartial and timely manner.

5. Arbitration Procedure

- 5.1 The Tribunal shall adopt procedures appropriate to the case with the aim of achieving the just, speedy, economical and final resolution of the dispute. To that end it shall act fairly and impartially between the parties, giving each party an opportunity to present its case and dealing with that of his opponent.
- 5.2 The Tribunal upon its appointment shall communicate with or issue directions to the parties.
- 5.3 The Tribunal shall have the jurisdiction and power to direct the procedure of the arbitration including the

amendment of time limits and other procedural requirements. The arbitrator shall also have the power to :-

- (a) Allow submission of further evidence and the amendment of claim, defence or response;
- (b) Order the parties to produce documents for inspection;
- (c) Conduct all such enquiries as may appear to the Arbitrator to be desirable;
- (d) Receive and take into account any oral or written evidence as the Arbitrator shall decide to be relevant;
- (e) Appoint an expert to report on specific issues or take legal advice;
- (f) To take interim measures if deemed necessary including but not limited to ordering security for costs of such measures or the claim;
- (g) Proceed with the arbitration if either party fails to comply with these Rules or with the Arbitrator's directions, or if either party fails to attend any meeting or inspection ordered by the Arbitrator but only after giving that party written notice.

5.4 In the event that the Arbitrator considers that the dispute may be resolved on documents only basis, he shall inform the parties and subject to their agreement proceed to issue an award on the basis of the documents submitted by the parties. Otherwise the arbitration will proceed on the basis of oral hearing and evidence.

6. Communication between the Parties and the Arbitrator

6.1 Any Communication sent by a party to the Tribunal shall be copied by the party to the other party or parties and marked as having been so copied.

6.2 Any communication sent by the Tribunal to one party

shall be copied to the other party or parties and marked as having been so copied.

7. Costs

- 7.1 Costs of the arbitration shall include registration fees, arbitrators fees and expenses as fixed by the commission in accordance with the scale in force at the time of the commencement of the arbitral proceedings as well as the fees and expenses of any experts appointed by the arbitral tribunal and the reasonable legal and other costs incurred by the parties to the arbitration.
- 7.2 Cost of the Arbitration shall be paid by the losing party, but subject to the overriding discretion of the arbitrator as to which party will bear what proportion of the costs of the arbitration. In this regard the tribunal shall have the discretion to order one party to pay any part of the other's costs where the former has acted unreasonably and caused the opposing party unnecessary expense or has otherwise hindered the timely process of the arbitration procedure.
- 7.3 In allocating costs the Tribunal shall have regard to all the material circumstance, including such of the following as may be relevant:-
 - a. Which of the claims has led to the incurring of substantial costs and whether they were successful.
 - b. Whether any claim which has succeeded was unreasonably exaggerated.
 - c. The conduct of the party who has succeeded on any claim and any concession made by the other party.
 - d. The degree of success of each party.
- 7.4 As soon as practicable the Commission shall request the parties to pay in equal shares a deposit on account of the costs of the arbitration. The balance shall be

payable prior to the issuance of the Award. However any party shall be free to pay the whole of the advance of costs or balance outstanding should the other party fail to pay its share. If the arbitration is abandoned, suspended or the dispute resolved by the parties agreement or otherwise before an award is made the parties shall be jointly and severally liable for all the costs of the arbitration as determined by the Commission.

8 Miscellaneous

- 8.1 The Tribunal shall determine the law applicable to the dispute if the parties fail to agree.
- 8.2 The provisions of the Evidence Act are inapplicable to this procedure.
- 8.3 Subject to the right of a party to draw the tribunals attention to any accidental slip and omission which it has power to correct, neither the Commission nor the Tribunal shall enter into any correspondence regarding an award issued under this guideline.
- 8.4 In the event that an arbitrator dies, is incapacitated or is otherwise incapable of acting or dealing expeditiously with the dispute, the Commission shall appoint a substitute arbitrator and inform the parties.
- 8.5 Neither the Commission nor the Tribunal or any member shall be liable to any party for any act or omission in connection with the arbitration conducted under these rules.
- 8.6 Arbitration proceedings must be concluded within sixty days (60) from the date of commencement.
- 8.7 Awards made under this procedure are final and binding on the parties until set aside by a competent court of law.
- 8.8 These Rules are subject to revision and amendment from time to time and any arbitration under this procedure shall be governed by the edition of the Rules

in force at the time the arbitration commences, which shall be taken for that purpose as the time the claimant submitted a notice of arbitration or a submission agreement was entered into.

3. Nigerian Communications Commission Mediation Procedure Rules

1. Application of the Rules

- 1.1 Parties may by mutual agreement either with respect to existing or future disputes agree to mediation of their disputes under the auspices of the Nigerian Communications Commission (hereinafter referred to as the "Commission"). All such agreements for mediation shall be deemed to be subject to the application of these rules or any variation of same as may be in effect as at the date of the submission.

2. Approach to the Commission

- 2.1 Any party or parties to a dispute where there is an existing mediation agreement with the other party or parties may initiate mediation by filing with the Commission a written Request for Mediation which should be copied to the other party or parties.
- 2.2 Where one party or parties to a dispute or difference in instances where there is no contract or submission agreement providing for mediation, seeks mediation, such party may request the Commission to write the other party to join in a submission to mediation. Upon receipt of such request the Commission may seek the agreement thereto of the other party or parties. Upon approval of the other party, the parties will enter into the Commission's Model Mediation Agreement
- 2.3 A request under rules 2.1 and 2.3 above shall be in writing and shall contain the names, addresses, telephone and fax numbers of the parties to the dispute

and any persons representing them. Brief details of the nature of the dispute shall be included.

3. The Mediator

- 3.1 The designated representative of the Commission shall conduct the Mediation.
- 3.2 The Commission may appoint another mediator in the place of the person initially designated in the event that the designated mediator is unable to act for any reason.

4. Mediation Procedure

- 4.1 The Mediator shall be responsible for the conduct of the mediation. The Mediator's aim shall be to assist the parties in an impartial manner to achieve an amicable settlement which the parties consider appropriate to their particular circumstances.
- 4.2 The Mediator shall do all things necessary to facilitate the settlement of the dispute. He shall amongst any other steps considered appropriate:-
 - Attend any meetings with any or all of the parties prior to proceeding with the
 - mediation if requested or if such meeting is deemed appropriate.
 - Chair and determine the procedure for the Mediation.
 - Assist the parties in drawing up any written settlement agreements.
 - If requested by all the parties give a non-binding evaluation of the respective merits of
 - the dispute or any aspect of it.
 - At the request of all the parties in the event that they are unable to reach agreement
 - during negotiations at the mediation, make a written recommendation as to terms of
 - settlement. Such recommendation need not be such that a court or arbitrator would have made,

the emphasis being on an amicable resolution of the dispute.

5. Participants

- 5.1 The parties may be represented by persons of their choice including legal advisers provided all such representatives have written authority issued by the party being represented. The written authorization indicating the names and addresses of such representatives are to be communicated to the Commission and the other parties and shall state the name of the lead representative vested with the necessary authority to settle the dispute.
- 5.2 Legal Advisers acting for Parties may participate in the mediation process to such an extent as the mediator may consider useful and appropriate.

6. Exchange of Information

Each party shall exchange with the other and send to the Commission within such time as may be stipulated by the mediator or any other date agreed between the parties and the mediator sufficient copies of:-

- a. A concise summary (the summary) setting forth its case with regard to the issues that needs to be resolved.
- b. All the documents to which the Summary refers and any others to which it may want to refer in the mediation ("the Documents"). In addition each party may bring to the mediation any further documentation which it wishes to disclose.

7. Date, Time and Place of Mediation

- 7.1 The Mediator shall in consultation with the Commission fix the time, date and place of each mediation session.

8. Record of Proceedings

- 8.1 No formal record or transcript of the Proceedings will be made without the prior consent of the parties.

9. Settlement Agreement

- 9.1 The parties shall record any agreed settlement (Settlement Agreement) which results from the mediation.
- 9.2 The parties upon signing the settlement agreement are bound by the terms of the Agreement as a binding and enforceable contract.

10. Confidentiality and Privilege

- 10.1 Every person involved in the mediation will keep confidential and not use for any collateral or ulterior purpose:-
 - (i) All information whether given orally or otherwise produced for, or arising in relation to the mediation including the settlement agreement (if any) arising out of it, except in so far as is necessary to implement and enforce any such settlement agreement or to comply with any court direction.
 - (ii) The fact that the Mediation is to take place or has taken place.
- 10.2 All information (whether oral, in writing or any other form including tapes, disks or computer records) produced for during or as a result of the mediation will be privileged, without prejudice and not divulged or admissible as evidence or discoverable in any litigation or arbitration relating to the Dispute. This is not applicable to any information, which would in any event have been admissible or discoverable in any such litigation or arbitration.
- 10.3 No party shall have access to the mediator's notes.
- 10.4 None of the Parties to the Mediation Agreement will call the mediator as a witness, consultant, arbitrator or expert in any litigation or arbitration in relation to the dispute and the mediator will not voluntarily act in any

such capacity without the written agreement of all the parties.

11. Privacy

- 11.1 Mediation Sessions shall be private. Only parties and their representatives are to attend. Any other person may attend only with the permission of the parties and the mediator's consent.

12. Termination

- 12.1 The mediation proceedings shall terminate:-
- a. Upon the execution of a written settlement agreement by the parties.
 - b. If the mediator considers it necessary to bring the proceedings to an end on the basis that the mediation is unlikely to result in a settlement and a written declaration to this effect is submitted by the Mediator.
 - c. In the event that any of the parties states in writing that the mediation proceedings be terminated.
 - d. The Mediator decides he should retire for any of the reasons in the Code of Conduct. In that event the Commission may designate another mediator to assist the parties to settle the dispute.

13. Exclusion of Liability

- 13.1 Neither the Commission nor any mediator shall be liable to the parties for any act or omission whatsoever in connection with the mediation.

14. Fees Expenses and Costs

- 14.1 The fees of the Commission (which include the mediator's fees and administrative fees) and all such other incidental expenses shall be borne equally by the parties.

Payment of these fees shall be made to the Commission in accordance with its fees schedule and mediation terms and conditions.

- 14.2 Each party will bear its own costs and expenses of its participation in the Mediation. Such costs and expenses shall include the expenses of witnesses (if any) called by either side.

15. Stay of Proceedings

- 15.1 Any litigation or arbitration in relation to the dispute may be commenced or continued notwithstanding the Mediation unless the Parties agree otherwise. The parties shall however be bound to mediate in good faith.

16. Post Mediation Function

- 16.1 A mediator under these rules shall not act as arbitrator in relation to the same dispute or difference unless the parties agree. Alternatively he or she may agree to determine the matter as an expert after the mediation has come to an end and no settlement agreement has been reached if the parties at this stage so request.

4. Nigerian Communications Commission Rules for the Arbitration of Interconnection Issues and Disputes

1. Introduction

- 1.1. These Rules shall be known as the Nigerian Communications Commission (hereinafter referred to as "NCC") rules for the arbitration of interconnection issues and disputes and shall govern the arbitration of open or unresolved interconnection issues which arise under Chapter VI Part 2 of the Nigerian Communications Act 2003.

2. Commencement

- 2.1. The arbitration process is commenced by the filing of a petition for arbitration in six copies with the **Commission** pursuant to Section 4(p) and 75(2) of the Act by any party to the negotiation process (hereinafter referred to as the "Petitioning Party") where the negotiating process fails to reach an agreement within a period of ninety days.
- 2.2. The arbitration process is deemed to have commenced on the date when the petition is filed with the **Commission**.
- 2.3. The petitioning party shall at the same time as it files the petition at the **Commission** serve copies on all parties to the negotiating process and obtain proof of service which should be filed at the **Commission**.
- 2.4. The petition shall contain all relevant information and documentation including the following:-
 - (i) The names, address, telephone numbers and fax number of the petitioner.
 - (ii) The name, address, telephone numbers and fax number of the other party to the negotiation.
 - (iii) The names, address, telephone number and fax of the representative of the parties who participated during the negotiation.
 - (iv) Details of the negotiation history including any mediation process.
 - (v) A detailed statement identifying all unresolved issues and including all relevant documentation concerning those unresolved issues.
 - (vi) A statement indicating the position of each of the parties concerning the unresolved issues including proposed remedies and copies of all relevant documentation relied upon or pertaining to those issues.
 - (vii) A statement indicating the issues (if any) which have been resolved by the parties during the

negotiation process.

- (viii) A brief addressing the issues and containing all relevant provisions of the Act and applicable NCC regulation and guidelines.
- (ix) In the case of price disputes proposed rates or charges, detailed costs/accounting information and all relevant supporting information and documentation.
- (x) Proposed interconnection agreements submitted by both the petitioning party and the non-petitioning party or the interconnection agreement being negotiated by the parties.
- (xi) Proposed time schedule for the implementation of the terms and conditions of the agreements.
- (xii) Any condition the party wishes to have imposed together with the justification for such.
- (xiii) Any request for interim ruling pending the decision of the arbitrator.
- (xiv) All other documents relevant to the dispute and intended to be relied upon as evidence in the arbitration proceedings.

3. Response of the Petition

- 3.1. The non petitioning party may respond to a petition for arbitration within a period of twenty – one days after the petition is filed in accordance with the Act, NCC regulations and guidelines and may present any additional issues and provide relevant documentation it wishes to have considered during the negotiation pertaining to any of the issues. The non petitioning party shall file the response in six copies at the **Commission** and at the same, time serve copies on all parties to the negotiating process. Proof of serve should be obtained and filed at the **Commission**.
- 3.2. In the event that a response is not filed the arbitrator shall determine the matter on the basis of the documents

before it and in accordance with the Act and applicable NCC regulations and guidelines.

4. Negotiation During Arbitration

- 4.1. Negotiations may continue between the parties in accordance with the NCC guidelines and regulations pending a final decision by the arbitrator. The parties shall keep the NCC informed on the progress of the negotiation.

5. Appointment of Arbitrator

- 5.1 The Commission shall appoint an Arbitrator it determines to be qualified who may be a person from the Commission's Staff or out side the **Commission** within a period of 14 days after the petition has been filed.
- 5.2 In the event that an Arbitrator dies, in incapacitated or is otherwise incapable of acting or dealing expeditiously with the dispute, the Commission shall appoint a substitute Arbitrator and inform the parties accordingly.

6. Appointment of Technical Adviser

- 6.1. The **Commission** may designate one or more **Commission** staff personnel or an outside consultant to serve as technical adviser to the Arbitrator.
- 6.2. The **Commission** may also appoint an expert in arbitration practice and procedure to act as consultant to the Arbitrator.

7. Arbitration Procedure

- 7.1. The Arbitrator shall conduct the arbitration in accordance with the provisions of section 76(2) of the Act and to that end adopt procedures appropriate to the case with the aim of achieving the just, speedy and economical resolution of the issues or disputes.

- 7.2. The Tribunal shall act fairly and impartially between the parties giving each party an opportunity to present its case and deal with that of its opponent.

8. Communications Between the Parties and the Arbitrator

- 8.1. A party shall not have any communication relating to the subject matter of the arbitration with the arbitrator, technical adviser or any of the persons involved in the arbitration without communicating same to the arbitrator and the other party.

9. Payment of Cost and Fees

- 9.1. The parties to the proceeding shall bear equally all costs and fees of the arbitrator, that of any technical experts and consultants retained to assist the arbitrator and the administrative fees of the **Commission** as fixed by the **Commission** in accordance with the scale in force at the time of the commencement of the proceedings.
- 9.2. Each party shall bear the legal and any other costs incurred by the party to present its petition or response to a petition filed against it.
- 9.3. As soon as practicable the Communication shall request the parties to pay in equal shares the costs of the arbitration stipulated in Clause 9.1.
- 9.4. The Arbitrator shall have power to order any party who has delayed proceedings or behaved in an unreasonable manner to pay the apportionment or a percentage of the apportionment of the other payment.

10. Arbitrator's Decision

- 10.1. The Arbitrator shall have the power to issue an interim ruling where a dispute directly affects the ability of a party to continue to provide uninterrupted services to its Customers.
- 10.2. The Arbitrator shall issue its final decision and file same with the **Commission** not later than six months after

the filing of the petition for arbitration which period may be extended by the arbitrator after due consultation with the **Commission**.

- 10.3. The Arbitrator's decision must be reasoned, ensure the resolution of issues presented by the parties such that the resolution meets the requirements of the Act, NCC regulations and guidelines and indicate schedules for the implementation of the decision.

11. Review by the Commission

- 11.1. The **Commission** shall review the Arbitrator's draft decision with a view to ensuring that same complies with the requirement of the Act and NCC regulation guidelines. No decision shall be rendered by the Arbitrator until it has been approved by the NCC.
- 11.2. The **Commission's** actions in accordance with the provision of Clause 11 hereof are final and binding until set aside by a competent court of law.

12. Submission of A Memorandum of Understanding

- 12.1. Within thirty days after the issuance of the arbitrator's decision, the parties to the arbitration shall jointly file with the **Commission** a Memorandum of Understanding incorporating the decisions of the arbitrator as approved by the **Commission**.

13. Miscellaneous

- 13.1. Neither the **Commission**, the Tribunal or technical adviser or consultant shall be liable to any party for any act or omission in connection with the arbitration conducted under these rules.
- 13.2. The Arbitrator's decision as approved by the **Commission** is final and binding on the parties until set aside by a competent court of law.
- 13.3. These rules are subject to revision and amendment from time to time and any arbitration under this procedure shall be governed by the edition of the Rules in force at

the time the arbitration commences which shall be taken as stipulated in Clause 2.2 as the date when the petition is filed with the **Commission**.

5. Nigerian Communications Commission Dispute Resolution Guidelines

Code of Conduct for Arbitrators and Guidelines of Good Practice

Introduction

An Arbitrator should be impartial, independent, competent, diligent and discreet. These guidelines seek to indicate the manner in which these abstract qualities may be assessed. For the purpose of these Guidelines the reference to “he” refers to both male and female arbitrators.

1. Professional Standard

An Arbitrator shall proceed diligently and efficiently to provide the parties with a just and effective resolution of their disputes, and shall be and shall remain free from bias.

2. Acceptance of Appointment

A prospective Arbitrator shall not solicit appointment and shall accept appointment if offered only if he is fully satisfied that he is able to discharge his duties without bias or the appearance of bias; that he is competent to determine the issues in dispute and has an adequate knowledge of the language of the arbitration; that he is able to give to the arbitration the time and attention which the parties are reasonably entitled to expect.

3. Elements of Bias

- 3.1 The criteria for assessing questions relating to bias are impartiality and independence. Partiality arises when an Arbitrator favours one of the parties, or where he is

prejudiced in relation to the subject matter of the dispute.

Dependence arises from relationships between an Arbitrator and one of the parties, or with someone closely connected with one of the parties.

- 3.2 Facts which might lead a reasonable person, not knowing the Arbitrator's true state of mind, to consider that the Arbitrator is dependent on or connected with a party will create an appearance of bias. The same is true if an arbitrator has a material interest in the outcome of the dispute, or if he has already taken a position in relation to it. The appearance of bias is best overcome by full disclosure as described in Guideline 4 below.
- 3.3 Any current direct or indirect business relationship between an Arbitrator and a party, or with a person who is known to be a potentially important witness, will give rise to justifiable doubts as to a prospective Arbitrator's impartiality or independence. He should decline to accept an appointment in such circumstances unless all the parties agree in writing that he may proceed. Examples of indirect relationships are where a member of the prospective Arbitrator's family, his firm, or any business partner has a business with one of the parties.
- 3.4 Past business relationships will not operate as an absolute bar to acceptance of appointment, unless they are of such magnitude or nature as to be, or appear to be, likely to affect a prospective Arbitrator's Judgment.
- 3.5 Continuous and substantial social relationships between a prospective Arbitrator and a party, or with a person who is known to be a potentially important witness in the arbitration, will give rise to justifiable doubts as to the impartiality or independence of a prospective Arbitrator.

4. Duty of Disclosure

- 4.1 A prospective Arbitrator should disclose all facts or circumstances that may give rise to justifiable doubts as to his impartiality or independence. Failure to make such disclosure creates an appearance of bias, and may of itself be a ground for disqualification even though the non-disclosed facts or circumstances would not of themselves justify disqualification.
- 4.2 A prospective Arbitrator should disclose:
 - (a) Any past or present business relationship, whether direct or indirect as illustrated in Article 3.3, with any party to the dispute, or any representative of a party, or any person known to be a potentially important witness in the arbitration. With regard to present relationships, the duty of disclosure applies irrespective of their magnitude, but with regard to past relationships only if they were of more than a trivial nature in relation to the Arbitrator's professional or business affairs. Non-disclosure of an indirect relationship unknown to a prospective arbitrator will not be a ground for disqualification unless it could have been ascertained by making reasonable enquiries;
 - (b) The nature and duration of any substantial social relationships with any party or any person known to be likely to be an important witness in the arbitration;
 - (c) The extent of any prior knowledge he may have of the dispute;
 - d) The extent of any commitments which may affect his availability to perform his duties as Arbitrator as may be reasonably anticipated.
- 4.3 The duty of disclosure continues throughout the arbitral proceedings as regards new facts or circumstances.

- 4.4 Disclosure should be made in writing and communicated to all parties.

5. Communications with Parties

- 5.1 When approached with a view to appointment, a prospective arbitrator should make sufficient enquiries in order to inform himself whether there may be any justifiable doubts regarding his impartiality or independence; whether he is competent to determine the issues in dispute; and whether he is able to give the arbitration the time and attention required. He may also respond to enquiries from those approaching him, provided that such enquiries are designed to determine his suitability and availability for the appointment and provided that the merits of the case are not discussed.
- 5.2 Throughout the arbitral proceedings, an Arbitrator should avoid any unilateral communications regarding the case with any party, or its representatives. If such communication should occur, the Arbitrator should inform the other parties of its substance.
- 5.3 An Arbitrator should not accept any gift or hospitality, directly, from any party to the arbitration. An Arbitrator should be meticulous in avoiding significant social or professional contacts with any party to the arbitration other than in the presence of other parties.

6. Duty of Diligence

An Arbitrator should devote such time and attention as the parties may reasonably require having regard to all the circumstances of the case, and shall do his best to conduct the arbitration in such a manner that costs do not rise to an unreasonable proportion of the interests at stake.

7. Confidentiality of the Deliberations

The deliberations of the Arbitrator, and the contents of the award itself, remain confidential in perpetuity unless the parties release the Arbitrator from his obligation.

8. Costs

Costs of the reference shall be in accordance with the NCC schedule of fees and expenses.

9. Award

- (a) Any award made by the arbitrator or arbitral tribunal, shall be in writing and signed by the arbitrator or arbitrators.
- (b) Where the arbitral tribunal comprises of more than one arbitrator, the signatures of a majority of all the members of the arbitral tribunal shall suffice if the reason for the absence of any signature is stated.
- (c) The arbitral tribunal shall state on the award ;
 - i. the reasons upon which it is based, unless the parties have agreed otherwise
 - ii. the date it was made; and
 - iii. the place of the arbitration
- (d) A copy of the award, made and signed by the arbitrators in accordance with paragraphs (a) and (b) of this section shall be delivered to each party.

10. Procedure

An Arbitrator should adopt a procedure in which to run the arbitration which is in accordance with the wishes of the parties. If the parties are unable to agree a procedure, the Arbitrator should set the procedure. The procedure should be such as to resolve the dispute quickly, efficiently and economically.

11. Cancellation Fees

- 11.1 Cancellation charges are intended to compensate the Arbitrator for any loss likely to be suffered as result of time set aside for hearing not being required and for

the inconvenience caused by cancellations. The Arbitrator should make full allowance for the possibility of mitigating his loss with respect to such charges.

12. Retention of Documents

An Arbitrator should adopt the following policy:

1. Original documents – offer to return them to the relevant party or solicitor at the end of the period for appeal against the award plus one month;
2. Photocopied documents – as for original documents;
3. Correspondence relating to the appointment, the pleading, directions, proofs of evidence and documents relating to the calculation of fees, these should be retained for six months for a straightforward case and for up to seven years for a complex case;
4. Notes of the arbitration and the report of any assessor- these should be retained for up to seven years;
5. The award – this should be retained indefinitely.

Code of Ethical Conduct

Rule One

An Arbitrator has an overriding obligation to act fairly and impartially as between the parties, at all stages of the proceedings.

Rule Two

An Arbitrator shall be free from bias and shall disclose any interest or relationship likely to affect his impartiality or which might reasonably create an appearance of partiality or bias. This is an ongoing duty and does not cease until the arbitration has concluded.

Failure to make such a disclosure itself may create an appearance of bias, and may be a ground for disqualification.

An Arbitrator shall not permit outside pressure, fear of criticism or any form of self interest to affect his decisions. An Arbitrator shall decide all the issues submitted for determination after careful deliberation and the exercise of his own impartial judgment.

An Arbitrator in communicating with the parties shall avoid impropriety or the appearance of impropriety. There shall be no private communications between an arbitrator and any party, regarding substantive issues in the case. All communication, other than proceedings at a hearing, should be in writing. Any correspondence shall remain private and confidential and shall not be copied to anyone other than the parties to the dispute, without the agreement of the parties. An arbitrator shall not accept any gift or substantial hospitality, directly or indirectly, from any party to the arbitration, except in the presence of the other parties and/or with their consent.

Rule Three

An Arbitrator shall only accept an appointment if he has suitable experience and ability for the case and available time to proceed with the arbitration.

Rule Four

An Arbitrator shall be faithful to the relationship of trust and confidentiality inherent in that office.

Rule Five

An Arbitrator's fees and expenses shall be in accordance with the NCC schedule of fees and expenses.

Rule Six

Arbitrators may publicize their expertise and experience but shall not actively solicit appointment as Arbitration.

Guidelines on Disaster Recovery for The Nigerian Communications Industry, 2023

General Provisions

1. Application

These Guidelines shall apply to all communications Network facilities and service providers in Nigeria.

2. Objectives

These Guidelines seek to address the major causes of communications system failures such as emergencies, disasters, terrorist or cyber-attacks, loss of infrastructure and Network congestion; and in this regard:

- (1) To provide for a disaster preparedness and recovery regulatory framework for telecommunications Network facilities and service providers.

- (2) To ensure business continuity and information sharing during and after emergencies or disasters.
- (3) To enhance collaboration amongst Network facilities and service providers to facilitate Network resilience and faster restoration of service.
- (4) To mandate Network facilities and service providers to adopt mutual aid agreement.
- (5) To enhance consumer education to better prepare for emergencies.
- (6) To supplement the general regulatory framework on emergency and disaster recovery in Nigeria.

General Mandates on Disaster Recovery Plan

- 3. (1) Every Network facilities and service provider shall have a disaster recovery plan which shall consist of a strategic plan setting out the vision for utilization of communications systems for emergency purposes and guiding the Network facilities and service provider on its specific roles and responsibilities. The disaster recovery plan shall be in line with Schedules I & II and Annexure A to these Guidelines and incorporate the following:
 - (a) Preparedness of communication systems for emergencies;
 - (b) Emergency communications services setting out the priority users; and
 - (c) Recovery of emergency communications systems.
- (2) Every Network facilities and service provider shall establish a disaster management and recovery unit in its organization.

- (3) Every Networkfacilities and service provider shall within three (3) months from the commencement of these Guidelines submit a disaster recovery plan to the Commission for approval, and the Networkfacilities and service provider shall designate one of its senior management staff to oversee the disaster recovery plan.
- (4) Every Networkfacilities and service provider shall during emergency situations promptly notify the Commission of any outages in line with its disaster recovery plan as it affects stakeholder notification plan.
- (5) Every Networkfacilities and service provider shall establish, at least, a bi-annual comprehensive test and exercise schedule for its disaster recovery plan to ensure a state of readiness.
- (6) Every Networkfacilities and service provider shall review and conduct a simulation test of its disaster recovery plan every time it makes a critical change to its business environment.
- (7) Every Networkfacilities and service provider shall provide the Commission with its testing and maintenance program in line with the following:
 - (a) Provide a "Test Calendar" that shows the different test types and their frequency, sequence and dependency on the other tests;
 - (b) Provide the objectives of each test, list of participants, scope, schedule, prerequisites, outcomes and documented results to facilitate audit by the Commission;
 - (c) Invite the Commission to attend the testing of its disaster recovery plan, giving a notice of at least one week;
 - (d) Ensure that the disaster recovery plan is based on the generic 'Table of Contents for a disaster recovery plan' provided in Schedule II;
 - (e) Undertake a risk analysis and business impact analysis in respect of all their systems at least once

every two years or every time it makes a critical change to its business environment;

- (f) Apply a staged approach to testing of the disaster recovery plan to minimize the risk to the production environment;
 - (g) First undertake a 'table-top-exercise' to raise the awareness of the business functions involved and highlight any obvious exposures in the plan; in the second stage, conduct functional testing for various functions. These should highlight problems with the disaster recovery plan which can be modified accordingly; and in the last stage, conduct the "production test", i.e., full-scale testing, where the disaster recovery plans are fully exercised;
 - (h) Analyse the test results against disaster recovery objectives to identify improvements and modifications to the disaster recovery plan; and
 - (i) Review the disaster recovery plan within its organization, at least once annually, to identify any revisions to the plan based on the changes that might have occurred in the organization's business, structure, systems or personnel.
- (8) In addition to the foregoing provisions of this section, Network facilities and service providers shall submit a report to the Commission of any change in the Disaster Recovery Plan (DRP) for approval.
4. (1) In the event of a disaster, every Network facilities and service provider may deploy its communication assets or collaborate with other Network facilities and service providers to address disaster recovery situations.
- (2) The deployable communication assets of Network facilities and service providers shall meet the following contingencies:
- (a) To replace damaged or destroyed telecommunications physical infrastructure;

- (b) To mobilise deployable mobile phone systems or portable base stations to be in position and operational in strategic areas in the main cities in the affected area within eight hours upon request and not more than twelve (12) hours for rural areas;
 - (c) To mobilize deployable satellite terminals and satellite phones in inaccessible and remote areas;
 - (d) To provide new facilities to manage the consequences of an emergency; and
 - (e) To provide resource availability information to the Committee and be prepared to rapidly deploy communications assets in accordance with priorities defined in these Guidelines.
- 5. There shall be a Disaster Recovery Coordination Committee for the Nigerian Communications Industry in Nigeria to deal with crisis or disaster, coordinate disaster recovery efforts and prepare and submit a consolidated report for the sector on every disaster for presentation to the Commission comprising:
 - (a) Designated Management staff of the Commission.
 - (b) Designated Management staff of the Network facilities and service providers to be approved by the Commission.
- 6. (1) In addition to such other conditions contained in its operating license, a Network facilities and service provider shall comply with the following:
 - (a) Provide public emergency call services to first level responders;
 - (b) Make plans for rapid restoration of services during public emergency situations after necessary consultations with relevant agencies, and implement them; and
 - (c) Provide priority fault repair services to first level responders.

- (2) No Licence to operate any communications system or facilities, or provide a communications service in Nigeria shall be issued or renewed without an approved disaster recovery plan submitted to the Commission from the date of the publication of these Guidelines.

Responsibilities of the Networkfacilities and Service Provider

7. In addition to such other responsibilities provided in Part II and Schedule I and II to these Guidelines, every Networkfacilities and service provider shall at all times:
 - (1) Develop and update its disaster recovery plan, and submit it to the Commission for periodic review and approval.
 - (2) Develop and implement procedures to improve disaster preparedness and notification.
 - (3) Assess the needs and capabilities of its response personnel and other critical users of communications services during emergencies.
 - (4) Develop and submit a comprehensive emergency action plan to the Commission for review by the Disaster Recovery Coordination Committee.
 - (5) Develop preventive measures to protect essential communications infrastructure.
 - (6) Develop a user-friendly structure for implementation of the emergency action plan.
 - (7) Notify the Commission of its representative to the Disaster Recovery Coordination Committee, who shall be a person responsible for or involved in the management of its emergency and business continuity plan.
 - (8) Implement failure notification procedures as detailed in the Quality of Service parameters issued by the Commission from time to time.

- (9) Sign mutual aid Agreement with other Network facilities and service providers for coordination during emergencies.
- (10) Develop capacities and design solutions within twelve months of the approval of the disaster recovery plan by the Commission.
- (11) Develop and implement procedures for improved disaster preparedness and notification in line with the Schedules to these Guidelines.
- (12) Establish disaster recovery teams that can be quickly deployed in the aftermath of a disaster for rapid restoration and repair of any damaged telecommunication facilities in line with Schedule II of these Guidelines.
- (13) Design and implement corporate awareness campaigns to ensure successful disaster recovery in the event of an emergency.
- (14) Create reliable means of public communication during disasters. To this end, Enhanced Multi-Level Precedence & Pre-emption" (as per 3GPP Technical Standard TS23.067) (eMLPP) based priority call routing scheme should be instituted to ensure that calls of personnel responsible for 'response and recovery' during disasters are routed on priority.
- (15) Secure all necessary facilities and installations required for disaster recovery.
- (16) Submit an annual report on disaster recovery planning and implementation efforts to the Commission.
- (17) Notify the Commission of any outage, crisis or disaster and provide status updates till service is restored.
- (18) Disseminate warning messages authorized by the Commission to its subscribers.

- (19) Identify procedures to create awareness and educate consumers on the usage of communications services during disasters.
- (20) Implement roaming arrangement in line with the framework established by the Commission upon the activation of the Disaster Information Reporting System.

Responsibilities of the Regulatory Authority

8. The Commission will:

- (1) Take all necessary steps or measures to support other relevant agencies within the national disaster management framework before, during and after disaster situations.
- (2) Establish a harmonized narrow band of 5 MHz for all public protection and disaster relief equipment, to allow easy compatibility of equipment of various responder organizations and support First Level Responders to acquire equipment based on the same standard, preferably the standard ETSI TETRA (Terrestrial Trunked Radio).
- (3) Mandate every Network facilities and service provider to:
 - (a) Develop and submit its disaster recovery and business continuity plan; and
 - (b) Comply with the provisions of paragraph 7(16) of these Guidelines;
- (4) Mandate Network facilities and service providers to create awareness regarding the designated emergency number 112 assigned for use by subscribers before, during and after emergency.

- (5) Liaise with the Committee to establish a system of receiving disaster warning alert messages.
- (6) Further to the provisions of paragraph 3(6) and 7(c) of these Guidelines, attend and monitor the disaster recovery plan tests of any Networkfacilities and service provider.
- (7) Instruct allNetworkfacilities and service providers on information and resources sharing in such circumstances as may be required for public safety.
- (8) Allocate the range for emergency communications equipment.
- (9) Coordinate with the relevant authorities to receive authorized disaster warning messages and pass these to the Networkfacilities and service providers for immediate action.
- (10) Specify the relevant authorities under the Act that will facilitate the design and development of the disaster recovery plan ofNetworkfacilities and service providers'.
- (11) Monitor compliance with the provisions of these Guidelines.

Responsibilities of the Committee

- 9. The Committee shall undertake the following responsibilities:
 - (a) Coordinate and monitor implementation of mutual aid agreements among the Networkfacilities and service providers for disaster management;
 - (b) Identify procedures to create awareness and educate consumers on the usage of communication facilities and services during disaster times;
 - (c) Establish a system of receiving disaster warning alert messages.

- (d) Coordinate with the First Level Responders to facilitate the accomplishment of their disaster recovery activities; and
- (e) Recommend to the Commission various measures to facilitate service recovery.

Miscellaneous

10. Interpretations

In these Guidelines, unless the context otherwise requires: -

'Act' means the Nigerian Communications Act, 2003;

'Communications system failure' means multiple failures of network elements causing service disruption and outages;

'cyber-attack' means acts of deliberate, large-scale disruption of computer networks, especially of personal computers attached to the internet; damage to a computer within the definition of the Cybercrime Act, 2015;

'Commission' means the Nigerian Communications Commission;

'Committee' means Disaster Recovery Coordination Committee;

'Denial of Service Attacks (DoS)' means any type of attack where the attackers (hackers) attempt to prevent legitimate users from accessing the service.

'Disaster' includes a catastrophe, mishap, calamity, heavy rain, flood, landslides, high tide, fire, terrorist attack or grave occurrence of any kind, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property causing interruption to business and services or degradation of environment, and is of such a nature

or magnitude as to be beyond the coping capacity of the community in the affected area;

‘Disaster Information Reporting System’ means a system wherein the Commission activates disaster reporting by communicating to the respective Network facilities and service providers on the existence of an emergency and the areas to be covered. The Network facilities and service providers in turn share their Network status information with the Commission quickly and efficiently, who in turn communicate the Network status of the facilities Network and service providers to agencies of government involved in disaster management and recovery.

‘Disaster Management Reporting System’ means a web-based system that Network facilities and service providers use in reporting communications infrastructure status and situational awareness information during times of disaster or emergency;

‘Disaster Preparedness’ means putting in place procedures to increase resilience of the Network and other infrastructure to confront any disaster and mitigate its potential impact;

‘Disaster Recovery’ means putting in place procedures to be undertaken to restore normalcy of operations in the aftermath of disasters, and includes identifying the recovery strategies for all critical business functions, establishing recovery management organization and process, and creating recovery plans for various levels of business functions;

‘Disaster Recovery Plan’ means a clearly defined and documented plan of action for use at the time of crisis.

‘Disaster Recovery Coordination Committee’ is a standing committee established by the Commission to coordinate the Disaster Recovery Plans of Network facilities and service providers and to oversee

the implementation of these Guidelines on behalf of the Commission;

‘Emergency Support Function’ means a system that supports restoration of communications infrastructure, co-ordinates communications support to response efforts, facilitates the delivery of information to emergency management decision makers, and assists in the stabilization and re-establishment of systems;

‘First Level Responders’ are the agencies that are immediately involved in rescue and recovery operations at the disaster site(s) including but not limited to National Emergency Management Agency, States Emergency Management Agencies, Fire Service, Nigeria Police, Federal Road Safety Corps, Nigerian Security and Civil Defence Corp and healthcare providers;

‘Guidelines’ means the Disaster Recovery Guidelines for the Nigerian Communications Industry;

‘Infrastructure failure’ means deliberate or unintentional damage to critical components of the physical Network such as a break in a subsurface and sub-sea fibre optic cable at a single point of failure and point of presence and includes the loss of multiple, critical network elements within a facility or the facility itself such as a major network exchange, damage to Network as a result of force majeure;

‘ICT’ means Information and Communications Technology;

‘Network facilities provider’ and **‘Network service provider’** means Network facilities provider and Network service provider as defined under the Nigerian Communications Act, 2003;

‘Resilience’ means the ability of an organization, staff, system, Network, activity or process to absorb the impact of a business interruption, disruption and loss and ensure continuity of basic services to the end user;

‘relevant authority’ means any authority for the time being saddled with rescue and recovery responsibility in emergency situations, including but not limited to National Emergency Management Agency, States Emergency Management Agencies, Fire Service, Nigeria Police, Federal Road Safety Corps, Nigerian Security and Civil Defence Corp and healthcare providers;

‘Supervising Ministry’ means the Ministry for the time being in charge of Communications;

‘Tabletop exercise’ means a disaster preparedness activity that brings together heads of lines of business and leaders of business processes to evaluate their state of readiness for crisis management, disaster recovery and business continuity through the review and discussion of various time-phased realistic emergency situations or scenario; discuss the actions to be taken in a particular emergency; undertake the testing of emergency plan; clarify roles and responsibilities of heads of line and leaders of business in emergency situation and identify additional mitigation and preparedness needs or action plans for continued improvement of the emergency plan.

11. These Guidelines may be cited as Disaster Recovery Guidelines for the Nigerian Communications Industry, 2023.

Issued this 17th day of February 2023

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 FNSE, FRAES, FAEng, FNIEEE
 Executive Vice Chairman / CEO
 Nigerian Communications Commission

SCHEDULE I

Paragraph 3 (1)

Disaster Preparedness, Recovery and Communications Guidelines for all Telecommunications Network facilities and Service Providers

1.0. Disaster Preparedness

Every Network facilities and service provider shall ensure the security and resilience of their facilities against potential disasters by implementing the following:

- (a) Maintain appropriate protection for telecommunications assets;
- (b) Prevent unauthorized physical access, damage to and interference with business premises;
- (c) Ensure effective and secure operation of telecommunication facilities; and
- (d) Safeguard information in Networks, and secure operation of information processing facilities.
- (e) Every Network facilities and service provider shall include a list of the Disaster Preparedness procedures implemented by it in the Appendix of its Disaster Recovery Plan.

1.1. Telecommunication Asset Management

A Network facilities and service provider shall adopt the following:

- (a) Identify its telecommunication assets and maintain an inventory;

- (b) Designate an individual or entity responsible for telecommunication services maintenance, use of, and access to telecommunication assets;
- (c) Classify information and outputs from systems handling confidential data, in terms of their value, sensitivity and criticality to the telecommunications organization; and
- (d) Develop appropriate procedures for information labelling and handling, in accordance with the classification scheme adopted by the Network facilities and service provider. Procedures for information labelling need to cover information assets in physical and electronic formats.

1.2. Physical Security

A Network facilities and service provider shall adopt the following:

- (a) Use security perimeters (barriers such as walls, card-controlled entry gates or manned reception desks) to protect areas which contain switching, transmission, operation and information processing facilities;
- (b) Protect secure areas by appropriate entry controls and intrusion detection devices to ensure that only authorized personnel are allowed access;
- (c) Design and apply additional physical security for offices, rooms and facilities against damage from fire, flood, earthquake, and other common environmental threats as well as unauthorized access;
- (d) Wherever practicable, not concentrate essential equipment, particularly in one building, to the extent that overall Network security is jeopardized;
- (e) Utilize underground line plant, buried at a depth where intrusions are unlikely, over an aerial line plant;

- (f) Where appropriate, provide diverse cable entry points to sites or buildings and use diverse duct tracks or routes;
- (g) Use suitable detection and extinguishing systems for fire; and detection systems for explosive and asphyxiating gases, and floods;
- (h) At sites, prone to flooding, utilize the buildings such that the most critical functions are performed in parts of the building with the lowest risk;
 - (i) Protect equipment from power failures and other disruptions caused by supporting utilities by-
 - (i) Providing an uninterruptible power supply to all key equipment to ensure service is not disrupted in the event of disruption of main power supply;
 - (ii) Using duplicate main supplies from separate sub-stations;
 - (iii) Ensuring supply of fuel for back-up generators with contracts for replenishment;
 - (iv) Considering alternate sources of power like renewable energy, including on-site wind turbines and solar power to reduce dependency on third party energy suppliers; and
 - (v) Having enough spares in air conditioning equipment to serve the peak load even if one unit is offline for maintenance and another unit fails.
- (j) Protect the power and telecommunications cabling carrying data or supporting information services, from interception or damage by using water-contamination

resistant cabling of a level compatible to their flashpoint in accordance with following standards:

- (i) For critical fiber optic cables, the standards shall be the UK-MOD Def-Stan 60- Part 3 or the equivalent American standard MIL-PRF-8504518A;
 - (ii) For lower priority cabling the ability to stand water immersion of at least 2 days or compliance with IEC 60974-1-2-FSB standards; and
 - (iii) For armoured underground telecommunications, EEMU A 133 "Specification for Underground Armoured Cable Protected against Solvent Penetration and Corrosive Attack" or its equivalent standard.
- (k) Install systems such as interactive voice response at call centres, to replace manual operations in the event that staff are unavailable during or in the aftermath of a disaster;
- (l) Implement a range of controls to achieve and maintain security in Networks, in particular:
- (i) Transmission facilities such as transmission cables should be well maintained and, in case of emergency situation, the facilities should be repaired as quickly as possible;
 - (ii) Single Point of Failure analysis should be conducted and measures put in place to ensure that no single points of failure exist across the Network, as far as is practically possible. Where Single Point of Failure involves third parties who the Network facilities and service provider has no influence or has minimum influence over negotiations should be conducted with the third party to agree on mitigation actions, possibly involving sharing the cost;
 - (iii) Switching facilities for telecommunication services should be well maintained and their traffic load should be monitored constantly and, in case

of an emergency situation, the traffic should be promptly switched to back-up facilities or other routes in order to avoid traffic congestion;

- (iv) In the case of denial of service attacks (DoS), switching facilities including routers shall process a higher volume of traffic than in ordinary situation, and the Network facilities and service providers shall implement a control to limit the traffic to an allowable level;
- (v) Within the data centre, IT equipment serving business critical systems should, where practicable, be of high availability; and
- (vi) Deploy an effective Network management system that covers fault management, configuration management, performance management, security management and traffic management.

1.3 Communications and Operations Management

A Network facilities and service provider shall adopt the following:

- (a) Establish incident management responsibilities and procedures (including an escalation process) to ensure a quick, effective and orderly response to security incidents and to collect incident related data such as audit trails and logs;
- (b) Implement procedures for faults to be reported and corrective action taken;
- (c) Maintain equipment effectively to ensure its continued availability and integrity, in particular:
 - (i) Make arrangement for the use of suitable alternatives in cases where normal maintenance access to a site may be jeopardized because of bad weather;
 - (ii) Where third party maintenance contractors are used, the Network facilities and service provider should enter into Service Level

Agreements with maintenance suppliers incorporating low response times (less than 4 hours) from the time of notification of equipment failure. The response time should be related to the Recovery Time Objective of systems that are supported by the equipment;

- (iii) Make an in-depth spares requirements analysis to determine which spares should be purchased and kept on-site for emergency; and
- (iv) Make pre-arrangements with major suppliers to bring in support teams in emergency or disaster situations.

1.4 Information Security

Network facilities and service providers shall develop an information access control policy, define and document the telecommunication business requirements for access control, and restrict access to authorized users only.

1.5 Resilience of Building to Disasters

1.5.1 Network facilities and service providers shall ensure that their buildings are designed to be as resilient as possible to resist or minimise disasters.

Network facilities and service providers shall consider the following:

- (a) Buildings should not be located in areas with a history of flooding or landslides or close to where significant mineral extraction has taken place or under a flight path to a major civilian or military airport.
- (b) Landscaping of the area should be done considering:
 - (i) High banks or rows of trees (2 meters) be used as mitigation action with respect to vehicle impact and terror attacks;

- (ii) Car parks shall be located outside the perimeter fence or, if within, they shall be several hundred metres from the building.
- (c) Vehicle security and access control functions complete with barriers shall be located at the perimeter at least 60metres from the building. All mechanical access control functions shall be resilient with 'fool-proof' actions if the access control staff or systems are compromised. They shall however have a manual override to allow access by emergency service vehicles.

1.5.2 A Networkfacilities and service provider shall adopt effective fire detection, warning and extinguishing procedures and comply with the following:

- (a) Rooms in the building should be fitted with smoke detectors with manual pull-alarms both of which shall be tested at least twice annually;
- (b) A fire alarm system shall be in place and periodic tests (scheduled and random tests) of the fire alarm system shall be taken; and
- (c) An inert gas fire eradication system shall be installed and cover all business critical parts of the building. The gas-based eradication system shall be backed up by a water sprinkler system and hand-held fire extinguishers. Each gas bottle shall incorporate a gauge to show gas pressure with a threshold pressure below which it should be replaced. A maintenance contract should be in place to ensure the replacement of gas within 24 hours of notification.
- (d) Each building shall have a central monitoring system monitored by security and accessible to first level responders for all smoke detectors, fire alarms and eradication systems. The central monitoring system shall identify the operating status and "alarm" condition of each smoke detector, alarm and eradication system component.

1.5.3 A Network facilities and service provider shall adopt air handling procedures, in particular:

- (a) The air conditioning plant shall be high availability in design, incorporating component level redundancy;
- (b) An N+2 philosophy shall be adopted with respect to air conditioners to allow for maintenance of units to take place without any impact on the business even if one air conditioner fails;
- (c) All air conditioning equipment shall be connected to the UPS;
- (d) Where the air conditioners use a coolant gas such as Freon, consideration should be given to carrying a stock of gas on site;
- (e) A regular maintenance schedule shall be in place for air conditioners. For any air conditioners with a 'Mean Time to Repair' greater than Recovery Time Objective of the systems that they support, it is essential that a hot standby air handler be available along with a method to switch between units;
- (f) All of the air conditioning units shall be connected to at least two independent mains power supplies;
- (g) The air conditioners shall be connected to an environmental monitoring system which can identify any problems with each unit and highlight hotspots in the switch/computer room; and
- (h) A comprehensive Maintenance Schedule shall be established to ensure the regular replacement of air-handling filters, maintenance of refrigerant levels, and proper system operations.

1.5.4 A Network facilities and service provider shall have a water detection and protection systems, in particular:

- a) No water or waste pipes shall be located above the computer room, or switch room.

- b) Water detectors shall be installed in the ceiling space above the business-critical rooms, and in the floor below the rooms.
- c) Channelling shall be installed in the floor and ceiling to direct water away from the switch room or computer room.
- d) Drains shall be installed to allow any water that enters the room to drain away into a lower level;
- e) All water detection and protection systems shall be connected to an environmental monitoring system to identify the individual operating status and "alarm" condition of each of the system components.

1.5.5 A Network facilities and service provider shall provide environmental monitoring systems, in particular:

- (a) All security and environmental protection systems shall be monitored by a comprehensive environmental monitoring system, the operations area of which shall be located significantly away from the business-critical room;
- (b) There shall be a backup operations area for the monitoring system, located in a different site; and
- (c) All security or operations area staff shall be trained to recognize the symptoms of potential disaster and act accordingly.

1.5.6 A Network facilities and service provider shall provide a within-building access control system as follows:

- (a) One entry point which is secured via an electronic access control system along with at least two emergency exit points both of which are connected to an audible alarm if opened other than in an evacuation;
- (b) A combination of electronic access control and human security interfaced with a thorough initial

screening of employees through the Human Resources vetting function;

- (c) The electronic access control systems implemented shall be appropriate to the level of sensitivity of the building and data contained therein; and
- (d) CCTV cameras shall be installed to ensure safety of staff members and prevent sabotage or theft.

1.5.6 A Networkfacilities and service provider shall have a plant room to house generators and air conditioning units, which shall have hermetically sealed doors to protect the equipment from the effects of dust storms or flash floods, and ensure that the air intakes of the generators are at least one meter from the ground to eliminate risks from flash floods.

2.0 Emergency Communications

2.1 Responsibilities of Networkfacilities and service provider in Emergency Communication

A Networkfacilities and service provider shall:

- (a) Ensure that in applying the priority routing scheme, communications between first responders are routed first;
- (b) Give priority for at-risk communities during disasters;
- (c) Enter into mutual aid agreement and ensure that the priority call routing scheme is supported through roaming arrangement, such that where the Network of one of the Networkfacilities and service providers is down or non-functional due to physical infrastructure failure, their subscribers can get access and priority from some other Networkfacilities and service provider whose Network is up and running; and
- (d) Implement awareness programs for spreading awareness about correct usage of telecommunications services by users during disasters, in order to avert the behaviour of users not disconnecting calls for a long time once a call connects.

(Paragraph 3)**Structure and Content of Disaster Recovery Plan**

- 1.0 The primary aim of disaster recovery planning is to ensure that business processes are restored within the agreed recovery time in the event of an unplanned interruption to service or denial of access to staff.
- 1.1 A Network facilities and service provider shall ensure that the disaster recovery plan is:
 - (a) Written and disseminated so that the staff who are familiar with the organization but not the function can implement the plan in a timely manner;
 - (b) Specific regarding what conditions should trigger its implementation;
 - (c) Specific regarding what immediate steps are to be taken during a disruption;
 - (d) Flexible to respond to unanticipated threat scenarios and changing internal conditions;
 - (e) Focused on how to get the business up and running in the event that a specific facility or function is disrupted, rather than on the precise nature of the disruption;
 - (f) Specific regarding disaster recovery and continuity teams and contact lists of critical personnel; and
 - (g) Effective in minimizing service disruptions.
- 1.2 Every disaster recovery plan shall:
 - (a) Document strategies and procedures to maintain, resume, and recover critical business functions and processes and should include procedures to execute the plan's priorities for critical and non-critical functions, services and processes;
 - (b) Describe in some detail the type of events and decision points that would lead up to the formal declaration of a disaster and the process for invoking the plan.

- (c) Put in place coordinated responses that reflect the nature of the outage, and should describe the responsibilities and procedures to be followed by each of the disaster recovery continuity teams and critical personnel; and
 - (d) Describe in detail the procedures to be followed to recover each business function affected by any disruption and should be written in such a way that staff who are familiar with the organization but not the function can implement it in a timely manner.
- 1.3 Every Network facilities and service provider shall set up crisis management systems and processes and carry out the following steps;
- (a) Raise awareness within the organization highlight the responsibilities of both individual and departments;
 - (b) Audit the organization to identify the level of exposures and mitigating measures that could be put in place;
 - (c) Undertake a service classification analysis in order to establish, from a business perspective, the business criticality and desired recovery sequence;
 - (d) Develop appropriate recovery strategies for business, facilities, Network operations and technical functions;
 - (e) Obtain the resources required to implement the recovery strategy; and
 - (f) Assist the Disaster Recovery Test Execution Team in testing the plan.
- 1.4 Every Network facilities and service provider shall design a risk assessment process to identify and analyze the types of risk and their impact on the organization. The assessment should include the following:
- a. Types of potential disruptions that could impact the business;

b. Potential business disruptions based upon severity and likelihood of occurrence and how the Network facilities and service provider would respond if:

- i. Critical personnel are not available;
- ii. Critical buildings, facilities, or geographic regions are not accessible;
- iii. Equipment malfunctions (hardware, telecommunications, operational equipment);
- iv. Software and data are not accessible or are corrupted;
- v. Vendor assistance is not available;
- vi. Utilities are not available; or
- vii. Critical documentation and records are not available.

1.5 Every Network facilities and service provider shall have a recovery strategy to restore operations quickly and effectively following a service disruption. The recovery strategy shall:

- a. Identify and document alternate recovery strategies for backup, alternate sites and equipment replacement;
- b. Identify resources required for resumption and recovery; and
- c. Perform a cost-benefit analysis to identify the optimum recovery strategy

1.6 Every Network facilities and service provider shall have the following disaster recovery teams and assigned responsibilities:

- (a) Primary Teams which shall be activated where a disaster is declared:
 - i. **Crisis Management Team:** This is the supreme decision making body with respect to a disaster, although it may delegate executive powers to the Emergency Response team for the initial period (usually 48 hours) of disaster response.

- ii. **Emergency Response Team:** This team coordinates response to a disaster (once it has been declared by the Crisis Management Team) for the critical initial 48 hours. This period may be extended at the discretion of the Crisis Management Team.
 - iii. **Incident Management Team:** This team identifies, reports, analyses, assigns, resolves an incident which may lead in the short or long term to a disruption of normal processing of all or part of the business workload;
 - iv. **Business and Technical Recovery Team:** This team is responsible for conducting recovery of business operations. Each critical business unit will have a designated recovery team to perform the tasks necessary to recover these business functions.
 The team shall also be responsible for restoration of the operational systems and communication functions of the business. In this capacity, the team leader will provide recovery direction and problem resolution, monitor progress, and report recovery status to the leader of the business continuity team. The team may delegate several technical recovery tasks to address areas such as application systems recovery, operational environment recovery and IT recovery;
 - v. **Business Continuity Team:** The role of the business continuity team is to coordinate the recovery teams' effort and notify the team leader of the crisis management team.
- (b) Secondary teams which may be established for specific functions as the nature of the disaster dictates. The secondary team may include the following:
- i. **Damage Assessment and Facilities Restoration Team:** This team will assess the extent of damage to the serviceability of premises and infrastructure, secure the protection of all physical infrastructures,

co-ordinate with insurance firms and carry out new procurement and replacement if required.

ii. Communications Team: The Communications team will be the sole source of communication for the transmission of information to all external and internal parties;

iii. Administration and Staff Welfare Team: This team will be responsible for coordinating and easing the logistics in relation to business unit and recovery team staff with regard to combating a disaster.

1.7 Every Networkfacilities and service provider shall ensure that its disaster recovery plan, also addresses notification to all relevant agencies as specified in Part V of these Guidelines and the following:

- a. Clients and other organizations who have contractual arrangements with the Networkfacilities and service provider;
- b. Major shareholders of the Networkfacilities and service provider;
- c. Board members who are not directly involved in the Crisis Management Team; and
- d. Representatives of workers' union.
- e. Representative of Community

1.8 The information to be communicated by the Networkfacilities and service provider shall include but not be limited to the following:

- a. The locations impacted by the disaster;
- b. Services affected by the disaster;
- c. Anticipated contraventions of regulations likely to be occasioned by the disaster;
- d. Details of any impact on other telecommunications Networkfacilities and service providers;
- e. The assistance to be rendered by other Networkfacilities and service providers; and
- f. Future action plans to prevent similar occurrence.

1.9 The disaster recovery plan shall contain the following:

- a. Purpose of the recovery plan;
- b. Issues addressed and those not addressed in the plan;
- c. Organizations business functions and managerial organogram;
- d. Application recovery plan addressing the failure of any specific hardware;
- e. Facilities recovery plan addressing the failure of any facilities and infrastructure that supports the Network facilities and service provider's corporate systems. This plan will include evacuation plans for the buildings.
- f. Network operation plan addressing failures in the Network itself or the facilities underpinning it such as mobile switching centres or base station controllers.
- g. Business unit recovery plan designed to allow each business unit to recover from disasters that may vary in magnitude from the major disasters that impact the whole corporate entity.
- h. Location recovery plan designed for critical locations that may have multiple business units. This plan would allow coordination of the restoration of business activities across the various Business Units and facilities at the critical location with minimum confusion, disruption and cost.
- i. Organizational recovery plan addressing the unavailability or limited availability of staff or functions as a result of any disaster prevention and mitigation procedures.
- j. Work area recovery plan addressing situations where an individual work area may be rendered unavailable.
- k. Stakeholder notification plan setting out actions to be taken once a system disruption or emergency has been detected or appears to be imminent;

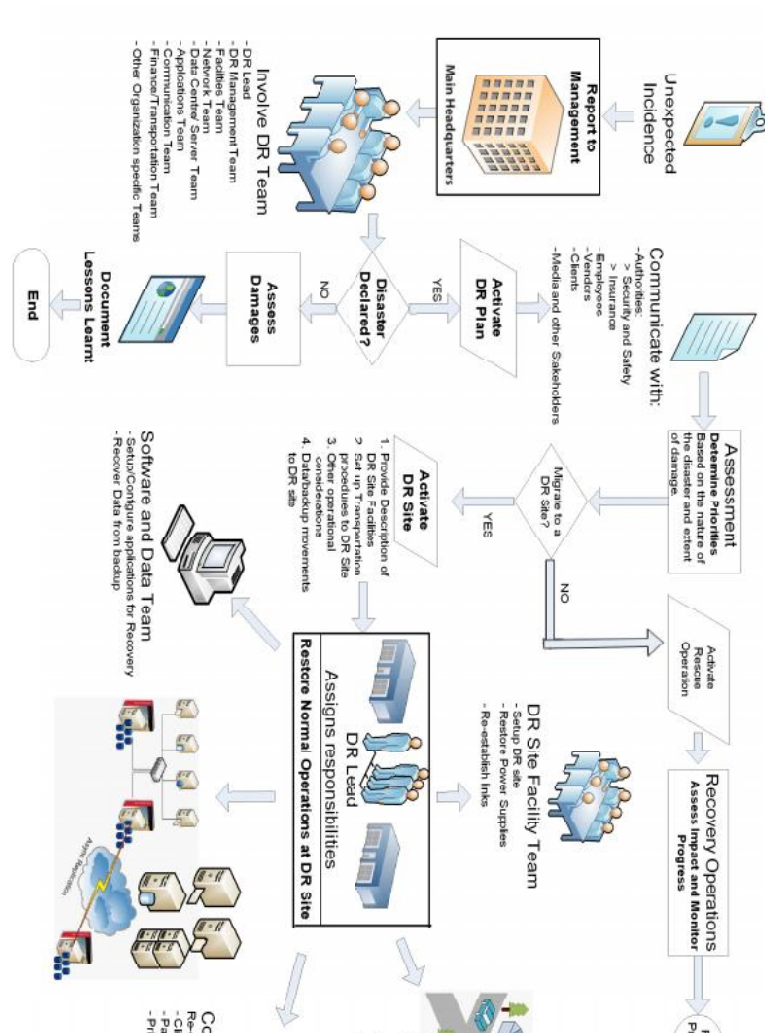
- l. Sequence of recovery activities and the estimated time to restore services;
- m. Reconstruction, recovery strategy and procedures setting out the following:
 - i. Obtaining authorization to access damaged facilities and/or geographical area
 - ii. Obtaining necessary office supplies and work space
 - iii. Obtaining and installing necessary hardware components
 - iv. Obtaining and loading backup media
 - v. Restoring critical operating system and application software
 - vi. Restoring system data
 - vii. Testing system functionality including security controls
 - viii. Connecting system to Network or other external systems
 - ix. Operating alternate equipment successfully
- n. Any other vital information for effective disaster recovery.

Annexure A

(Paragraph 3)

Disaster Response and Recovery Fail-over Flow Diagram

Figure 1: Flow Diagram for Fail-Over Procedure to a Disaster Recovery Site from Main Site



19

Guidelines on Co-location and Infrastructure Sharing

Introduction

1. Background

- (1) The Commission has responsibility under the Act to:
 - (a) Promote fair competition in the communications industry, and encourage and promote infrastructure sharing among its licensees.
 - (b) Develop guidelines for Co-location and Infrastructure Sharing ("C/IS").
- (2) These Guidelines proceed from a premise that all Access Providers and Access Seekers have the liberty to negotiate C/IS arrangements in accordance with mutually agreed terms.

- (3) These Guidelines are designed and developed to encourage C/IS between Access Providers and Access Seekers within a predetermined framework to remove uncertainty and create an environment for better co-operation.
- (4) These Guidelines explain the Commission's role in achieving the most efficient use of facilities amenable to sharing.
- (5) Additionally, Part V of these Guidelines sets out the processes for implementing Active Infrastructure Sharing amongst Network Service Providers licensed by the Commission.

2. Status of the Guidelines

These Guidelines are to be read subject to the Act, the Telecommunications Networks Interconnection Regulations, Competition Practices Regulations, Quality of Service Regulations, other laws, rules and subsidiary legislations that may be developed by the Commission from time to time and relevant Licence Conditions.

3. Objectives of the Guidelines

- (1) The Primary object of these Guidelines is to establish a framework within which Access Providers and Access Seekers can negotiate C/IS arrangements, and for that purpose, specifically to –
 - (a) Ensure that the incidence of unnecessary duplication of infrastructure is minimised or completely avoided;
 - (b) Protect the environment by reducing the proliferation of infrastructure and facilities installations;
 - (c) Promote fair competition through equal access being granted to the installations and facilities of operators on mutually agreed terms;
 - (d) Ensure that the economic advantages derivable from the sharing of facilities are harnessed for

the overall benefit of all telecommunications stakeholders;

- (e) Minimise capital expenditure on supporting infrastructures and to free more funds for investment in core network equipment.
- (f) Encourage Access Providers and Access Seekers to pursue a cost-oriented policy with the added effect of a reduction in the tariffs chargeable to consumers.

Infrastructure Sharing

4. Types of Infrastructure Amenable to Sharing

- (1) Infrastructure amenable to sharing are those that can be shared without an attendant risk of lessening of competition.
- (2) The Commission shall encourage and promote the sharing of the following infrastructures:

(A) Passive Infrastructure

- (i) Rights of Way,
- (ii) Masts,
- (iii) Poles,
- (iv) Antenna mast and tower structures,
- (v) Ducts,
- (vi) Trenches,
- (vii) Space in buildings,
- (viii) Electric power (public or private source), and
- (ix) Dark Fibre.

(B) Active Infrastructure

- (i) Complete network structures,
- (ii) Switching centers,
- (iii) Frequencies,
- (iv) Radio Network controllers,
- (v) Base stations.

- (2) Where the sharing of an infrastructure such as Rights of Way and Electric power is precedent upon securing the necessary approval of a granting authority, such approval should be obtained before the sharing arrangement can be finalised.
- (3) Part V of these Guidelines shall apply in the implementation of sharing of the active infrastructure listed under Paragraph 4(2)(B) above.

5. Types of Infrastructure Not Amenable to Sharing

- (1) National Roaming considerations shall not form part of any infrastructure sharing arrangements made pursuant to these Guidelines, but shall be negotiated under the relevant regulatory framework specific to National Roaming.
- (2) In accordance with Paragraph 7(4) – (6) of these Guidelines, the Commission reserves the right to review all infrastructure sharing agreements and arrangements to ensure consistency with the relevant Licence(s), and reduce the risk of a lessening of competition.
- (3) Where the Commission;
 - (a) Determines that an infrastructure sharing arrangement is inconsistent with the relevant Licence(s), and/or
 - (b) Identifies a risk of lessening of competition as a consequence of such infrastructure sharing, It may require such an arrangement to be discontinued, or that the agreement should be revised.

6. Procedure for Negotiating C/IS

- (1) Any Access Provider who owns or has control of a facility amenable to sharing may enter into negotiations with an Access Seeker who submits a request to share the use of that facility.

- (2) All negotiations for infrastructure sharing must be done with the utmost good faith. The owner of a facility must not:
 - (a) Obstruct or delay negotiations or resolution of disputes;
 - (b) Refuse to provide information relevant to an agreement including information necessary to identify the facility needed and cost data;
 - (c) Refuse to designate a representative to make binding commitments.
- (3) A request for infrastructure sharing should be in writing. A party to whom such a request is made should within 15 days either accede to the request to grant access for sharing, or where access is denied, advance reasons in writing for the denial.
- (4) Except in emergency situations, the replacement of a shared facility, or its modification, may only be undertaken upon due service of a 60 days' notice on the other party.
- (5) A party on whom notice is served may file a petition against the removal or modification of a facility within 15 days of receiving such notice, and the notifying party may file a reply thereto within 7 days.

7. Terms and Conditions for Infrastructure Sharing

- (1) An Access Provider shall provide capacity to other operators on a "first-come, first served" basis, determined in accordance with the order in which the operator owning or having control over a facility, receives requests for infrastructure sharing.
- (2) Every Access Provider shall reserve the right to refuse an application for infrastructure sharing on grounds of;
 - (a) Insufficient capacity,
 - (b) Safety, reliability, incompatibility of facilities,
 - (c) General engineering considerations, and
 - (d) Subsisting indebtedness of Access Seeker to Access Provider on similar infrastructure

sharing arrangements, provided this ground for refusal shall not apply to Co-location in respect of interconnection.

- (3) The decision to refuse an application for infrastructure sharing shall be communicated in writing to the Access Seeker specifying the reasons for such refusal.
- (4) Every infrastructure sharing agreement, including any prior existing agreement, shall be in writing and shall specify the contractual terms and conditions agreed on by the parties. All such agreements shall be registered with the Commission.
- (5) As a precondition for registration, every infrastructure sharing agreement shall be submitted to the Commission for review and approval.
- (6) The Commission shall in reviewing infrastructure sharing agreements ensure that the terms on which infrastructure sharing is offered are in compliance with the principles of neutrality, transparency, non-discrimination and fair competition.
- (7) Every Infrastructure sharing agreement that has been duly negotiated and executed by parties shall be submitted to the Commission within seven (7) working days for review and approval. The Commission shall, within twenty-one (21) working days, review and approve the agreement, provided that all information requested by the Commission are received.
- (8) Prices for infrastructure sharing should be non-discriminatory, reasonable, and based on the actual costs incurred by the owner of the facility.
- (9) Determination of the costs underlying prices should be transparent and neutral.

Co-location

8. Co-location as an Element of Interconnection

- (1) Co-location is an element of the interconnection of networks hence it is essential that operators agree on terms of its implementation towards ensuring seamless interconnectivity. Co-location shall constitute part of the negotiations for interconnection and be governed by provisions of the Telecommunications Network Interconnection Regulations.
- (2) Every incumbent operator, especially dominant operators as may be determined by the Commission should include in their Reference Interconnection Offer (RIO) an offer for the facilities available for co-location, including a price list for the different components of co-location.
- (3) An operator desirous of interconnecting with another operator is at liberty to choose the type of co-location suitable for its operation.
- (4) Where a request is made for physical co-location but such co-location is not deemed feasible, virtual co-location should be offered by the interconnection providing operator.
- (5) Where virtual co-location is not feasible, remote co-location should be offered in its stead.
- (6) A request for remote co-location shall not be rejected on any grounds.
- (7) Specifically, remote co-location shall not be refused on grounds of insufficient capacity, safety considerations, reliability or other general engineering considerations.
- (8) Save as may be specifically excluded, the terms and conditions of co-location are in general to be governed by the same rules as infrastructure sharing.

General Rules for Co-location/Infrastructure Sharing (C/IS)

9. Reference Offer and Standard Practice List

- (1) The Commission recognises the right of Access Providers and Access Seekers to negotiate and agree on terms and conditions of Co-location and Infrastructure Sharing(C/IS). The Commission however requires that such negotiation must be within the limits of an existing reference offer developed by each potential Access Provider.
- (2) Every Access Provider shall ensure that its reference offer is readily available to other Access Seekers with a view to promoting fairness in the negotiation process.
- (3) Access Providers should in the process of developing the reference offer be responsive and work in close association with other operators, that is, prospective Access Seekers.
- (4) Notwithstanding the provisions of sub-paragraph (1) above, parties involved in any negotiation for C/IS arrangement are at liberty to negotiate outside the reference offer provided howsoever that such negotiations are voluntary and non-discriminatory.
- (5) The reference offer should contain sufficient information on issues relevant to the Access Seeker for negotiation purposes as itemised in Schedule 1 to these Guidelines.
- (6) Parties may request for other information which may be required in the process of negotiating for C/IS. Such information should be treated as confidential by the requesting party at all times.
- (7) The quality and nature of any information requested for will depend on what stage the negotiation process has reached. Response on any such request should be prompt to avoid delay.

- (8) A party may request for a site inspection if it is deemed necessary for the purpose of aiding that party to reach an informed decision.
- (9) Every Access Provider should develop a standard price list which shall provide guidance for determining the price for all C/IS arrangements with other Access Seekers.
- (10) Any standard price list developed should be reasonable, non-discriminatory and costoriented.

10. Allocation of Capacity

- (1) There shall be no obligation on Access Providers to develop new infrastructure whenever its capacity has reached saturation level. However, Access Providers are expected to reasonably take into consideration the demand for C/IS when expanding their facilities.
- (2) Where there is no available capacity at the existing facilities to meet the needs of additional Access seekers, the Access Provider should consider re-development as a means of increasing capacity at existing facilities.
- (3) The Commission will consider that capacity is available where the specific resource is not occupied nor reserved by the Access Provider.
- (4) In every situation where access is granted, the Access Provider should have the reserved right in the event of scarcity to demand that any allocated capacity be relinquished if such capacity has not been utilised within three (3) months of delivery of access. This right should be reserved with the intent to avoid the pre-emption of future capacity needs on the part of Access Seekers which would stifle the present needs of other Access Seekers.
- (5) At the expiration of the period for which access was granted to a party, an application for a further extension of the period will be in accordance with the procedure used for the initial application. The application will be considered on the merit by the Access Provider.

- (6) In every case, applications for access should be considered and granted by an Access Provider on a “first come – first served” basis.

11. Refusal of Access

- (1) An Access Provider reserves the right to refuse an application for access in any of the following circumstance:
 - (a) Where the Access Provider does not have available capacity (i.e. either that all capacity is occupied or reserved;
 - (b) Where the grant of access is technically unfeasible;
 - (c) Where the request, if granted, will breach safety and reliability standards.
 - (d) Where the Access Seeker has a subsisting indebtedness to the Access Provider on similar infrastructure sharing arrangements, provided this ground for refusal shall not apply to Co-location as it relates to interconnection. In all cases, the Access Provider should provide the Access Seeker with reason for refusal in writing.
- (2) An Access Seeker who is refused access may refer such refusal to the Commission and the Commission shall be at liberty to inquire into the decision refusing access.
- (3) The Commission may upon due consideration;
 - (a) Uphold a decision refusing access,
 - (b) Request that a decision refusing access should be reconsidered,
 - (c) Impose an infrastructure sharing arrangement on the parties.
- (4) Infrastructure sharing arrangements imposed by the Commission may include rules for apportioning the costs of facility sharing.

12. Reservation of Capacity

- (1) The right of an Access Provider to reserve capacity for which it has made long term investments will at all times be recognised, but balanced against the need not to hamper the network roll-out or expansion plans of new market entrants or other Access Seekers.
- (2) Where available capacity is limited, the right to reserve capacity should not be exercised by the Access Provider in order to avoid discrimination and pre-emption.
- (3) Where however an Access Provider with significant investments exercises the option to reserve some rights in circumstances of limited capacity;
 - (a) The reserve period shall not exceed two (2) years after which the right will cease from being operational,
 - (b) Not more than 50% of capacity shall be reserved.
- (5) Information and documentary evidence of the reservation and extent thereof should be held by the Access Provider and made available to Access Seekers on reasonable demand.

13. Re-Development/Re-Location

- (1) To ensure that capacity is increased and made available to Access Seekers, Access Providers are encouraged to constantly pursue a policy of re-development and relocation of facilities.
- (2) Where for optimal utilisation of facilities, an Access Provider undertakes redevelopment or re-location (i.e. reconfiguration of network as a result of technological or business reasons), the cost of the re-development or re-location may be jointly assessed by the parties and shared with Access Seekers at a percentage mutually agreed by parties.
- (3) The re-development or re-location cost borne by an Access Seeker would form part of the price paid for the C/IS arrangement.

- (4) Parties to a C/IS arrangement should not undertake modifications with the sole aim of demanding the cost of such modification from Access Seekers.
- (5) As a condition precedent for an Access Provider to commence any re-development or re-location at any facility, notice thereof should first be given to all operators sharing the facility with the Access Provider. The notice period should be;
 - (a) 6 months in the case of re-development,
 - (b) 12 months in the case of re-location.

14. Separation

- (1) The Commission expects that parties involved in all C/IS arrangements, will make efficient use of scarce space.
- (2) Parties negotiating for co-location will be at liberty to request for separation of equipment to increase internal and external security, reduce interference problems and limit damage to each other's equipment.
- (3) The degree to which separation of equipment will be granted to an Access Seeker will be determined, among other things, by;
 - (a) Prevailing local circumstance,
 - (b) Available space,
 - (c) Special requirements of Access Seekers,
 - (d) Level of standardisation,
 - (e) Risk of damage.

15. Standardisation

- (1) To facilitate improved co-ordination and compatibility of equipment, parties to a C/IS arrangement should endeavor to develop and employ standard procedures for provision and operations under the arrangement.
- (2) The standard procedures to be developed by parties under the arrangement will be in the areas of;
 - (a) Maintenance,
 - (b) Fault clearance,

- (c) Access at the facility,
 - (d) Emergency,
 - (e) Cleaning,
 - (f) Safety,
 - (g) Security.
- (3) Parties are also to ensure that standardised equipment and unified techniques/technical interfaces are used for the C/IS.
 - (4) The liberty to use assigned space for its own purpose notwithstanding, parties should not install incompatible equipment which may cause interference to other parties' equipment or impede usage of space allocated to them.

General Rules for Active Infrastructure Sharing

Introduction

- (1) This Part sets out the rules to manage the processes for Active Infrastructure Sharing amongst Network Service Providers licensed by the Commission.
- (2) These rules are to be read in conjunction with the Act, Guidelines on Co-location and Infrastructure Sharing, Competition Practices Regulations, Quality of Service Regulations, other laws, rules and subsidiary legislations that may be developed by the Commission from time to time and relevant Licence Conditions.
- (3) Specifically, the following shall form part of the objectives of this Part:
 - (a) To provide seamless services to subscribers.
 - (b) To maximize the use of network facilities including but not limited to network capacity and capabilities, base station sites, backbone, etc.
 - (c) To enhance sharing and reduce duplication of investment for network facilities where adequate provision has been made.
 - (d) Increase revenue to incumbent operators with excess capacity.

- (e) To promote the availability of wide range of high quality, efficient, cost effective and competitive telecommunication services throughout Nigeria.
- (f) To optimize operator's capital expenditure on supporting infrastructure.
- (g) Allow expansion of coverage to previously underserved and un-served areas.
- (h) Give opportunity for product and technology innovation.
- (i) Create efficient, competitive and environment business condition.

17. General Terms and Conditions for Active Infrastructure Sharing

- (1) These rules are applicable for sharing of active infrastructure such as Multi Operator Core Network (MOCN), Multi Operator Radio Access Network (MORAN) and / or Gateway Core Network Operator (GCN) with applicable performance management system.
- (2) NSPs shall provide capacity on their infrastructure to other operators on a bilateral, nondiscriminatory basis. The right of first refusal would apply where the Infrastructure Provider has overcome the reason for the initial denial of the Infrastructure Seeker.
- (3) Where NSPs enter into agreements for Active Infrastructure Sharing, tariff and charges for such Infrastructure Sharing shall be mutually agreed. However, where there is an existing price determination by the Commission, such will be applicable.
- (4) Only licensed Network Service Providers are allowed to enter into an active infrastructure sharing agreement under these rules.
- (5) All technologies including 2G, 3G, 4G, CDMA, HSPA and services such as Voice, Data shall be offered under these rules. Any application for technological

exclusivity must be subject to approval by the Commission.

- (6) The Infrastructure Seeker under these rules must be licensed to provide the service for which the active sharing element is required.
- (7) Each NSP shall be responsible for its own compliance with regulatory provisions under the Quality of Service Regulations, including but not limited to quality of service and network availability.
- (8) The ground for refusal of sharing under these rules will be insufficient capacity, compatibility and prior indebtedness under other services such as Interconnection. The Infrastructure Provider shall inform the Infrastructure Seeker and the Commission of the grounds for refusal with adequate data within 5 (five) working days.
- (9) Any disagreement on commercial terms during negotiation for active infrastructure sharing, which parties are unable to agree on, shall be referred to the Commission for resolution, and the decision of the Commission shall be binding on parties.
- (10) Meeting the roll-out obligation as spelt out in an NSP's Licence Condition is a precondition for entering into an Active Infrastructure Sharing agreement. However, where it is established by the Commission that Active Infrastructure Sharing will expedite such roll-out, the Infrastructure Provider may grant such request.
- (11) Any dispute regarding tariffs and charges between parties to an Active Infrastructure Sharing agreement shall be referred to the Commission for resolution, and the decision of the Commission shall be binding on parties.
- (12) The Infrastructure Seeker is expected to continuously build on its infrastructure such as Transmission Core Network and Operating Support System (OSS), in order to be less dependent on the Provider (except network elements where there may be resource constraints such

as Radio Access Network). In this regard, the Infrastructure Seeker must ensure that it continues to build its infrastructure in accordance with the roll-out obligation spelt out in its Licence.

- (13) The Infrastructure Provider is expected to continuously meet the specified key performance indicator targets stipulated under the Quality of Service Regulations and take measures to augment the capacity of its network elements for sharing in order to meet the Infrastructure Seeker's demand and not compromise on service delivery.
- (14) All NSPs may publish detailed information of infrastructure available for sharing on their websites. The NSPs must ensure that this information is provided to the Commission on a monthly basis.
- (15) Prior written approval of the Commission must be obtained when an Infrastructure Provider intends to terminate its agreement with an Infrastructure Seeker where:
 - (a) the Infrastructure Seeker has consistently breached its commercial obligations with the Infrastructure Provider; or
 - (b) the Infrastructure Seeker has failed to renew its expired Licence.
- (16) Where the Infrastructure Provider intends to terminate the agreement due to revocation of the Infrastructure Seeker's Licence, the Infrastructure Provider must ensure that the Commission is notified in writing within five (5) days of such termination.
- (17) The Commission may direct the Infrastructure Provider to suspend its service to the Infrastructure Seeker within fifteen (15) working days of receipt of the notice of termination. Where the Infrastructure Seeker does not resolve the reason for termination within three (3) months from the date of suspension, the Infrastructure Provider may terminate the agreement.

- (18) Breach of any provision of these rules shall attract the relevant penalties as prescribed under the Enforcement Processes Regulations.

18. Procedure for Active Infrastructure Sharing

- (1) Prior to the commencement of any negotiation for Active Infrastructure Sharing, all NSPs must ensure that they are in good regulatory standing with the Commission.
- (2) An Infrastructure Seeker shall submit a request to an Infrastructure Provider, expressing its interest in entering into an Active Infrastructure Sharing arrangement.
- (3) The request for Infrastructure Sharing by the Infrastructure Seeker to the Infrastructure Provider as well as the approval / rejection of the request by the Infrastructure Provider shall be in accordance with the Form A and Form B contained in Schedule 2 to these Guidelines.
- (4) All negotiations for Active Infrastructure Sharing must be done in utmost good faith. The Infrastructure Provider shall not:
 - (a) Obstruct or delay negotiations.
 - (b) Refuse to provide information relevant to an agreement including information necessary to identify the facility needed.
 - (c) Refuse to designate proper representative to expedite negotiation.
- (5) An Infrastructure Provider shall reserve the right to refuse an application for Active Infrastructure Sharing on grounds of insufficient capacity, network incompatibility or indebtedness of the Infrastructure Seeker to the Infrastructure Provider on other telecommunications services.
- (6) An Infrastructure Provider shall reserve not less than 25% (twenty five percent) of spare capacity for its short term or emergency need.

- (7) The period to respond (either acceptance or rejection) by the Infrastructure Provider to any request for Infrastructure Sharing shall be 15 (fifteen) days.
- (8) The timeframe for negotiation and conclusion of the technical, legal and commercial aspects of the agreement shall not exceed 2 (two) months from the date of receiving the request.
- (9) Where the Infrastructure Seeker does not receive any response from the Infrastructure Provider within 15 (fifteen) working days of request, the Infrastructure Seeker shall refer the matter to the Commission.
- (10) Parties are expected to notify the Commission upon finalization of negotiations, and submit the agreement to the Commission within fifteen (15) days for review and approval, prior to registration. The Commission shall within twenty-one (21) working days review and approve the agreement, provided that all information requested by the Commission are received.
- (11) The Infrastructure Seeker cannot sub-lease/rent out the shared infrastructure to a third party.
- (12) In the event of any dispute between the Infrastructure Provider and Infrastructure Seeker which cannot be resolved amicably, the aggrieved party shall refer the matter to the Commission for resolution, in line with the provisions of Sections 75 and 76 of the Act and the Dispute Resolution Guidelines. The decision of the Commission in this regard shall be final and binding on parties until set aside by a court of competent jurisdiction.

19. Technical Considerations

- (1) Subject to the provisions of this Part, all NSPs shall make available the network elements for active sharing to all licensed telecommunications operators using any of the following mechanisms:
 - (a) Multi Operator Core Network (MOCN)

- (b) Multi Operator Radio Access Network (MORAN)
- (c) Gateway Core Network (GCN)
- (d) Transmission Network Sharing (TNS)
- (2) The sharing technology shall be 2G, 3G, 4G, HSPA+ and any other available technology.
- (3) Technology exclusivity is subject to approval by the Commission.
- (4) The technical considerations for sharing shall be bilateral, non-discriminatory, and may be either reciprocal or non-reciprocal.
- (5) Based on an agreed sharing scheme and technical complexity/outlay, the Infrastructure Provider and the Infrastructure Seeker shall determine a reasonable timeframe to demonstrate capacity/readiness.
- (6) The following documents and regulatory frameworks shall be taken into consideration during the negotiation of the technical aspects of the Active Infrastructure Sharing:
 - (a) Spectrum Trading Guidelines,
 - (b) Guidelines on National Roaming,
 - (c) Mobile Number Portability Business Rules and Port Processes,
 - (d) Interconnection Regulations,
 - (e) Interconnection Rate determination,
 - (f) Transmission lease, swap and pricing requirements,
 - (g) Any other Regulations, Guidelines or determination that may be published by the Commission from time to time.
- (7) The number of Active Infrastructure Sharing partners that can be accommodated per active sharing options shall be based on existing capacity and technological capability.
- (8) Every NSP interested in sharing its active infrastructure shall have in place a Reference Offer which shall be subject to approval and publication by the Commission.

20. Process Considerations

- (1) In requesting for Active Infrastructure Sharing, the Infrastructure Seeker shall attach details of its technical requirements to the prescribed Form A contained in Schedule 2 of these Guidelines and forward same to the Infrastructure Provider.
- (2) The Infrastructure Provider shall upon receipt of the Form A respond in the prescribed Form B contained in Schedule 2 of these Guidelines without including any technical information.
- (3) Where the Infrastructure Provider accepts the Infrastructure Seeker's request, both parties shall execute a non-disclosure agreement after which the Infrastructure Provider shall furnish the Infrastructure Seeker with detailed information of its network elements relevant to the Infrastructure Seeker's request.
- (4) Both parties shall exchange detailed network parameters so as to provide necessary interfaces for seamless connections.
- (5) The Sharing partners shall agree on the mode of sharing, which may be nationwide, regional, urban/rural or pre-defined cluster(s).
- (6) In case of MORAN and MOCN, details of services such as Voice, Data, SMS, VAS, balance enquires and support to be provided under the sharing arrangement shall be mutually agreed, activated and tested before the commencement of commercial services.
- (7) Both parties are expected to have obtained confirmation from their vendors to regarding equipment compatibility with all OEM vendors existing in Nigeria. Where there are interface issues during implementation, parties shall ensure that such is resolved with the OEM vendor.
- (8) All required test scenarios for equipment and services in line with international standards must be carried out before cut over to service. In addition, the threshold

for various network elements as prescribed by the Commission in the Quality of Service Regulations shall be taken into consideration, as this may form the basis for dispute resolution.

21. Operational and Maintenance Considerations

(1) Fault Management

- (a) The Infrastructure Seeker and Infrastructure Provider shall agree on a fault escalation procedure.
- (b) The Infrastructure Provider shall be responsible for clearing all faults associated with the network element(s) it is sharing, except where such fault is traced to the Infrastructure Seeker's interface, in which case the Infrastructure Seeker shall be responsible for clearing such faults.
- (c) However, where the fault is traceable to the interface between parties, they shall use their best efforts to resolve the fault, taking into consideration network availability as contained under the Quality of Service Regulations developed by the Commission.
- (d) In case of dispute after third level escalation, both vendors of the equipment should be called in for resolution.

(2) Network Availability

- (a) The Infrastructure Provider shall make every effort to ensure the Infrastructure Seeker enjoys the same level of availability as its own customers and maintain such level as contained in the Quality of Service Regulations, or such directions and other regulatory instruments as may be developed by the Commission.
- (b) The Infrastructure Provider shall be responsible for any infraction due to non-compliance with

the availability requirements on the network element(s) being shared.

(3) *Quality of Service and Experience*

- (a) The Infrastructure Provider shall offer the same quality of service to the Infrastructure Seeker on the network element(s) being shared.
- (b) The Infrastructure Provider shall ensure it meets all quality of service requirements under the Quality of Service Regulations and other relevant regulations, Directions and guidelines developed by the Commission.
- (c) The Infrastructure Provider shall be responsible for any infraction due to noncompliance with quality of service requirements in line with subparagraph (b) above on the network element(s) being shared.

(4) *Billing*

- (a) The technicalities for billing shall be based on the type of active sharing service being offered.
- (b) For transmission capacity sharing, billing shall be based on kilometres, capacity and availability as agreed by parties.
- (c) For traffic-based services in MORAN, MOCN and GCN, billing shall be based on parameters agreed by parties.
- (d) For services such as SMS, VAS etc, billing shall be based on parameters agreed by parties.

22. Engineering Considerations

- (1) The Infrastructure Provider shall take into consideration the Infrastructure Seeker's technical requirements contained in its Form A, in order to accommodate same in its engineering planning and network design.
- (2) Sharing partners shall meet on a quarterly basis for the purpose of reviewing the agreement and also exchange

data on the Infrastructure Seeker's short-term and longterm requirements as well as the Infrastructure Provider's planned roll-out and upgrades.

- (3) Parties shall mutually agree on deployment and roll-out sharing. However, where the Commission has developed a regulatory framework in that regard, the parties shall comply with such regulatory provision.
- (4) Unless otherwise agreed under roll-out sharing, the Infrastructure Provider shall be responsible for network administration such as capacity management, network optimisation, re-engineering and adhering to QoS requirements.
- (5) The Infrastructure Provider shall promptly inform the Infrastructure Seeker of all changes to its network due to new network design. Furthermore, the Infrastructure Provider shall be responsible for spectrum administration, taking into consideration relevant regulatory framework developed by the Commission that may impact administration of spectrum.

23. Commercial Considerations

- (1) The Infrastructure Provider shall take into consideration the Infrastructure Seeker's technical requirements contained in its Form A, in order to accommodate same in its engineering planning and network design.
- (2) Subject to any regulatory framework developed by the Commission, an Active Infrastructure Sharing agreement may be one-way or bilateral.
- (3) The charge determination shall be bilateral and the cost made available to the Infrastructure Seeker shall take into consideration both capital expenditure and recurrent expenditure. However, where the Commission has made a cost determination, same shall take precedence over any bilateral agreement by parties.

- (4) Each party shall bear its set -up cost such as last mile connections, interfaces, software upgrades except as may be otherwise mutually agreed.
- (5) Frequency of billing may be monthly, quarterly, bi-annually or annually, as may be agreed by both parties.
- (6) However, billing for traffic-based sharing, such as Voice, Data and VAS shall be monthly and the invoice shall be within 14 (fourteen) days of the end of the transaction. Where there is a delay in invoicing for a particular period, the reason for such delay shall be communicated and agreed by both parties.
- (7) Payment for all services shall be in advance, except traffic-based invoices which shall be settled within 30 (thirty) days of receipt of invoice.
- (8) Every Inter Operator Tariff (IOT) shall be bilateral and non-discriminatory. As such, Infrastructure Providers shall offer the same tariff to all Infrastructure Seekers of its service on a national basis, not geographical basis, unless otherwise approved by the Commission.
- (9) The Commission may, from time to time, effect a price cap, pending the cost study for determination of tariffs.

The Role of the Commission

24. Dispute Resolution

- (1) The Commission has the power to intervene to resolve dispute at the request of either party and to impose facility sharing or co-location arrangements between operators after consultation with the parties.
- (2) The power of the Commission to intervene in disputes shall include the right to request for and receive all such necessary information as may be required to reach a decision.
- (3) The decision of the Commission which shall be final, save for the right to judicial review by a court of competent jurisdiction, will be notified to the parties.

- (4) In resolving disputes, the Commission shall rely on the provisions of Sections 75 and 76 of the Act and the Dispute Resolution Guidelines.

25. Supportive Action

- (1) The Commission will from time to time arrange for the dissemination of pertinent information on the subject of infrastructure sharing and co-location.
- (2) The Commission will use its mandate under Section 4 (1) of the Act to further the opportunities for co-location and infrastructure sharing, provided there is no risk of the lessening of competition. In particular, the Commission will take action to:
 - (a) Encourage redevelopment of existing facilities amenable to infrastructure sharing to increase their capacity;
 - (b) Advise local and regional authorities on the adoption of schemes which would encourage the sharing of infrastructure;
 - (c) Support the development of the capability among operators to deal with the issues of infrastructure sharing in a competent way.

26. Review/Modification

The Commission reserves the right to review/vary and modify these Guidelines from time to time, in accordance with the provisions of the Act.

27. Definitions

Unless the context otherwise requires, the different terms and expressions used in these Guidelines shall have the following meaning assigned to them. The headings are given for the sake of convenience only and do not carry any special meaning. Definitions and interpretations not listed here shall bear the same meaning as contained in the Act.

- **Access Provider** – means any information/communications licensee or telecommunications operator who owns or is in control of a facility or infrastructure, access to which another information/communications licensee or telecommunications operator desires for purposes of co-location or infrastructure sharing;
- **Access Seeker** – means any information/communications licensee or telecommunications operator desirous of co-locating or sharing a facility or infrastructure owned or in the control of another information/communications licensee or telecommunications operator;
- **Act** – means the Nigerian Communications Act, 2003, or as may be amended from time to time;
- **Active Infrastructure Sharing** – means the sharing of RAN, Core and Gateway Network elements as required to deliver MOCN, MORAN, TNS and/or GCN solutions;
- **Co-location** – means the placement of transmission equipment owned by the interconnection demanding operator in the premises of the interconnection providing operator for interconnection to that operator's network;
- **Commission** – means the Nigerian Communications Commission;
- **Emergency need** – means capacity required to support the highest network traffic on a day-to-day basis;
- **Enforcement Processes Regulations** – means the Nigerian Communications (Enforcement Process, etc) Regulations 2019, or as may be amended from time to time;
- **Facility, Facilities** – means the same thing as, and are interchangeably used with the term “infrastructure”;
- **Gateway Core Network (GCN)** – means the sharing of the Mobility Management Entity (MME) element of the

core network by different Mobile Network service providers;

- **Infrastructure Provider** - means any licensed telecommunications operator who owns or is in control of facility or infrastructure to which another operator desires to enter into an agreement for the purposes of active infrastructure sharing;
- **Infrastructure Seeker** - means any licensed telecommunications operator desirous of entering into an agreement with other telecommunications operator(s) who own or is in control of telecommunication's infrastructure and facility for the purposes of active infrastructure sharing;
- **Infrastructure Sharing** - means the joint use of network facilities by two or more operators subject to agreement specifying relevant technical and commercial conditions. The term "infrastructure sharing" is more general than the term "colocation" and unless explicitly stated otherwise, infrastructure sharing refers for the purposes of these Guidelines to the sharing of facilities that are not feasible for colocation;
- **Lessening of Competition** - means the same thing as may be assigned by the Commission pursuant to its powers under Section 91 of the Act and in line with relevant provisions of the Competition Practices Regulations 2007, as may be amended from time to time;
- **Multi Operator Core Network (MOCN)** - means the sharing of the Core network between radio networks of multiple network service providers. MOCN enables the connection of radio access networks to multiple core networks;
- **Multi Operator Radio Access Network (MORAN)** - means the sharing of the Radio Access Network between multiple mobile network service providers. MORAN enables multiple mobile network operators to share the same Radio access network;

- **Network Service Provider (NSP)** - means Network Service Provider as defined under Section 157 of the Nigerian Communications Act 2003, or as may be amended from time to time;
- **Operator** - means an undertaking holding a licence granted under the Act to operate a communications system or facility and to provide communications services;
- **Physical Co-location** - means co-location where equipment is placed in a separate room within the premises of the interconnection providing operator and remains under the control of the interconnecting demanding operator;
- **Quality of Service Regulations** - means the Quality of Service Regulations 2013, or as may be amended from time to time;
- **Remote Co-location** - means co-location where the equipment of the interconnection demanding operator is installed in a location near the premises of the interconnection providing operator and a transmission medium is used to realise the physical interconnection;
- **Short term** - means the network capacity required to support not more than 6 months of projected traffic;
- **TowerCo** - means holder of a subsisting Co-location and Infrastructure Sharing Licence issued by the Commission;
- **Transmission Network Sharing (TNS)** - means the sharing of different components or segments of the transmission network between different Network Service Providers;

- **Virtual Co-location** – means co-location where equipment is placed in the equipment line-up of the interconnection providing operator and is maintained by that operator.

Made at Abuja this.....day of June 2021

Professor Umar Garba Danbatta,
FNSE, FRAES, FAEng, FNIEEE
Executive Vice Chairman/ CEO
Nigerian Communications Commission

20

Guidelines on Procedure for Granting Approval to Disconnect Telecommunications Operators

General

1. Introduction

- (1) The Nigerian Communications Commission (the Commission) has been given powers under the Nigerian Communications Act 2003 (the Act) to, inter-alia
 - (a) Grant approvals for applications made under any circumstance to disconnect a licensee
 - (b) Make and publish guidelines on any matter for the due administration of provisions of the Act.
- (2) These Guidelines are developed to ensure that the procedure for granting approval by the Commission for the disconnection of a licensee is founded on a

predetermined framework to engender transparency, certainty and fairness.

- (3) Tariffs paid by consumers to operators are inclusive of the interconnection charge, and an operator shall upon receipt of such tariffs ensure that it deducts and sets aside the interconnection fees payable to its interconnect partners, and effect payment thereof in accordance with the terms of duly executed interconnection agreements.

2. Guiding Principles

- (1) The Commission shall not consider any disconnection request except:
 - (a) There is a subsisting interconnect agreement between both parties duly filed with the Commission
 - (b) The interconnected operators must have accurate billing systems consistent with the standard and specifications determined by the Commission. No operator is permitted to have a billing system that is not type-approved to ensure compliance with the standards and specifications as determined by the Commission.
 - (c) Parties must have fully exhausted all the options contained in their interconnection agreements for resolving the dispute, billing or other interconnect debt issues in question.
- (2) The Commission shall in granting approval for the disconnection of an operator be guided by the need to ensure that the interest of subscribers of the affected network is protected.
- (3) The Commission would at all times only allow the disconnection of out-bound calls from a respondent's network, provided howsoever that in the case of disconnection on grounds of indebtedness that any revenue generated from the termination of calls on a debtor operators network will be specifically used to set off the level of indebtedness of the debtor operator.

- (4) Other relevant issues to guide the decision of the Commission shall include the public interest in observing the rule of law and the need to entrench good corporate governance practices among operators.

3. Request for Approval to Disconnect

- (1) Every operator (hereinafter referred to as “Applicant”) has a right to apply to the Commission for approval to disconnect an interconnected operator (hereinafter referred to as “Respondent”) for any of the following reasons. Where:
 - (a) The respondent fails to settle its interconnect indebtedness after it becomes due;
 - (b) An interconnection agreement has been terminated in accordance with the terms thereof;
 - (c) There is a fundamental breach of interconnection agreement;
 - (d) The respondent is engaged in acts contrary to the terms of its licence with regards to interconnection;
 - (e) For any other reasons established under the Act or any subsidiary legislation made by the Commission.
- (2) Applications for approval to disconnect an operator on the grounds of failure or refusal to settle interconnect indebtedness should at all times be made on NCC Disconnection Form 1, completed in triplicate and forwarded under a covering letter to the Commission while an electronic copy of the duly completed NCC Disconnection Form 1 (available on the Commission’s website) is sent via email to legal@ncc.gov.ng
- (3) The information to be provided to the Commission under paragraph (2) above would however not be required where the request for disconnection is made for reasons other than failure or refusal to settle interconnect indebtedness.

- (4) In every request for approval to disconnect made under Paragraph 3 (1) (a – e) above, the Commission shall within three (3) working days of receipt of the request, forward the request to the respondent requiring its comments and/or reasons within five (5) working days why approval should not be granted for the disconnection.
- (5) The comments and/or reasons which the Commission shall take into consideration in determining whether or not approval should be granted shall be forwarded under a covering letter to the Commission on duly completed NCC Disconnection Form 2, completed in triplicate.
- (6) Failure of the respondent to make a written response to the request for disconnection in line with Paragraph 3(4), shall be taken as an indication that it has no response and the Commission may take a decision based on the submissions of the applicant.
- (7) A respondent upon request may at the discretion of the Commission be granted an extension period of no longer than three (3) days within which to make its written response.

4. Additional Information from the Applicant

- (1) Notwithstanding the specific provisions of Paragraph 3 hereof, nothing in these guidelines shall preclude the Commission from requesting for any additional information which it may require in considering an application for consent to disconnect an operator.

5. Conditions for the Grant of Approval to Disconnect for Indebtedness

- (1) In considering a request for approval to disconnect an operator, the Commission will take into account the following:
 - (a) That the applicant has paid all its regulatory fees to the Commission;

- (b) That the applicant had prior to the request for approval to disconnect exchanged Call Data Records (CDRs) with the respondent on demand; and
 - (c) That such CDRs had been reconciled and the outstanding amount agreed by both operators.
- (2) The debt must have been outstanding for sixty (60) calendar days inclusive of the period agreed between the parties in their interconnection agreement.
- (3) In the event that the respondent has a previous record of not meeting debt obligations the duration allowed for indebtedness may be reduced to forty-five
- (4) calendar days inclusive of the period agreed by the parties in their interconnection agreement.
- (5) In addition, the decision of the Commission on a request for approval shall be guided by the following considerations:
 - (a) Previous payment record of the respondent with the applicant;
 - (b) The antecedents of the respondent vis-à-vis payment of interconnection indebtedness to its interconnecting parties.
- (5) For purposes connected with the determination of the total amount of indebtedness owed by parties, where an operator fails to exchange reliable CDRs after fifteen (15) calendar days of the demand thereof, the CDRs of the other interconnecting party shall be deemed as the proper and correct records of indebtedness of the parties.
- (6) The determination in sub-paragraph (5) above deeming the CDRs of one interconnecting party as the correct record of indebtedness between two parties shall be communicated to the parties by the Commission within a period of three (3) working days.

Decisions of the Commission

6. Preliminaries and Time for Taking Decisions

- (1) Without prejudice to provisions of any paragraph of these Guidelines, the Commission may at any time before rendering its decision on the request for approval to disconnect, opt to invite the parties to a hearing meeting on the application.
- (2) Where at such a meeting a respondent shows demonstrable efforts by the payment of at least 50% of the indebtedness, the respondent would be required to sign an undertaking on terms acceptable to the applicant.
- (3) Refusal to execute an undertaking or non-compliance with the terms of an undertaking will result in the grant of approval to disconnect the respondent.
- (4) The decision by the Commission either granting or refusing a request for approval to disconnect shall be taken and communicated to the parties within fifteen (15) working days of the receipt of all requested comments or conclusion of hearing as required under Paragraph 6(1) hereof.
- (5) In the event that the Commission is unable to give its decision within the timeframe stated in Paragraph 6(3), the reasons shall be communicated to both parties.

7. Pre-Disconnection Notice

- (1) If the indebtedness or a part thereof remains unpaid as at the date agreed for payment in the undertaking, the Commission shall publish a notice to the subscribers of the debtor operator informing them that the operator is unable to pay its indebtedness and is likely to be disconnected from the network of the applicant.
- (2) The Pre-Disconnection Notice to subscribers in paragraph 8(1) shall be published by the Commission in two national newspapers and by SMS to all subscribers of the debtor operator.

- (3) The Pre-Disconnection Notice to subscribers required under the subparagraph (1) hereof shall also be issued in all circumstances where the Commission has made a decision to grant approval to disconnect any debtor operator or any other case other non-settlement of interconnection indebtedness.
- (4) Upon the issuance of such notification, the Commission shall at its discretion allow a grace period not exceeding ten (10) working days within which desiring subscribers would be at liberty to make arrangements to migrate or port from the Respondent's network to another network.

8. Notice to Parties

- (1) The Commission shall not publish any notice to subscribers pursuant to paragraph 8 above, unless prior notice of the approval to disconnect has been given to both the applicant and the respondent to be disconnected.
- (2) In every case where notice is given to a respondent, such notice shall include a directive to settle any indebtedness within three (3) working days from the date of receipt thereof, failing which notice of the disconnection shall be published to subscribers of the respondent.

9. Partial Disconnection

- (1) Where a determination is made on the merits that a request for approval to disconnect should be granted, the Commission reserves the right to authorize an applicant to partially disconnect the respondent on terms to be decided by the Commission. For purpose of these Guidelines, Partial Disconnection shall be limited to the disconnection of only outbound calls from the respondent's network to the applicant's network.

10. Other Remedial Steps for Non-Payment of Interconnect Debts

- (1) In any event where approval for partial disconnection is granted, if the Commission is not satisfied with the remedial efforts made by the respondent subsequent to the approval, the Commission may take any or all of the underlisted steps:
 - (a) Direct the migration of such operators to interconnect through a licensed Interconnect Exchange;
 - (b) Decline any request for regulatory services or assistance and upon such terms and conditions as the Commission may specify;
 - (c) Publish names of operators with records of indebtedness in the newspapers;
 - (d) Direct interconnect exchange licensee to disconnect the operator.
- (2) Without prejudice to any other provisions of these Guidelines, the Commission may take any or all of the remedial steps in Paragraph 12(1)(a)-(d) in relation to any operator or respondent with a record of not meeting debt obligation(s).

11. Application of Guidelines to Interconnect Exchange Licensees

- (1) As a general principle due to the role played by Interconnect Exchanges, it is not permissible for them to be indebted to operators.
- (2) These Guidelines shall apply to applications brought by Interconnect Exchanges for the disconnection of operators passing traffic through them.

12. Disconnection of Interconnect Exchange Licensees

- (1) These Guidelines shall apply to the disconnection of interconnect exchanges by operators.
- (2) If an Interconnect Exchange Operator is indebted to an operator in whole or in part at the date agreed for payment in an undertaking, the Commission shall

publish a notice in two (2) national newspapers to all operators connected to the interconnect exchange informing them that the respondent is unable to pay its debt and is likely to be disconnected from the network of the applicant.

- (3) Upon the issuance of such notification, the Commission shall at its discretion allow a grace period not exceeding twenty one (21) days within which desiring operators would be at liberty to make arrangements to interconnect through other interconnect exchange operators or directly with the operators.
- (4) All other provisions of these Guidelines shall apply mutatis mutandis to applications for disconnection involving an interconnect exchange.

13. Reconnection

- (1) Where an operator has been disconnected for reason of indebtedness, the interconnect agreement between both parties shall automatically terminate, and such operator shall only be reconnected to the applicant upon the execution of a new interconnect agreement between both parties and total liquidation of all outstanding debts.
- (2) Where a disconnection has been granted either in accordance with paragraph 10(1) or 11(2), the respondent shall not be permitted to reconnect to the applicant indirectly through any other licensee or interconnect exchange unless it has liquidated all its outstanding debts to the applicant.
- (3) In order for a reconnection to be made to the applicant, the respondent shall be required to provide a Bank Guarantee to the applicant to ensure prompt payment of interconnection fees.

14. Registration of Payment Plan Agreements

- (1) Operators may at any time negotiate and agree upon terms for repayment of outstanding debts.

- (2) Any payment plan executed in accordance with Paragraph 15(1) must be signed by both parties and registered with the Commission; and such agreement shall be deemed by the Commission to be an undertaking in the context of Paragraph 7 of these Guidelines.

15. Miscellaneous

(1) Use of Bank Guarantees

Parties to an interconnection agreement may request and agree on the provision of bank guarantees to their interconnecting partners to ensure prompt payment of interconnection fees.

16. Definition

- (1) In these Guidelines, unless the context otherwise requires, all terms shall have the same meaning as under the Nigerian Communications Act 2003.

- (2) For specific purposes of these Guidelines;

“Act” means the Nigerian Communications Act 2003

“Applicant” means a licensee bringing an application for disconnection

“Application” means the documentation of a request for approval for disconnection.

“CDR” means Call Data Record

“Disconnection” means not only the mere absence of physical connection between operators previously interconnected, but also the reduction of bandwidth in both directions; parity bit marking to deny access or flow; allowing only uni-directional flow as against bi-directional flow and the general restriction of traffic however called.

“Licensee” means anyone who holds an individual licence under the Act

“Previous record” means documents with the Commission filed after each default establishing that a

licensee has failed to meet its interconnect obligations three times in a twelve (12) month period;

“SMS” means Short Message Service;

“Undertaking” means a signed commitment by the respondent to settle its interconnect obligations by a definite date and according to a specified schedule;

“Respondent” means a licensee against whom an application for disconnection is made.

SCHEDULE

NCC DISCONNECTION FORM 1 APPLICATION FOR APPROVAL TO DISCONNECT TELECOMS OPERATORS FOR REASON OF INDEBTEDNESS

1. APPLICANT'S INFORMATION

A. Name:

B. Address:

C. Licence Category

2. RESPONDENT'S INFORMATION

A. Name:

B. Address:

C. Licence Category

3. DEBT PROFILE/ INFORMATION

A. Amount Outstanding:

B. Due Date for payment of Debt:

C. Has a previous application for disconnection been made in respect of the Respondent?

(*If Yes insert details)

.....
.....
.....
.....
.....

**4. PARTICULARS OF CALL DATA RECORD (CDR)
EXCHANGE**

A. Date of Exchange of CDR

B. Is Reconciliation Complete?

C. Amount Undisputed:

D. Amount Disputed:

**E. Reason(s) for Disputed
Amount:.....**

.....
.....
.....
.....

**5. DETAILS OF COMPLIANCE WITH DISPUTE
RESOLUTION MECHANISM CONTAINED IN
INTERCONNECT AGREEMENT**

.....
.....
.....
.....
.....

NAME	SIGNATURE	DESIGNATION	DATE
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* *Forms are to be completed in triplicate. Original copy to NCC;
Duplicate copy to Respondent; Triplicate copy for Applicant's
records.*

NCC DISCONNECTION FORM 2

RESPONSE TO APPLICATION FOR APPROVAL TO DISCONNECT TELECOMS OPERATORS FOR REASON OF INDEBTEDNESS

1. RESPONDENT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

2. APPLICANT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

3. RECONCILIATIONS:

- A. Is Reconciliation Complete?
- B. Amount owed:
- C. Amount Undisputed:
- D. Amount disputed:
- E. Particulars of Disputed Amount:.....

.....

.....

F.Payment	Proposal	for	Amount
Undisputed.....			

.....

.....

.....

4. DETAILS OF COMPLIANCE WITH DISPUTE RESOLUTION MECHANISM CONTAINED IN INTERCONNECT AGREEMENT

.....

.....

.....

5.COUNTERCLAIM (IF ANY):.....

.....

_____	_____	_____
NAME SIGNATURE	DESIGNATION	DATE

* *Forms are to be completed in triplicate. Original copy to NCC; Duplicate copy to Applicant; Triplicate copy for Respondent's records.*

21

Guidelines on Technical Specifications for the Installation of Telecommunications Masts and Towers

1. General Introduction

- (1) These guidelines provide standards to be adhered to by telecommunications services providers/operators, designers, fabricators and installers of telecommunications towers towards ensuring environmental safety and sound engineering practices.
- (2) The guidelines takes cognisance of types and constituents of tower structures and also provides a comprehensive data on wind speeds in Nigeria which may be used as reference material for engineers in the design of masts and towers.

- (3) In these guidelines, concerns about public safety, and safety of personnel and equipment are addressed and accordingly, the responsibilities of owners, designers and fabricators of telecommunication masts and towers relating thereto are set out.
- (4) The demands of the local operating environment are also taken into consideration by the guidelines alongside the need to achieve substantial conformity with applicable international best practices.
- (5) Non-compliance with the mandatory provisions of these guidelines shall be deemed to be an offence punishable under relevant provisions of the Nigerian Communications Act 2003 (the Act); the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005 and other applicable laws.

2. Types of Towers and Masts

These guidelines recognise the following types of telecommunication towers, namely;

- (1) Monopole Towers or Post Masts
 - (a) Monopole towers consist of tapered steel tubes that fit over each other to form a stable pole.
 - (b) A monopole tower should be guyed or self supported and be fitted with climbing rungs where necessary. It should have the following features:
 - (i) Sections should be made from hollow, heavy duty, thick steel tubes, flanged steel tubes or low-alloy, high-strength steel.
 - (ii) Each shaft section should be a constant-tapered hollow steel section
 - (iii) Slip joints should be designed with a minimum of $1\frac{1}{2}$ times the pole diameter at the splice.
 - (iv) Pipe diameter should decrease from bottom to top.
 - (v) Monopole are to be made from galvanised hollow steel pipes or high strength steel and

designed for a variety of multi-user configurations and finishes to meet local aesthetic requirements.

- (vi) The pipes shall be tapered to ensure that one pipe base fits into the top of another until the desired height is achieved. A joint in the arrangement should have an overlay between the two adjacent pipes.
- (vii) The depth of the overlay, the base width and the number of pipes in a particular monopole shall be determined by expected height of a tower, the thickness of the pipe walls, the base diameter and whether the tower shall be guyed or not.

(2) Guyed Towers

- (a) These are towers that are stabilized by tethered wires
- (b) Guyed towers shall be designed and installed in the manner illustrated in Figures 2.16 to 2.18 of the First Schedule to these Guidelines and shall take cognisance of the following specifications and recommended practices:
 - (i) Guyed masts may be in lattice, triangular or square, tapered or straight, as well as monopole structural forms.
 - (ii) Guyed masts shall be supported and held in position by guy wires or ropes.
 - (iii) Mast Guy Ropes shall be made from pre-stretched steel only. For every mast, the specified minimum strength of the guy wire shall be the maximum tension likely to occur in the worst loading condition.
 - (iv) Guy wires must not be over tightened in the installation of guy towers in order to avoid excessive tension which may cause alignment problems, cable rupture and permanent wrapping of tower structural parts.

- (v) All sections must be straight square sections to eliminate potential problems associated with twisting or the need to shim the legs.
- (vi) Typical tower sections are to have brace configuration with horizontals (z, x or k) and pivot base sections. These tower-structures should be wholly of steel, modular and hot-dip galvanized.
- (vii) Sections can be of the same face width but in the event that the tapered type is considered, the design should be with junction flanges.
- (viii) Guyed towers should have tube or solid legs with solid bracing which increases the tower rigidity to allow for the twist and sway.
- (ix) Guy wires are to be engineered with precision and a minimum safety factor of 2.0 applied to the design.
- (x) The design, based on the load calculations would determine working load and the break strength required of the guy wire and ultimately the choice of the size and grade of the wire.
- (xi) The choice of each guy earth screw anchor would be dependent on its holding power in the soil, which is a function of its diameter and length to be used to compute the minimum number of guys required.
- (xii) As a general rule, guys should be planted in three directions at 120 apart from each other. The distance from the base of the tower to the guy anchor base should be one quarter of the height of the tower.

(3) Self-Supporting Towers

- (a) Self-supporting towers are free-standing lattice structures
- (b) The use of self supporting towers with tapered sections, and face width that vary according to height and load capacity is recommended when land availability is limited PROVIDED that it is technically feasible to install them.
- (c) Self supporting towers shall be designed and constructed as Lattice structures in the manner illustrated in Figure 2.1 to 2.13 of the First Schedule to these Guidelines and shall have the following features:
 - (i) Triangular or square structure
 - (ii) Tube legs, angle legs, lattice legs or solid round legs
 - (iii) Sections in steel angle steel or steel tubes
 - (iv) Steel angle cross bracing.
 - (v) Tapered sections
 - (vi) Face widths vary according to height and load capacity.
 - (vii) Rest platforms provided every 20 metres of height
 - (viii) Work platforms provided at all height where antennas are to be installed
 - (ix) Fitted with climbing ladder

Standard support forms for lattice structures are specified as follows:

- (i) Lattice Leg
- (ii) Angle Leg
- (iii) Tube Leg / Solid Round Leg

(4) Roof Mounts

- (a) Roof mounts are an inexpensive way of elevating signals above roof interference or any other obstruction.
- (b) The design and installation of roof mounts illustrated in Figures 2.20 of the First Schedule

to these Guidelines shall take cognisance of the following specifications and recommended practices:

- (i) Structural checks must be made to ascertain the capability of a chosen roof to withstand the additional load being imposed on it by the structure and the entire antenna array it will support.
- (ii) All roof mounted masts or towers must be certified by the building's structural engineer before installation.
- (iii) As a general rule, roof mounts should be limited to light weight structures of low heights and support minimal dead and dynamic loads.
- (iv) Roof mounts can be installed in the penetrating or non-penetrating modes and can be self support or guyed. However non- penetrating roof mounts are most suitable for flat surfaces.

(5) General Features of Towers

- (a) In constructing tower legs, schedule 80 pipes or angle steel should be used although hollow aluminium pipes may be used for short towers.
- (b) Bracings should be of angle steel construction or aluminium in case of aluminium towers.
- (c) Mast sections, when made from steel pipes, should be joined to each other through joint plates welded to the base of each section. The width of the mast section joint plates should be double the width of the wall of the pipe they are supporting.
- (d) Gussets should be used in the strengthening of the weld joint between the base plate and the tower section.
- (e) Each plate should have four 20mm diameter

holes drilled to accommodate four 18mm bolts, nuts and washers.

- (f) When bolting sections together, bolts should be placed upside down with washers and nuts on topside of plates, the connecting face of plates should not be painted.
- (g) Lock nuts must be used but nuts on bolts may be clinched if lock nut is not utilized.
- (h) Lock washers and lock nuts should be used on antenna support steel work and dish panning arms in order to avoid loss of signals.
- (i) When a tower is made from angle steel, sections should be joined to each other through appropriately sized flanges, bolts, washers and lock nuts.
- (j) There should be adequate application of bracing to prevent towers been exposed to torque that may result in loss of signal during strong winds speeds.

3. Siting of Towers and Masts

- (1) The siting of masts and towers shall take cognisance of provisions of the Act and be guided by provisions of the Collocation and Infrastructure Sharing Guidelines of the Commission in such a way as to minimise their number, protect and promote public safety, and mitigate adverse visual impacts on the community. To reduce the visual impact of towers and antennas structure, Stealth and/or camouflage design of towers and antennas are encouraged.
- (2) All masts and towers sited in cities shall conform to the guidelines and standards of the Commission concerning all matters on radio frequency
- (3) All towers sited within residential areas must conform to the set back stipulated in the Guidelines under Subsection 5 below and Section 9 (9) to mitigate the effect of heat, smoke and noise pollution arising from generating sets.

- (4) Telecommunications towers above 25 metres in height would not be permitted within districts delineated as residential.
- (5) Notwithstanding sub-paragraph (4) of this guideline, where towers in excess of 25 metres in height are permitted, they should be placed at a minimum setback of 5 meters distance to the nearest demised property, excluding the fence. Prior permission must be obtained from the Commission.
- (6) Towers and masts sited in contravention of these guidelines would be removed and the owner of the tower would bear the cost of such removal.

4. Design and Construction

- (1) The design of towers illustrated in Figures 2.2 to 2.14 of the First Schedule to these Guidelines shall be in accordance with the specifications contained in Tables 2.1 to 2.13 thereof. In designing towers, due cognisance shall be taken of the following;
 - (a) Tapered steel and flanged steel poles feature designs that blend well into the environment and require minimum space for installation.
 - (b) Flanged steel poles are easy to handle and install.
 - (c) Connections shall be precision fitted to allow quick assembly of modular sections and the top platform, side arms or mounting frame.
 - (d) Pole sections shall be made with identical base flange plates to permit simplified modifications of mounting heights and antenna reconfigurations.
 - (e) Tapered steel poles have comparatively smaller base diameters and so demand minimal land space.
 - (f) Tapered poles can be installed quickly and offer an extremely efficient strength-to-cost ratio.

(2) Superstructure

The following parameters shall apply to all superstructure of towers and masts.

- (a) All steel materials to be used in the finishing of the superstructure shall be hot-dip galvanised and painted according the Nigerian Airspace Management Agency (NAMA) paint schedule for obstructions.
- (b) All aluminium materials shall have aluminium finish and painted according to NAMA paint schedule for obstructions.

(3) Painting

- (a) All skeleton type structures must be painted to International Civil Aviation Organisation (ICAO) stipulations on obstruction painting. ICAO stipulates that:

- (i) For structures up to 212 metres, the structure shall be given seven equal bands of red and white paint or orange and white paint.
- (ii) For structures above 212 metres, nine bands of paint in alternating red and white or red and orange.
- (iii) In all cases the top and bottom of mast or tower must be painted red or orange.
- (iv) Paint shall be non gloss finish (matt).

- (b) Mast and Towers shall in addition, be painted with base primer paint, one suitable under coat of red and white or orange and white followed by two coats of non gloss (matt) paint.

(4) Obstruction Lighting

- (a) All mast and tower structures in Nigeria must conform strictly to ICAO / NAMA guidelines with respect to obstruction lighting of tall structures as illustrated in Figure 2.21 of the First

Schedule to these Guidelines and specified below:

- (i) For every fifty metres of height above ground level, a tower shall have installed on it, one lamp on top and two lamps at the sides.
- (ii) Obstruction lamps shall be maintained in a working condition at all times on all structures within 15 kilometres of an airport or helipad.
- (b) Light intensity and colour specifications should be as provided hereunder:

Tower Height	Light Intensity	Light Colour
Below 45 m	not below 10 candelas	Red and fixed
Between 45 and 150m	not below 1600 candelas	Red and flashing
Greater than 150m	4,000 - 20,000 candelas	White Flashing

(5) Substructure

The following parameters are applicable to the substructure of towers and masts.

(a) Foundation and Anchors

- (i) Foundations for tower and mast structures shall be designed to withstand the full expected dynamic loads namely; antennae, feeders, wind loading, etc.
- (ii) The design shall take cognisance of the geo-technical investigation findings on soil and wind conditions at the installation site for purposes of determining bearing pressures (vertical and horizontal), other sub-surface conditions, the suitable foundation type (reinforced concrete blocks, standard pad and column, raft, preset rock anchors or piles), construction materials and installation method.
- (iii) Engineers are to compute the weight of tower structure, antenna feeders and all associated steel

work and then, calculate the effect of wind loads on the total surface.

- (iv) Worst case load design condition should always constitute the initial factor of safety against overturning for complete foundations or any part thereof.
- (v) Standard foundation designs should be made for normal soils where however the need arises, it may be modified to suit the soil conditions at the installation site.
- (vi) Normal soils for purposes of these guidelines shall be defined as dry cohesive soils having:
 - a. an allowable net vertical bearing capacity of 192kPa
 - b. an allowable net horizontal pressure of 63kPa per linear metre of depth to a maximum of 192kPa.
 - c. unit weight of compacted soil greater than 16kNm
 - d. water table is at a depth greater than 2.5m below the surface
 - e. coefficient of passive earth pressure greater than 3.2
 - f. coefficient of active earth pressure of approximately 0.3g. non acidic properties
 - h. no organic materials are present in the soil.
- (vii) Three basic physical forces shall be taken into consideration whilst designing tower and masts foundations. These are: -
 - a. Vertical down load
 - b. Base shear
 - c. Uplift load
- (viii) Proper soil borings shall be made by competent soil testing specialists and they must go deeper than the probable depth of the foundation to

- make sure of soil type consistency.
- (ix) For guyed towers, borings shall also be taken at all guy locations and at the base per location since conditions can vary widely on the site.
- (x) Foundations and Anchors shall be designed to support the structures and specified loads for specific soil conditions.
- (xi) Pile, raft or specially designed foundations or anchors are to be considered in submerged, marshy or peat soil conditions. Foundation designs shall be made and certified by qualified and registered professional engineers.

(b) Types of Foundations

(i) *Standard Foundation*

- a. Standard foundations and anchors may be used for construction when actual soil parameters are the same as or exceed normal soil parameters.
- b. Geo-technical investigation to verify that actual site soil parameters are the same as or exceed normal soil parameters shall be made before standard foundations and anchors are utilized in final designs.
- c. Foundations and anchors shall be designed for the maximum structure reactions resulting from the anticipated worst loading conditions.
- d. When non-standard foundations and anchors are to be used for construction, the soil parameters recommended by the geo-technical engineer should incorporate a minimum safety factor of 2.0 against ultimate soil strength.

(ii) *Raft Foundation*

- a. In determining the dimensions of the raft, consideration should be given to the pressure distribution under maximum design loads to ensure that tensile forces do not develop under a significant part of the raft area.

- b. Raft foundations shall be designed by certified foundation engineers using geo-technical data for the site. Such design which shall be in the manner illustrated in Figure 2.23 of the First Schedule to these Guidelines should conform with the specifications in Figure 2.27 and 2.29 thereof.
- c. A name plate giving details of the designer and the builder shall be placed in a conspicuous location at the tower base.

(iii) *Piles*

- a. Pile foundations are recommended in swamps and peat soils, in order to overcome catastrophic effects of uneven settlement in other types of foundation.
- b. Pile foundations shall be designed by certified foundation engineers using geo-technical data for the site.
- c. A name plate giving details of the designer and the builder shall be placed in conspicuous location at the tower base.

(iv) *Drilled foundations*

The design and construction of drilled foundations presents certain challenges to Engineers. Consequently, the engineers involved in the design process which is illustrated in Figure 2.24 to 2.25 of the First Schedule to these Guidelines should at all times take cognisance of the following:

- a. Foundations can be drilled in any type of soil formation including sandy soils where drilling is however not straight-forward due to the likelihood of hole cave-in.
- b. Where drilling is in sandy soil, a casing may be used and pulled out as the concrete is being placed so that the concrete is in contact with the sides of the hole.

- c. Alternatively, drilling slurry could be used. The hole is filled with “mud” and as the concrete is pumped into the bottom of the hole, the mud is pumped out at the top. The concrete likewise makes immediate contact with the soil and the foundation provides the support that is required.

(v) *Foundation Drawings*

- a. Foundation drawings shall indicate structure reactions, material strengths, dimensions, reinforcing steel and embedded anchorage material type, size and location.
- b. Every foundations that is designed for normal soil conditions shall duly be noted and every foundation design shall include site soil data as a footnote.

(vi) *Foundation in Swamps*

- a. The erection of Guyed tower in swamps can be performed more quickly and efficiently, and less expensively with modified construction techniques and an alternative method for anchoring.
- b. The ‘simple marsh anchor’ method which is a technology that employs square rods with screw helices at one metre intervals on the initial three to six metre length may be used.
- c. Use of the screw anchors requires only the availability of an auger machine to screw the anchors into the ground thus avoiding the digging of holes, forming, and pouring concrete.
- d. The anchors are simply screwed into the ground until a layer of earth is encountered that offers sufficient resistance to achieve the required installation torque.
- e. In order to shortened the depth to which anchors are to be screwed, the use of multiple anchors with load-distributing linkages is advisable.

- f. The advantage of this method is the ease with which extensions or additional anchors can later be added in the event that capacity needs to be increased for additional load requirements or for the addition of torque arms.

(c) Anchors

(i) Rock Anchors

- a. Rock anchors shall be designed to ensure long life and treated against corrosion to last longer than the design life-span of the tower.
- b. Pre-stressed rock anchors are to have their upper terminating steel work in such a way as to have a steel-to-steel connection between the structure footing and the rock anchor tendon.
- c. The upper end termination of rock anchors shall not be encased in concrete but shall be protected against corrosion so as to allow any subsequent checking of the tension in the tendons during the life of the structure.

(ii) Anchor Bolts Template

- a. Templates which provide proper anchor bolt orientation at the time of foundation forming shall be used to eliminate problems associated with misalignment.
- b. Templates shall be precisely fabricated and used in constructing tower foundations in accordance with design specifications.
- c. A minimum of two anchor stirrups shall be provided around each leg of a tower and each stripe shall have a safe working load (SWL) of 100KN.

(iii) Uplift

- a. Anchors must be dimensioned to provide sufficient safety against overturning.
- b. A qualified geo-technical engineer shall design foundations especially when they are to be sited in non-standard soils and the application of

prototype designs for normal soils becomes undesirable.

- c. Standard foundations, anchors, or drilled and buried piers shall be designed to resist uplift forces by their own weight in addition to the weight of earth enclosed within an inverted pyramid or cone whose sides form an angle of 30° with the vertical.
- d. The base of the cone shall be the base of the foundation if an undercut or toe is present or the top of the foundation base in the absence of the foundation undercut.
- e. Earth shall be considered to weigh 16kN/m³ and concrete 24kN/m³.
- f. Straight shaft drilled piers for standard foundations shall have an ultimate skin friction of 31 kPa per linear metre of depth to a maximum of 48kPa of shaft surface area for uplift or download resistance.
- g. Non-standard foundations, anchors, and drilled piers shall be designed in accordance with the recommendations of a geo-technical report. A mat or slab foundation for a self-supporting structure shall have a minimum safety factor against overturning of 1.5.
- h. The effects of the presence of water shall be taken into account in the design of non-standard foundations. In this regard, reduction in the weight of materials due to buoyancy and the effect on soil properties under submerged conditions shall be considered.

(6) General

(a) Concreting

- (i) All loose material shall be removed from the bottom of any excavation, and the sides thereof

shall be rough and free of loose cuttings before concrete placement.

- (ii) Concrete shall be placed with the aim of preventing segregation of concrete material and any occurrence that may decrease the strength or durability of the foundation.
- (iii) Concrete placement shall be continuous.
- (iv) No construction joints shall be permitted.
- (v) Weight of concrete mixture shall in all cases be 24kNm^{-3} .
- (vi) Concrete mixture must be such as to enable the concrete develop a minimum compressive strength of 30Nm^{-2} in 28 days.
- (vii) Reinforcement steel shall be grade 50 deformed bars and shall be covered with concrete overlay of a minimum thickness of 75mm and Spacers shall be used to achieve this minimum cover on reinforcement.
- (viii) Concrete should always be thoroughly mixed prior to putting in place, and any water which seeps into excavation should be removed prior to placing concrete.
- (ix) A concrete vibration machine must be used until all concrete is in place.
- (x) The concrete column of the foundation must always be installed inside wood or steel formwork and left in place for 24 hours before removing.
- (xi) When the formwork is removed, concrete must be kept wet for the first seven days of drying in the south of the country whilst a ten-day period is recommended for the north.
- (xii) Aggregate size shall be 20mm.
- (xiii) Mechanical vibration shall be used in concrete making to eliminate honeycombs and voids. Welding and splicing is prohibited on reinforcement steel and embodiments.

- (xiv) Concrete curing time should be 28 days.
- (xv) The surface level of mast foundation, guy anchor and tower foundation blocks shall be between 150mm and 300mm above the highest point of the existing ground level.
- (xvi) When separate blocks of foundation for each leg of tower are employed, the upper surface of each leg must be at the same level.
- (xvii) The upper surfaces of all foundations are to be given a gentle slope to ensure that water run off and shall be further painted with bituminous paint to avoid dampness around the foundation bolts, sole plates and guy attachment steel works.
- (xviii) Structural backfill shall be compacted in 225mm maximum layers to 95% of maximum dry density at optimum moisture content. It must have a minimum compacted weight of 1.6kNm^{-3} .
- (xix) The Top of the foundation shall be sloped to drain with a floated finish. Exposed edges of the concrete shall be chamfered.
- (xx) If power cables, feeders, grounding tape must pass through concrete base, appropriately sized diameter plastic or asbestos pipe shall be imbedded in concrete works.
- (xxi) Where land for structure is limited, grounding tapes and rods may be placed below or to the side of foundation.

(b) Reinforcement

- (i) Main reinforcement bars shall have a minimum concrete cover of 75mm and sufficient auxiliary reinforcement shall be included to minimize the occurrence of cracking while the integrity of the foundation remains intact.
- (ii) Reinforcement in block type foundations shall be for the purpose of ensuring that the total weight of concrete is fully utilized to give the specified resistance to uplift forces.

(c) Factors of safety

- (i) In all cases, the factors of safety for foundations and any component thereof against overturning shall be made for the worst design load condition.
- (ii) In the case of guy anchor blocks, a safety factor of 2 shall be applied to the maximum design guy tension.
- (iii) In calculating the resistance to shear (for the foundation only) the friction between the bottom face of the concrete and the soil shall be taken into account.
- (iv) In the case of guy anchor blocks, the earth resistance in the direction of the horizontal force may be assumed to be utilized, in which case the soil shall be checked against the possibility of shear-friction failure.
- (v) The soil surrounding the foundation shall not be included in the calculation of resistance to uplift and overturning.

5. Earthing and Lightning Protection of Towers and Masts

(1) General

- (a) All masts shall be grounded and the earth resistance measured at the earth terminal block shall be less than 2 ohms.
- (b) A lightning air terminal (Faraday Rod) shall be mounted on mast top and a vertical copper earth wire or tape run down the side of one mast leg to ground and connected to the earth at the terminal box.
- (c) Due cognisance should be taken of the fact that the most important factor in getting a good earthing is the use of good quality materials for installation. Care should be taken to ensure that

the earthing and lightening protection design and methods illustrated in Figure 2.33 and 2.34 of the First Schedule to these Guidelines are followed.

(2) Earthing

- (a) Earthing and Lightning protection shall be provided in all completed towers sites to protect equipment from damage and personnel from harm which may result from excessive voltages during a lightning strike.
- (b) The arrangement shall be such that lightning discharge current must be prevented from entering equipment rooms.
- (c) Equipotential conditions shall be maintained throughout the site by bonding.
- (d) Due cognisance must be taken of the following:
 - (i) that the resistance achievable in an earth installation is directly proportional to the resistivity of the soil at the depth to which the earth rod has been driven.
 - (ii) When the soil resistivity of a site is not known it can be measured without excavation by using a direct reading metre and earth spikes.
 - (iii) It can also be read out from tables if soil type is accurately known.
 - (iv) Resistivity at any depth is related to the diameter of the earth rod, the target resistance and the depth to which the earth electrode is driven into the soil by:

$$R = (p / 275L) \times \log (400L / d)$$
 Where R is the target resistance
 p is the resistivity of the soil
 L is the length of electrode in metres
 d is the diameter of electrode in cm

- (v) An accurate assessment of the soil resistivity should be made around the tower base using a direct reading resistance metre to determine among other things the appropriate depth to drive in the copper earth rods, the number of rods and the need for an earth mat, among other things. Table 2.14 of the First Schedule to these Guidelines contains the Resistivity Values for different soil types.

(3) Lightning Protection

- (a) Separate down conductors shall be installed from each air terminal (lightning spike) and In addition, the structure shall also be a return path to the earth.
- (b) These two systems shall be bonded together and Lightning spikes shall be long enough to give 45° cone of protection over all aerials.
- (c) Air terminations shall be made of copper rod, hard or medium – hard drawn, 12mm in diameter and Down conductors shall be made from 25mm by 3mm soft annealed copper strip.
- (d) The earth termination shall be independent of the foundation reinforcement.
- (e) Where rods are used as earth electrodes they shall be driven into the ground to a depth of at least 2.4m in normal soil or the depth predetermined for the site from measurements.
- (f) Longer lengths shall, when necessary, be built up of 1.2m lengths screwed onto each other with internal screw and socket joints.
- (g) Where one earth electrode cannot obtain the specified resistance, additional electrodes should be connected in parallel and such additional electrodes may be those provided for other down conductors.

- (h) The distance between any two driven electrodes shall be equal to their driven length.
- (i) All connections between earth conductors and steelwork shall be via sacrificial legs or brackets where copper would be in contact with concrete and painted with bitumen or separated from the concrete with itemized paper.
- (j) Earth conductor runs shall be straight as far as is practicable and where bends are unavoidable shall be smooth and of maximum radius.
- (k) The resistance to ground of the earth system shall be below 2 ohms.

(4) Construction of an Earth

The Construction of an Earth shall conform to the following specifications:

- (a) Lightning rod shall be clamped to the highest point on the mast.
- (b) Ground wire shall be connected to the lightning rod and shall preferably be one continuous piece down to the earth ground rod.
- (c) Where, the antenna type does not permit the use of a lightning rod point, the ground wire shall be taped or wire-tied to the mast as far up as practicable.
- (d) Ground wire shall run from the tip of the mast and shall be connected to the tower, and then run all the way to the ground.
- (e) Copper bond earth rods made up of copper electrolytically bonded onto a high tensile steel core shall be driven into the ground to varying depths dictated by earth resistivity measurements.
- (f) Several lengths of the rod may be driven into the ground and each length coupled to the next through coupling threads.

- (g) The rod is driven in by hammering on the driving high tensile steel head and each leg of a mast or tower shall have at least one earth rod driven into the ground beside it.
- (h) The leg of the mast shall be tied to the earth rod through a flat copper tape.
- (i) The number of earth rods driven into the ground at the optimum depth shall be such that is necessary to achieve a suitably low resistance.
- (j) Where good grounding cannot be obtained at a reasonable depth, a three metre pit shall be dug and partly filled with layers of carbon, salt and manure and backfilled firmly.
- (k) The maximum permissible resistance to earth shall be 2 ohms.

(5) Protective Grounding

- (a) Structures shall be directly grounded to a primary ground.
- (b) A minimum ground shall consist of two, 1.2 metre long, 16 mm diameter galvanized steel ground rods driven not less than 2.4 metres into the ground, 180° apart and adjacent to the structure base.
- (c) The ground rods shall be bonded with a lead of not smaller than 5 mm tinned bare copper connected to the metal base of the structure of each leg of a tower.
- (d) A similar ground rod shall be installed at each guy anchor and connected to each guy at the anchor in case of guyed towers.
- (e) Self-supporting towers exceeding 1.5 m in base width shall have one ground rod per tower leg.
- (f) All the earth rods shall be tied together to maintain an equipotential condition all over the structure while top and bottom ground straps are to be bonded at both ends.

- (g) All equipment on a structure such as antennas, antenna supports and warning safety lights shall be connected by a secondary ground.
- (h) The earth of the tower shall be bonded to the general earth of any adjoining equipment room and all shall form a single earth.
- (i) The maximum permissible resistance to earth shall be 2 ohms.

6. Safety Devices for Towers and Masts

- (1) Safety devices shall be installed on every tower above the height of 45 metres. Safety devices shall comprise of the following:
 - (a) fall arrest systems
 - (b) climbing ladders or step bolts
 - (c) guard rails
 - (d) work / test platforms
 - (e) rest platforms
 - (f) anti-climb systems.
- (2) Fall arrest systems
 - (a) A complete fall arrest system shall consists of the rail and the trolley. The Trolley
 - (i) Is a locking brake pawl attached to the harness of a climber.
 - (ii) Moves freely along the Safety Rail with climber in normal climbing position
 - (iii) In case of a slip trolley brakes remain locked until the force is removed. Falls are instantly arrested when a sudden downward motion is applied to the Trolley. Trolley remains stationary once disconnected from the harness.
- (3) Anti Climb Shields
 - (a) Anti Climb shields consist of metal sheets bolted to tower legs. These are constructed to prevent unauthorized persons from climbing a tower. It

is ideal for tower sites around schools and public areas where public safety is a concern.

(4) Climbing Facilities

(a) *Access Ladders*

- (i) Access ladders shall be made from hot dip galvanized steel or aluminium sections mountable on all tower types and monopoles amenable to inside or outside mounting.
- (ii) Climbing Ladders shall be of steel or aluminium depending on tower material and shall be provided with Safety cages, Landing places (rest and work platforms) and Protective finishes.
- (iii) Ladders shall be attached to the tower structure.
- (iv) The lowest point on the ladder shall be at a height of 3m to 4.5m above ground level and it shall run all through to the top of the structure.
- (v) The ladder shall be so located that a clearance of at least 150mm at the rear of the ladders exists between the ladder and the structure.
- (vi) Anti climbing devices shall be provided on the structure to prevent access except from the climbing ladder.
- (vii) The vertical separation between rest platforms shall be 20m.
- (viii) Work and test platforms shall be located at those points where antennas are to be installed.

(b) *Platforms – Work / Rest / Test*

- (i) All platforms shall be readily accessible from the climbing ladder.
- (ii) The access to all platforms and walkways from the vertical climbing ladder shall

be from one direction only.

- (iii) Platforms and walkways shall be designed to carry a point load of 150kg at any point without a deflection exceeding 6.0mm.

(c) *Guard-rails*

- (i) Guard-rails shall be of height range between 0.9m and 1.1m and shall be provided on all platforms, stairways and horizontal members used as walkways.
- (ii) They shall have an intermediate rail at half this height and a toe board not less than 150mm high.
- (iii) The distance between any toe-board and the lowest guard – rail above it shall not exceed 750mm.
- (iv) Widths of walk-ways and platforms shall not be less than 650mm.
- (v) Walk-ways and surface used as working platforms or traversed to gain access to platforms or traversed to gain access to working positions shall be provided with anti-slip surface.
- (vi) Guard rails and toe boards shall be attached at each stanchion and secured to prevent rotation.

(5) *Safety Enhancement*

- (a) Safety in the installation and use of masts and towers are enhanced by the following practices which shall be mandatory for all tower owners and installers.
 - (i) Tower assembly parts shall be standardized e.g. fasteners for the main structure shall be of only one size, length and material.
 - (ii) Manual handing over of parts or tools

between installers during tower construction is forbidden.

- (iii) All parts shall be labelled in detail especially where the method of assembling is not obvious.
- (iv) Towers shall be structurally designed for simple assembly by the promotion of ease in fittings and elimination of small loose parts.
- (v) On-site welding and riveting is prohibited. Owners and installers of mast and towers who engage in these practices shall be liable to pay a penalty to the Commission of a sum amounting of 15% of the cost of the tower.
- (vi) All site connections shall be by bolt and nut with a means provided for locking the nut against loosening by vibration.
- (vii) All nuts, bolts and washers shall be galvanized for easy assemblage
- (viii) Taper washers shall be used whenever the steel section shape requires their use.
- (ix) Bolt lengths shall be such that with the locking device in place, a minimum of one complete thread shall protrude beyond the nut.
- (x) Bolt threads shall protrude inside the structure only.

7. General Specifications

(1) Towers and Masts

- (a) The following specifications apply to communication lattice towers and masts constructed and installed in Nigeria.
 - (i) The predominant load on tower structures shall be wind load.
 - (ii) Each structure shall be made of hot dip

- galvanized steel sections.
- (iii) Masts may be guyed or free standing.
 - (iv) The height of Free standing masts shall not exceed 150 metres.
 - (v) Masts and towers may be installed on a property with the written consent of the owner of the property.
 - (vi) Mast and towers above 30 metres in height may only be installed with a clearance certificate issued by the Nigerian Airspace Management Authority (NAMA),
 - (vii) No masts or towers (irrespective of the height) may be installed within 15 kilometres of any airport, or within the proximity of helicopter pads and their approaches without prior approval and permits from NAMA.
 - (viii) The Armed Forces of the Federal Republic of Nigeria may be exempted from strict compliance with paragraph
 - (vii) above, in times of war. At the cessation of hostilities, any structures erected under this waiver shall be submitted for reassessment and approval.
 - (ix) The open space available at the site of a proposed mast or tower installation, shall be, at least three times the space required by the base of the structure.
 - (x) Each completed mast or tower must have a name plate bolted to each of its legs on which the following particulars of the fabricator, owner, operator and installer are detailed:
 - a. Name, address and telephone numbers of the owner, fabricator, operator and installer

- b. Permit Number issued by the Commission for erection of the Mast at the location.
- (xi) The antenna of each mast or tower shall contain the following particulars:
 - a. Date of erection
 - b. Height
 - c. Number of antenna
 - d. Operating Frequencies
 - e. Location address
 - f. Geographical coordinates
 - g. Name of operator and licensee
 - h. Effective Isotropic Radiated Power
 - i. A log book showing inspection dates and types of inspections performed and detailed particulars of the inspector.
- (xii) A permit from and registration with the Commission shall be required for the erection of any Masts or Towers whose height exceeds 20 metres.

(2) The Superstructure

(a) Members' Sizes

- (i) The sizes of members in compression shall be such that the maximum slenderness ratios are:
 - Ladder 120
 - Bracing members 150
 - Subsiding members 180
- (ii) No load-carrying angle bar/lattice shall be smaller than 50 x 50 x 6mm.
- (iii) The minimum thickness of gussets and similar plates on the main structure shall be 8mm.

(b) Intersecting Bracings

- (i) Where a gusset plate connects bracings that cross, at least one of the bracings

shall be continuous between the main members to which it connects.

- (ii) Towers and Masts shall be manufactured from the following materials
 - Steel with hot dip galvanized finish
 - Stainless Steel with # 4 or # 7 finish
 - Aluminium - polished, anodized and painted finish
- (c) Lattice Structures
 - (i) Legs
 - Tubular
 - Angular
 - Solid Round Leg
 - (ii) Members
 - Tubular pipes
 - Angles
 - (iii) Bracing
 - Angles
 - Tubular pipes
 - Steel rods
- (d) Monopole Structures
 - (i) Sections
 - hollow, heavy duty, thick steel pipes
 - hollow, heavy duty, flanged steel pipes
- (e) Guys
 - (i) Wires
 - Extra High Strength stainless steel or galvanised steel cable.
 - (ii) Earth Screw Anchor
 - Galvanised steel or stainless steel.
 - (iii) Thimble
 - Galvanised steel or stainless steel.
 - (iv) U-Bolt
 - Galvanised steel or stainless steel.
 - (v) Turnbuckle
 - Galvanised steel or stainless steel.
 - (vi) Both lattice and monopole structures shall be made from steel for tall, heavy load bearing towers or aluminium for lightweight light duty towers.

(vii) Tower components shall be of the following classification: -

- a. All steel members shall be fabricated from Grade 50 or 42, A36 or A 57250.
- b. All steel tubes shall be fabricated from Grade 43C.
- c. All structural pipes shall be fabricated from Grade 42 or Grade C steel.
- d. Anchor rods shall be fabricated from Grade B7 steel.
- e. Rebar shall be fabricated from Grade 400 steel.
- f. Diagonals shall be fabricated from Grade 43A steel.
- g. Structural Bolts fabricated from Grade A325 steel.
- h. Steel angles shall have a minimum strength of 56ksi for tower legs and 36ksi for tower members.
- i. Round legs shall be fabricated from schedule 40 pipes.
- j. Braces shall be fabricated from Grade A36 or A 572-50 steel

(viii) Guying materials should always conform to the sizes, mechanical strength and capabilities as shown in Figure 3.10 and Tables 3.1 to 3.4 of the First Schedule to these Guidelines.

(3) Concrete

- (a) Ordinary cement shall be used.
- (b) Cement of different types may not be mixed.
- (c) High Alumina (HA) cement may not be used for concrete mixing.
- (d) Additives that hasten the setting of cement or give a denser concrete shall not be used.

- (e) All sand shall be clean, sharp, gritty, and free from loam earth, salt and other impurities like humic acids.
 - (f) Sand shall not contain more than 15% clay or silt. The sand shall contain grains from the finest sizes up to 4.75 mm. Grains smaller than 0.25 mm in size shall not constitute more than 15% of the total weight of the sand to be used.
 - (g) Aggregate shall be clean screened river ballast gravel, graded in size and free from dirt, floury stone dust, loam or earth or any other impurities. The maximum size of aggregate to be used shall be 19 mm.
 - (h) Water to be used for concrete mixing shall be free from oil, salt, and organic substances.
 - (i) shall have a mixture of 1:2:4.
 - (j) The concrete shall be thoroughly mixed by machine.
- (4) Earthing and Lightning Protection Installation Materials
- (a) Air Terminals shall be made from copper.
 - (b) Saddles (ridges, flat, light duty or heavy duty) shall be made from gunmetal or aluminium.
 - (c) Clamps shall be made from gunmetal or aluminium. Bi-metallic clamps shall be employed when joining aluminium earth rods to copper earth conductors.
 - (d) Earth bars shall be made from high conductivity copper.
 - (e) Copper Earth rods shall be made from:
 - (i) High tensile steel core with copper film electrolytically bonded to it to a minimum thickness of 0.25mm.
 - (ii) Solid copper earth rods for extremely high corrosive environments U-bolts could be of copper but with gunmetal back plates.

- (f) The earthing and lightening protection installation materials referred to above shall conform to the illustrations in Figures 3.1 to 3.9 of the First Schedule to these Guidelines.

(5) Metals and Galvanising

- (a) The following metals and alloys shall be used in tower fabrication, construction and for foundation reinforcement: -
 - (i) Magnesium
 - (ii) Zinc
 - (iii) Aluminium
 - (iv) Lead / Tin
 - (v) Brass / Copper / Bronze
 - (vi) Silver
 - (vii) Graphite

(6) Antenna Mounting Frames

- (a) Frames for mounting antennas on towers or masts shall be designed upon consideration of the type of tower structure and the type, weight and size of the antenna.
- (b) The frames shall be made from galvanised steel, stainless steel or aluminium and care must be taken to ensure that there are no welded parts, and that bolts and nuts are not used for implementing joints.
- (c) The basic designs for some tower structural forms and the frames for mounting antennas shall be as illustrated in Figures 3.11 to 3.16 of the First Schedule to these Guidelines.

8. Maintenance and Testing

(1) First Line Maintenance

- (a) When carrying out first line maintenance, due cognisance shall always be taken of the following factors:
 - (i) The worst case scenario of a total mechanical failure is assumed in tower design.

- (ii) Mechanical failure can be caused by stress, extreme overload, use of defective and poor quality materials, fatigue, corrosion, poor workmanship, insufficient maintenance, sabotage, as well as any combination of these factors.
- (iii) Every design must attempt to foresee all possible combinations of these that can occur in the installation environment and incorporate protective answers to them in the design.

(2) Hot Dip Galvanization

(a) For all purposes of maintenance, due consideration shall be given to the followings facts:

- (i) Unprotected steel can be seriously damaged due to environmental factors including rain, salty/humid air and extremes of temperature.
- (ii) Corrosion transforms steel back to its natural state of iron, a transformation which is unsuitable for structures like towers and that the best way to avoid this is through "hot dip galvanization" which is the process of dipping steel in melted zinc at 450°C allowing an alloy to form where pure zinc prevails to the outside.
- (iii) The difference of electrochemical potential between zinc and steel (cathodic protection) ensures that a zinc coating protects steel in such a way that slight exposure of surfaces as a result of cutting, scratching or piercing is protected against corrosion.
- (iv) That the greatest effect is produced by silicon in concentrations higher than 0.12%.

- (v) Most steels can be galvanized: high-strength steel, low-carbon steel, low-alloy steel, and steels with as much as 0.20% copper content; the most appropriate being low-carbon steels.

(3) Tower Maintenance

- (a) In the maintenance of towers, attention shall be given to the following best practices:

- (i) Towers require regular maintenance for purposes of early detection of deterioration and as a mandatory measure to prevent breakdowns and the attendant consequences.
- (ii) Regular maintenance is especially important for the purposes of public safety, network availability, environmental aesthetics and life time quality of the structures.
- (iii) Maintenance and inspection of steel towers and antenna supporting structures should be performed by the owner on a routine basis.
- (iv) Major inspections shall be performed at least once in every 3 years for guyed towers and every 5 years for self-supporting towers PROVIDED that the first thorough check of the structure should be carried out 6 months after its installation and erection.
- (v) Shorter inspection intervals of 2 years for guyed towers and three years for self supporting towers shall be obligatory for structures in coastal salt water environments, in corrosive atmospheres, and in areas that are prone to vandalism.
- (vi) Ground and aerial procedures should be performed only by authorized

personnel, experienced in climbing and tower adjustments.

- (vii) All structures shall be inspected after severe winds conditions like tempest, hurricane, tornado, and after the installation of an additional load like antennas on the structure loading conditions.
- (viii) At every tower site, the owner shall keep a maintenance log book in a thick cellophane folder. The folder shall be readily accessible to inspectors from the Commission or any duly authorised person and shall contain the following information: -
 - a. Installation Date
 - b. Inspection due dates
 - c. Painting due dates
 - d. Minor Maintenance due dates
 - e. Major Maintenance due dates
 - f. Name and address of Inspector
- (ix) For each of the due dates, the log should show that the inspection or the maintenance was carried out and by whom.

(4) Routine Checks

- (a) The following routine checks should be carried out during the service life of the Structure.

(i) *Main structure*

- a. Check that there are no structure components missing
- b. Check that bars are neither warped, holed nor spitted and replace all defective parts.
- c. Check structure components for corrosion

- d. Check that draining holes on pipe leg members, pipe lattice parts are not blocked.
- e. Check the climbing facilities, platforms, catwalks for integrity
- (ii) *Tower Base Foundation*
 - a. Check for settlements or movements
 - b. Check for erosion
 - c. Check general site condition (standing water, drainage, trees etc.)
 - d. Check bolts, nuts and lock nuts for tightness
 - e. Grout condition
- (iii) *Guy wires*
 - a. Check that each cable that is part of the guy wire is neither broken nor warped
 - b. Measure the tension of each guy wire using a strand dynamometer and compare result with the installer's stated values.
 - c. Check guy wires condition (corrosion, breaks, nicks, kinks, etc)
 - d. Check that the guy wire tightening system is properly greased.
 - e. Check for loose or missing fasteners
 - f. Check base for settlement, movement or earth cracks
 - g. Check backfill heaped over concrete for water shedding
 - h. Check anchor rod condition below earth
 - i. Check for signs of corrosion and take remedial timely steps
 - j. Ensure anchor head is clear of earth

(iv) *Bolting parts*

- a. Check that no bolts or nuts or any bolting part like washers, pins, etc is missing. Replace these immediately.
- b. Check bolts tightening.
- c. Check bolts, nuts and bolting parts for corrosion.
- d. Check anchorage rod in the concrete.

(iv) *Verticality*

- a. Check with the appropriate devices such as theodolite that the structure stands in a vertical position.
- b. There shall be no tilts. Take two measurements in two different planes with a 90° angle difference.

(v) *Antennas and Accessories*

- a. Check antennas and antenna supports
- b. Check coaxial cables
- c. Check fixing clamps.

(vi) *Safety components*

- a. Check that access ladder is in good condition
- b. Check rest and work platforms for defects, wear and tear
- c. Check that all safety components are existing and complete
- d. Check the correct functioning of the fall arrestor system
- e. For a fall arrestor system with cable, check that the cable has not been over tightened.
- f. Check that the anti climbing door is functioning.

(vii) *Lightning and Earthing system*

- a. Check that all lightning and Earthing components are existing and complete including lightning arrestor, copper

- strip, connection plate,
- b. Check the Earthing connection of coaxial cables,
- c. Measure the resistivity of the Earth and confirm conformity to expected values.
- (viii) *Aviation Safety Lights*
 - a. Check that all components are in place,
 - b. Check condition and well functioning of components (Light bulb, energy cables, fixing parts, photoelectric cell, connections)
 - c. Check earthing of the light wiring.
- (ix) *Anti corrosion protection*
 - a. Check all galvanised members for integrity
 - b. Check paint condition.
 - c. Check for signs of corrosion on the structure, of the bolts, bolting accessories, harnesses, antenna supports, etc
 - d. For guyed masts, check for corrosion on the entire guy assembly.
- (x) *Salty environment*
 - a. Wash the structure and accessories with clean water once every six months to eliminate residue salt particles which may not be washed away by rain.
- (xi) *Concrete blocks*
 - a. Check the good condition of above ground concrete block parts.
 - b. There must not be any water collection, cracking or splitting, chipped or broken concrete.

- c. Check the condition of anchor setting in the concrete block.
- d. Check anchor-bolt corrosion.

(xii) *Tower loading*

- a. Check types, numbers and installed heights of all antennas currently on the structure and confirm that the loading does not exceed structure design load.

(5) Annual Preventive Maintenance Checks

- (a) The following Annual Preventive Maintenance Checks shall be carried out during the service life of the Structure.

(i) *Structure*

- a. Tension of Guy wires using a dynamometer.
- b. Geometry of the structure.
- c. Re-tighten main structure and accessories bolted parts (10%)
- d. Geometry of the Bars.
- e. Rigidity of Antennas and Accessories.

(ii) *Safety*

- a. Ensure that anti climb door can open and close. Clean and grease all hinges.
- b. Ensure the work platform's trap can open and close. Clean and grease all door hinges.
- c. Check the fall arrestor system
- d. Check tower ladder for any signs of weakness, re-tighten all bolts
- e. Check the riggers' safety gear, take inventory and record it
- f. Check the positioning and installation of safety components.
- g. Test the fall arrestor system with individual equipment.

(iii) *Earthing*

- a. Check the physical condition of the lightning rod and lightning arrestor
- b. Check the physical condition and installation of the copper strip
- c. Check the connection of the concrete block copper belting onto the copper strip the connection of coaxial cables earthing onto the copper strip
- d. Check the connection between the bottom coaxial cable earthing and the collection Copper bar fixed on the concrete block
- e. Check the tightening of the brass bolts of the lightning protection electrodes
- f. Check the resistivity of the lightning protection electrodes
- g. Earth resistance

(iv) *Aviation Safety Lights*

The following checks should be carried out:

- a. Functionality of controllers, flashers, alarms and photo control
- b. Condition of electrical wires, connectors and earthing
- c. Condition and fixing of energy cables
- d. Conduit, junction boxes, and fasteners weather tight and secure
- e. Bulb condition - change all bulbs at the same time immediately before the rated service hours is achieved.
- f. Condition and fidelity of the power supply systems

(v) *Coating*

- a. To prevent discrepancies in galvanization

- b. Paint coating. Repaint every three years
- c. Rust and/or corrosion conditions
- d. ICAO / NAMA Colour marking conditions
- e. Water collection in members - unplug drain holes, etc.

(vi) *Log Book*

- a. A Log Book shall be maintained in which all maintenance checks made will be documented.
- b. The contents of the Log Book shall include: date of checks, what was checked, observations of the check, and name and signature of the personnel that conducted the check.
- c. The Log Book shall be made available to the Commission or its due representative on demand.
- d. Failure to keep or make a Log Book available to the Commission as above shall constitute an offence

(6) Testing

(a) Measurement of Guy Tension

The following best practices should be observed in the measurement of guy tension.

- (i) Tension should be measured when wind is relatively still given that Measurements in wind velocity above 25 m/s (90km/h) will yield misleading results.
- (ii) Tension results can be considered satisfactory if they fall within 15% of the tension value stated by the manufacturer and/or installer.
- (iii) Excessive tension may cause alignment problems, cable rupture

and may even cause permanent wrapping of tower structural parts.

- (b) There are two basic methods of measuring guy tensions in the field:

The Direct Method

- a. A dynamometer (load cell) with a come-along (length adjustment device), is attached to the guy system by clamping onto the guy just above the turnbuckle and onto the anchor shaft below the turnbuckle, thus making the turnbuckle redundant. The come-along is then tightened until original turnbuckle begins to slacken. At this point the dynamometer carries the entire guy load to the anchor, and the guy tension may be read directly off the dynamometer dial.
- b. This method is used to set the correct tension by adjusting the comealong until the proper tension is read on the dynamometer.
- c. Two control points are marked, one above the clamping point on the guy and one on the anchor shaft, and the control length is measured. The dynamometer and come-along are then removed, and the original turnbuckle is adjusted to maintain the control length previously measured.
- d. The measurement of guy tension under the direct method shall be in the manner illustrated in Figure 4.1 of the First Schedule to these Guidelines.

The Indirect Method

- e. Where guy initial tension is to be measured by the indirect method, two common techniques - the pulse or swing method (vibration) illustrated in Figure 4.2 of the First Schedule to these Guidelines, and the tangent intercept method illustrated in Figure 4.3 of the First Schedule to these Guidelines may be used.

Environmental Requirements

(1) Height

- (a) The maximum height for a telecommunication tower shall not exceed 150 metres.
- (b) Notwithstanding sub-paragraph (a) above, a tower, exceeding 150 metres in height, may be approved by the Commission if it is satisfied that the increased height of the tower:
 - (i) Will not be detrimental to public health, safety or general welfare.
 - (ii) Will not have negative effect on the neighbourhood.
 - (iii) Is in conformity with the plan of the particular area and the general plan of the community.
 - (iv) Will not impair compliance with any other applicable laws or guidelines.

(2) Space requirements.

- (a) The siting of towers shall conform to the following space requirements:
 - (i) Any tower site shall be served by a parking/loading space.
 - (ii) Any tower site lying 50 metres or less from a paved road shall be paved.
 - (iii) Where a tower site is more than 50 metres from a paved road, hard-surfacing of the

parking/loading spaces and driveways shall not be required for those portions of the site lying more than 50 metres from any paved road.

(3) Screening

(a) The screening of telecommunications masts and towers shall in all cases conform to the followings:

(i) The base of all telecommunications towers shall be surrounded by an opaque screen of at least 2.5 metres in height.

(ii) The screening shall also include landscaping provisions for any portions of the development visible from adjacent residential or used property or right-ofway.

(iii) The use of barbed wire or other security fencing material may be allowed.

(b) Screening requirements provided above, may be waived if the design of the tower is found to be compatible with the adjacent land uses.

(4) Removal of abandoned towers

(a) A tower that has not been used for a continuous period of three years may be deemed to have been abandoned.

(b) Where the issue of abandonment is in issue, the Commission may request appropriate documentation from the owner/operator to determine the effective date of abandonment.

(c) Upon the determination of abandonment, the Commission shall issue a removal notice to the owner, whereupon the owner shall dismantle and remove the tower from the property within 90 days of the receipt of notice from the Commission.

(d) An abandoned tower that is not removed within the 90 day period may be removed by the Commission and the removal costs and a

minimum penalty of two hundred and fifty thousand naira shall be paid by the owner to the Commission.

(5) Inspections

- (a) All towers shall be subjected to inspection at least once in every six months, to assess the structural condition of the tower and support equipment by a qualified tower inspection service employed by the Commission.
- (b) Owners of towers which fail to meet the required inspection standards will be notified and required to remedy the situation within 30 days failing which the owner shall pay to the Commission a penalty of 20% of the cost of the tower.

(6) Authorization

All towers and masts shall be erected and operated in compliance with such guidelines as may from, time to time, be prescribed by the Nigerian Communications Commission and Nigeria Airspace Management Authority.

(7) Shared Use of Towers & Masts

- (a) The design, construction and Installation of towers over 25 metres, shall be done in such a way as to accommodate a minimum of three service providers using the same structure.
- (b) Owners of Towers shall in furtherance to subparagraph (a) above, provide written certifications to the Commission that such towers are available for use by other telecommunications service providers on a reasonable cost and non-discriminatory basis, and modalities and conditions for such shared usage.
- (c) where any serious disagreement or dispute arises that threatens the shared use of facilities, the Commission shall arbitrate over the dispute

and any decision so reached by the Commission shall be final.

- (d) For the avoidance of doubts, the sharing of towers and masts in these guidelines shall be subject to the provisions of the Collocation and Infrastructure Sharing Guidelines of the Commission.

(8) Fencing

- (a) Security fencing, where installed, shall be a wrought iron, barbed wire, or steel chain link fence with evergreen hedge or a masonry wall not less than 1.8 metres in height.
- (b) The exterior of equipment buildings and/or metal equipment cabinets visible from residential areas or public rights-of-way, shall be painted to reflect the colour and character of adjoining structures or blend with adjacent landscaping and other surroundings.

(9) Setbacks

- (a) All towers as well as guys and guy anchors shall be located within the build-able area of the property and not within the front, rear, or side building setbacks.
- (b) All towers in excess of 150 metres in height shall be set back by a minimum of 50 metres from the right-of-way of all controlled access, federal and state roadways designated as freeways, in order to provide unobstructed flight paths for helicopters.
- (c) In all other cases, the distance for setbacks shall be as follows:
 - (i) 5 metres from any demised property excluding the fence
 - (ii) the distance specified as a potential hazard area by the designer of the structure.

- (iii) Guy wire anchors and accessory structures shall not encroach into the mandatory setbacks listed above.

(10) Signage

- (a) No signage, lettering, symbols, images, or trademarks in excess of 1200 cm shall be placed on or affixed to any part of a tower, mast, antenna or antenna array fencing other than as required by the Commission for the purposes of identifying the operator.
- (b) No adverts shall be allowed on any of the telecommunication structures stated in subparagraph (a), above.
- (c) Adverts placed contrary to subparagraph (a) and (b) above shall be removed by the Commission and the cost of removal shall be borne by the owner of the tower.

(11) Lighting

- (a) Towers shall only be illuminated as required by NAMA and/or the International Civil Aviation Organisation (ICAO).
- (b) No signals, lights or illumination of any kind shall be permitted on or directed towards any tower unless as required by the NAMA or any other appropriate public authority.
- (c) Security lighting around the base of a tower must be shielded so that no light is directed towards adjacent properties or rights-of-way.

(12) Obstruction Lighting

- (a) The purpose of obstruction lighting and marking is to ensure that an obstruction to air navigation remains visible at a range sufficient to permit a pilot to take appropriate action in order to avoid the obstruction by not less than 305m vertically within a horizontal radius of 610 metres from the

obstruction. A typical obstruction lighting kit shall include the following:

- (i) Light with bulbs of a minimum of 10,000hrs service life
 - (ii) Junction box
 - (iii) Photo sensor
 - (iv) Power cable (in conduit and armoured)
 - (v) Weather proof Light flasher. Flash rates of 40/min are allowable typical values.
 - (vi) Assembly hardware such as U-bolts and connection bolts
- (b) The obstruction light must be supplied with uninterruptible power supply in form of battery, solar energy or any other technology to ensure that lights are on during mains power outage and from 6pm to 7am. Aviation lighting gear should be designed to have minimal serviceable components so as to reduce the problems associated with regular climbing of towers to service lamps.
- (c) Owners of mast and towers who do not comply with sub-paragraph (a) to (c) above, shall be liable to pay compensations for accidents occurring as a result of such omissions.
- (13) Tower to Tower Spacing
- (a) The minimum spacing between two or more towers in excess of 55 metres in height shall be 1 (one) kilometre.
- (14) Nearness to Power Lines
- (a) No tower or mast shall be installed in close proximity to High Voltage electrical power transmission lines. The nearest distance of a tower to a High Voltage electrical power transmission line shall be the equivalent of 120% of the height of the mast.

- (b) Owners of mast and towers installed in contravention of the above specifications shall bear the cost of removal of such towers.

(15) Alternative Mounting Structures

- (a) Alternative Mounting Structures 30 metres or less in height may be permitted in residential areas. However, Alternative Mounting Structures in excess of 30 metres in height may be permitted in non-residential areas.
- (b) Alternative Mounting Structures must be similar in colour, scale and character to adjoining buildings or structures or blend with the landscaping and other surroundings immediately adjacent to them so as to generally avoid the creation of unique visual objects that stand out in the environment.

(16) Antenna Mounts

Antenna mounts must have structural integrity so as to guarantee public safety. To this end, the following specifications shall be strictly adhered to;

(a) Whip and Panel Antenna Mounts

- (i) Individual telecommunications antennas may be permitted on existing low tension electric utility poles, light standards, and towers in excess of 12 metres in height, provided that the total length of any antenna does not exceed 15 percent of the height of the existing structure.
- (ii) Telecommunications antennas and arrays are not permitted on existing high tension electric transmission towers.
- (iii) Panel and whip antennas may be permitted on billboard structures.

(b) Dish Antenna Mounting Standards

- (i) Ground mounted dish antennas in excess of 1.5 metres in height shall be screened

from roadways and adjacent property by a minimum of 1.8 metre high screening fence.

- (ii) Building and roof mounted dish antennas of one (1) metre or less in diameter, are permitted in all areas. No permits are required for this category
- (iii) The Commission may permit building/ roof mounted dish antennas in excess of one (1) metre in diameter, to be placed on buildings on the certification of a structural engineer to the effect that the building can withstand the additional load.

10. Application to the Commission for Permits

- (1) Any person erecting a telecommunications mast or tower whose height exceeds 20 meters shall be required to obtain a permit from the Commission before such mast or tower is erected.
- (2) Applications to the Commission for permits required under sub-paragraph (1) above shall be accompanied by the following documents:
 - (a) A Site Plan showing the location of the proposed structure in relation to adjoining structures.
 - (b) Evidence of ownership of the property on which the structure is to be installed or a written consent of the owner.
 - (c) The geographical coordinates of the proposed location of the structure and that of the nearest airport, heliport or helipad or in the alternative, a permit issued by the NAMA for the erection of the structure in the proposed location.

- (d) A Design of the structure showing its effective height, foundation, guys (where used), members, ladders, rest and work platforms, earthing, lightning protection and aviation lighting.
- (e) Detailed information on the software package used in the design to enable easy verification of the fidelity of the design of the structure.

11. License

- (1) Any company that applies for a mast or tower certification/licences shall satisfy the Commission that it has:
 - (a) Enough capital equipment to enable it deliver safe and quality fabrication.
 - (b) In its employment, qualified and licensed fabricators.
 - (c) A good Workmen's compensation insurance policy from a reputable insurance company.
 - (d) A good third party accident insurance policy.
 - (e) A viable Health, Safety and Environment policy.
- (2) The capital equipment referred to in subparagraph (1) of this guidelines shall include:
 - (a) packer
 - (b) Excavators
 - (c) Bull Dozer
 - (d) Forklift
 - (e) Long Boom Arm Crane
 - (f) Concrete Vibrator and Poker
- (3) It shall not be lawful for a person to engage in the business of installation of telecommunication mast and towers without a valid licence issued by the Commission.

- (4) All checking visits and maintenance interventions shall be done by employees with special qualification in telecom tower manufacture or maintenance.
- (5) The minimum educational qualification for employees in mast and tower fabrication, erection and maintenance shall be as follows:
 - (a) A Certificate obtained on completion of a four year training programme in welding and machining from an accredited Technical College.
 - (b) A City and Guilds Final Certificate.
- (6) Installers whose employees meet the above requirements will be eligible for the grant of a certification/licence by the Commission.

12. Structural Certification

- (1) Prior to the installation of a tower, mast and antenna support structure on any building or roof the Commission shall be provided with a structural engineer's certification that the structure will support and not be adversely affected by the proposed mast, tower, antenna and associated equipment.

13. General Matters

- (1) The Terrain
 - (a) The design of structures for masts and tower shall be determined by the "terrain" and for this purpose, terrain is classified into three broad geographical zones. These are:
 - (i) The Exposed smooth terrain with virtually no obstructions and in which the height of any obstructions is less than 1.5m. This category includes open sea coasts, lake shores and flat, treeless

plains with little vegetation other than short grass.

- (ii) The Open terrain with widely spaced obstructions (100m apart) having heights and plan dimensions generally between 1.5m and 10m. This category includes large airfields, open parklands or farmlands and undeveloped outskirts of towns and suburbs with few trees.
 - (iii) The Terrain having numerous closely spaced obstructions generally the size of domestic and high rise buildings. This category includes wooded areas and suburbs, towns and industrial areas, fully or substantially developed.
- (b) In designing masts and towers, wind loading shall be the predominant dynamic loading to be considered outside dead weights since severe environmental conditions that lead to additional seasonally variable loads are non-existent.
 - (c) Wind load rating shall be based on the height of the tower and where it is located.
 - (d) The design of towers and mast shall provide for specific conditions that might exceed the given standard values specified in this guidelines.
 - (e) Design philosophy shall be based on two limiting factors: strength limit, which considers the loading of a tower under extreme conditions and serviceability limit which ensures that the tower will provide the proper service under normal conditions.
 - (f) Towers shall be analysed under three specific types of loading:
 - (i) Wind
 - (ii) Environmental
 - (iii) Seismic

- (g) The Wind effect on a tower shall take cognisance of a number of external conditions that may change the dynamics of the wind, such as terrain, gusts, the method of wind-speed determination and the value of safety factors needed for a specific tower type. Figure 1.2 of the First Schedule to these Guidelines is the wind flow map of Nigeria with parameters for the wind speed measurement.
- (h) A proportionate amount of over design must be applied to take care of the safety factor which defines the impact a failure would have on the operational integrity of the tower, and human life and property.

(2) Basic Wind Speed

- (a) The superstructure should be designed to resist various pressures including wind load, the predominant factor in Nigeria.
 - (i) Every such design shall take cognisance of the fact that:
 - a. Wind velocities constitute the measured data generally available and a conversion has to be made from wind velocity to wind pressure.
 - b. Various existing standards define and measure wind velocity in different ways.
 - c. The formula used to convert these velocities to pressure produce results that can vary as much as 25%, which may translate into a 25% difference in design loads that will produce different foundation sizes.
 - d. The use of basic wind speeds shall be encouraged in the design of wind loading.

- e. Basic wind speed approach assumes given winds speeds, from meteorological measurement to be at 10m above ground level, and
 - f. Basic wind speed design escalates the wind load from 10 metres above ground level to the top of the structure.
 - (ii) Considering that wind speed escalates with height, structures shall be designed to withstand forceful wind speeds that occur on the average of once every 30 to 50 years.
 - (iii) A gust factor to account for the varying nature of wind shall be incorporated into the design for the structure.
 - (vi) For greater accuracy, the calculation of wind speed should be based upon information provided in the Wind flow Map of Nigeria and Figure 1.2 of the First Schedule to these Guidelines.
- (3) Insurance and Compensation
- (a) Owners of telecommunications masts and towers shall maintain the following insurance policies;
 - (i) Workmen Compensation Policy. A tower or mast erecting crew must have a current Workmen's Compensation policy from a reputable insurance company to a minimum value of five million naira per head or any such amount as may from time to time be specified by the Commission for such claim or third party claims.
 - (ii) All masts and towers shall be insured by their owners against third party claims in the event of collapse. However, the responsibility for accidents during the

installation period shall be that of the installer and shall only revert to the owner of the masts or towers on completion and handover.

- (iii) If a tower collapses and causes injury to a person or damages property as a result of either faulty design by the Structural Engineer or non use of material specifications by the builder, the owner of the tower shall be jointly liable with either of the parties at fault, to compensate the person or owner/owners of the property.

(4) Service Life

- (a) The expected service life of a tower shall be 25 years.
- (b) The design, fabrication materials, fabrication methods, installation accessories, safety factors and tower loadings shall conform to standards and last for the expected service life of the tower.
- (c) To ensure that the maximum service life of a tower is attained, the design, selection of materials and welding of towers shall be carried out by professional engineers and certified experts.

(5) Tolerable Radiation Level Tolerable radiation level should be within the limit approved by International Council on Non-Ionizing Radiation Protection (ICNIRP)

- (a) Permissible Radiation level for occupational staff on site must conform to specifications under Table 6.1 of the Appendix
- (b) Permissible Radiation level for the general public must conform to specifications under Table 6.2 of the Appendix

- (6) Permissible Generator setback, sound level, smoke and vibration.
- (a) All generators within a base station must be sited 5 meters away from all demised properties excluding the fence.
 - (b) All generating sets must be sound proof
 - (c) All generating sets must be installed on good shock absorbers so as to minimize vibrations to the barest minimum
 - (d) The exhaust of all generators must not be directed towards any demised property.

14. Repeal

- (1) This Guidelines supersede any other guidelines or specifications made for the regulation of masts and towers under the Nigerian Communications Act, 2003. The earlier published Guidelines on Technical Specifications for the Installation of Telecommunications Masts and Towers are hereby repealed.

15. Interpretation

In these guidelines

“Alternative Mounting Structure” refer to man made tree, clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, or similar structure, designed to support and camouflage or conceal the presence of telecommunications antennas.

“Antenna” means structure or device used to collect or radiate electromagnetic waves, including directional antennas, such as panels, wireless cable and satellite dishes, and omnidirectional antennas, such as whips, but not including satellite earth stations.

“Antenna Array” means an arrangement of antennas on their supporting structure.

“Antenna Stealth” means a telecommunications antenna that is effectively camouflaged or concealed from view.

“Candela” means light intensity with its unit as the lumen.

“Climbing Facilities” mean the components specifically designed or provided to permit access, such as fixed ladders, step bolts, or structural members.

“Climbing Safety Devices” means the equipment devices other than cages, designed to minimize accidental falls, or to limit the distance of such falls. The devices permit the person to ascend or descend the structure without having to continually manipulate the device or any part of the device. The climbing safety device usually consists of a carrier, safety sleeves, and safety belts.

“Collocation” means the use of a single telecommunications tower and/or site by more than one telecommunications service provider.

“Dish Antenna” means a parabolic or bowl shaped device that receives and/or transmits signals in a specific directional pattern.

“Displacement” means the horizontal translation of a point relative to the no-wind load position of the same point at a specified elevation.

“Grounding” means establishing an electrical connection between the structure and the earth, adequate for lightning, high voltage, or static discharges.

“Guy Connection” means the hardware or mechanism by which a length of guy strand is connected to the tower, or guy anchor.

“Guyed Tower” means any telecommunications tower supported in whole or in part by cables anchored to the ground.

“Identification Pylon” means a permanent ground mounted sign consisting solely of a single monolithic

structure used to identify a development.

“Length” for tubular steel pole structures with telescoping joint, butt welded or flanged shaft connections, the overall length of the assembled structure shall be within plus 1 percent or minus 1/2 percent of the specified height.

“Lux” means lumens/sq m

“Monopole” means a self-supporting telecommunications tower which consists of a single vertical pole fixed into the ground and/or attached to a foundation.

“Normal Soil” means a cohesive soil with an allowable net vertical bearing capacity of 192 kPa and an allowable net horizontal pressure of 63 kPa per linear metre of depth to a maximum of 92 kPa.

“Panel Antenna” means an antenna which receives and/or transmits signals in a directional pattern.

“Plumb” means the horizontal distance between the vertical centerlines at any two elevations shall not exceed .25 percent of the vertical distance between the two elevations.

“Primary Ground” means the conducting connection between the structure and earth or some conducting body, which serves in place of the earth.

“Secondary Ground” means the conducting connection between an appurtenance and the structure.

“Self-supporting Lattice” means a telecommunications support structure which consists of an open network of metal braces forming a tower which is usually triangular or square in plan.

“Sway” means the angular rotation of the antenna beam path in a vertical plane from the no wind load position at a specified elevation.

“Telecommunications Antenna” means an antenna used to provide a telecommunications service.

“Telecommunications tower” means a self-supporting or guyed structure more than 5 metres in

height, built to support one or more telecommunications antennas.

“Tower Height” means the distance measured from ground level to the highest point of any and all components of the structure, including antennas, hazard lighting, and other appurtenances.

“Twist” means the twist (angular rotation in the horizontal plane) between any two elevations shall not exceed 0.5 degrees in 3 m and the total twist in the structure shall not exceed 5”.

“Working Facilities” means work platforms and access runways.

“Whip Antenna” means an omni-directional dipole antenna of cylindrical shape which is no more than 15 cm in diameter.

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