



REPORT OF THE PUBLIC INQUIRY ON THE TYPE APPROVAL REGULATIONS AND BUSINESS RULES

1.0. INTRODUCTION

The Nigerian Communications Commission (the Commission) pursuant to its powers under Section 72 of the Nigerian Communications Act 2003 (the Act) commenced the process of reviewing the Type Approval (Draft Regulations) and also developed the Draft Type Approval Business Rules (Draft Business Rules), that is to replace the Type Approval Guidelines.

Based on the Commission's policy of participatory rule-making, the Draft Regulations and Business Rules were published on its website for comments from the general public, particularly its licensees and other stakeholders.

Further to this, the Commission received submissions from the following stakeholders:

1. MTN Nigeria Communications Plc.
2. Mobile and Wireless Forum

As required by Section 58 of the Act, a Public Inquiry on the Draft Regulations and Business Rules was scheduled for August 9, 2022 and a Notice of the Public Inquiry was published in the Guardian and Daily Trust Newspapers on Friday, July 8, 2022.

2.0. THE PUBLIC INQUIRY

The Public Inquiry held physically and virtually as scheduled, commencing at 11:00am and was chaired by the Executive Vice Chairman, Professor Umar Garba Danbatta *FNSE, FRAES, FAEng, FNIEEE*. In attendance were the Board Chairman, Professor, Adeolu Akande, Engineer Ubale Ahmed Maska, the Executive Commissioner, Technical Services, Mr Adeleke Adewolu, the Executive Commissioner, Stakeholder Management. Also in attendance were other Board Members namely; Chief Uche Onwude, Professor Millionaire Freeborn Nestor Abowei and Professor Mansur Bindawa Auwalu. Attendees at the Public Inquiry included Staff of the Commission, representatives of telecommunications companies, as well as other interested stakeholders.

In her opening remarks, the Head Telecoms Laws and Regulations welcomed

participants to the forum, and amongst other things stated that the Public Inquiry is an avenue that enables the Commission to incorporate the comments and suggestions of industry stakeholders in the development of its regulatory instruments. She therefore enjoined all participants to make inputs/comments that will further enrich the output of the regulatory instruments.

The Executive Vice Chairman, Professor Umar Garba Danbatta in his opening remarks stated that the Public Inquiry was in line with the consultative approach of the Commission and was consistent with the resolution of the board of the Commission to review regulatory instruments every five (5) years. He added that all (5) five regulatory instruments are existing instruments which are being amended to reflect current realities. One of such realities is that with the deployment of 5G, it will become necessary for Mobile Network Operators (MNOs) to invest heavily in communications infrastructure. Subsequently, the EVC enjoined all participants to be part of this key and important process in the Nigerian communications sector.

The Manager, Technical Standards and Networks Integrity Department, Mr Nwanze Onoye, gave an overview of the draft Type Approval Regulations and Business Rules, while Mr. Chuma Nwaiwu, Principal Manager, Technical Standards and Networks Integrity Department presented the Commission's responses to the comments received from stakeholders prior to the Public Inquiry.

A. GENERAL OVERVIEW OF THE TYPE APPROVAL REGULATIONS AND THE BUSINESS RULES

The Type Approval 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 the Act. The purport of the review is to comprehensively review its provisions to reflect current realities.

The Business Rules on its part is intended to identify the procedures to be followed before communications equipment (also referred to as "products") are used or supplied.

B. REVIEW OF COMMENTS RECEIVED BEFORE THE PUBLIC INQUIRY

1. MTN Nigeria Communications Plc

1.1. Comment

MTN opined that the Commission reconsider its position on the review of the Business Rules as provided in Section VI (15) and remove the proviso that it shall not be bound by any such advice from stakeholders. They recommended that stakeholders should form part of the rulemaking process of the Business Rules and

standard, and their views should be taken into account in the finalization of the instrument.

Response

The comment is noted and will be considered in the further review of the draft Business Rules.

1.2. Comment

MTN noted that Regulation 17 of the draft Regulations states that the provisions stipulating the procedure for the device management system shall also be indicated in the Business Rules. It requested for more clarity on the device management system and registration from the Commission stated in the Business Rules.

Response

The Comment is noted and will be considered in the further review of Regulations.

1.3. Comment

MTN recommended that the Commission include a provision that the prototypes with a Provisional Type Approval should not be sold to the general public.

Response

This recommendation is a welcome addition and will be added to Regulation 11(1)

1.4. Comment

MTN recommended that type approval fees be payable upon grant of the application, as currently provided in the Type Approval Guidelines.

Response

Application Fees are payable by the applicant at the time of submission of the type approval application. Type Approval fees are payable on grant of type approval.

1.5. Comment

MTN recommended that the Commission provide applicants with the option of reviving their applications either by the inclusion of an administration fee or by writing a letter justifying the request for reactivation.

Response

While noting these comments, the Commission's position on Termination of Application is based on an in-depth review of the existing process.

1.6. Comment

MTN recommend that in place of an outright revocation of a type approval, the Commission may grant a grace period to the equipment holder to rectify whatever defects or any other issues that may have occurred, excluding instances of fraud or

misrepresentation, or where the equipment is found to constitute a threat to national security or public safety.

Response

The Commission appreciates these comments and will take them into consideration in the review of the Draft Regulations.

2. **Mobile and Wireless Forum (MWF)**

2.1 Comment

MWF proposed a re-draft of Paragraph 11(c) of the Type Approval Business Rules as follows: *“Electronic labelling (e-labelling) can be used as an alternative to printed and physical labels.”*

Response

While noting the comment, the Commission states that its position on labelling of devices is based on an in-depth review of the existing process.

2.2 Comment

MWF proposed that the criteria for supporting documentation should be listed or reference should be made to the relevant international standard as such in a dated or undated form without listing any criteria. They also opined that it is not necessary to provide a circuit diagram and PCB layouts as part of the supporting documentations when applying for Type Approval.

Response

The comment is noted and will be considered in the further review of the draft Regulations.

2.3 Comment

MWF noted that the list of standards does not include crucial standards (e.g., EN 50566:2017) or seems to restrict listed standards in their frequency range (e.g. EN 50360 is listed as being applicable only up to 3 GHz rather than 6 GHz)

Response

The comment is noted and will be considered during further review of the draft Regulations.

2.4 Comment

MWF proposed that the time for processing Type Approvals be changed from four (4) weeks to three (3) weeks.

Response

While noting the comments, the Commission states that its position on workflow for type approval is based on an in-depth review of the existing process.

2.5 Comment

MWF opined that the Commission should not list laboratories to be considered for Type Approval applications and added that the Commission should recognise the international accreditation system. It also stated that the Commission should only accept test reports or test results that are performed by International Laboratory Accreditation Cooperation (ILAC) accredited laboratories to improve credibility and predictability of the Type Approval system.

Response

The comment is noted and will be considered in the further review of the draft Regulations.

C. REVIEW OF COMMENTS RECEIVED AT THE PUBLIC INQUIRY

1. Pavestones Law Firm

1.1 Comment

Pavestones Law Firm requested for more details on the Device Management System being proposed by the Commission

Response

The Device Management System is still a work in progress and not at the stage of deployment.

D. REVIEW OF COMMENTS RECEIVED AFTER THE PUBLIC INQUIRY

1. Emerging Markets Telecommunications Services (EMTS)

1.1 Comment

“Part 1: Scope and Operation” - EMTS proposed that the term “person” be replaced with “entity”.

Response

The comment is noted and will be considered in the further review of the draft Regulations.

1.2 Comment

“Part 2: Type Approval Obligations” – EMTS recommended that the Commission have further discussions with manufacturers on the feasibility of each item having the mark of the Commission in a conspicuous place on it.

Response

The comment is noted and will be considered in the further review of the draft Regulations.

1.3 Comment

“Part 4: Provisional Type Approval” - EMTS suggested that the Commission consider extending the Type Approval provisional period beyond 6 Months subject to the merits of each case/request.

Response

The comment is noted and will be considered in the further review of the draft Regulations.

1.4 Comment

“Part 5- Business Rules and Lists of Approved Equipment” - EMTS suggested that the following be included in the Business Rules;

- The Commission publicize supporting documents/documentation required for Equipment Type approvals.
- The Commission publicize updated blacklist of equipment that will never be Type Approved by the Commission (i.e Network Signal Boosters)

Response

The comment is noted and will be considered in the further review of the draft Regulations.

E. GENERAL COMMENTS

Mr Adeleke Adewolu, the Executive Commissioner, Stakeholder Management thanked everyone for coming and stated that all comments submitted by stakeholders will be considered by the Commission before the draft regulatory instruments are finalised.

The Public Inquiry ended at about 1:00pm.

Dated this 9th day of August 2022

Professor Umar Garba Danbatta, *FNSE, FRAES, FAEng, FNIEEE*
Executive Vice-Chairman/CEO
NIGERIAN COMMUNICATIONS COMMISSION