

Part 1
PRELIMINARY

1. In these Guidelines unless the context otherwise requires-

Interpretation

“Act” means The Nigerian Communications Act, 2003;

"Commission" means the Nigerian Communications Commission;

"Consultation” refers to all procedures of the Commission for interaction with stakeholders before a decision is reached on issues affecting the industry but shall not include Dispute Resolution, directions or other procedures already provided for under the Act.

“Ex parte” in regard to a meeting or response or presentation is any meeting or response or presentation which is restricted and which, in the case of written response or presentation (including electronic mail), is not served on the parties to the proceeding, or, if oral, is made without advance notice to the parties or without opportunity for them to be present.

“Notice” means written or printed announcement of the consultation

“Stakeholder” means any person or entity that has a vested interest in the communications sector, and includes service/facility providers and affiliates, investors, consumers/consumer groups, government and regulatory agencies.

“Respondent” means any person who provides comments to a consultation document

“Response” includes comments and written presentations..

“Regulatory instruments” means rules and regulations issued by the Commission

"Rulemaking” means the procedure of the Commission in making, amending or repealing regulations.

2. These guidelines are intended to stipulate the method for the Commissions’ interaction with stakeholders in regard to rulemaking, and other subjects that the Commission may wish to consult upon.

*Scope and Application
of Consultation
Guidelines*

3. In addition to regulatory instruments, the Commission may, from time to time, stipulate issues that will be subject to consultations.

Part 2
GENERAL

4. The objectives of the Commission's consultation are to:
- (a) ensure that the Commission has investigated the necessary aspects of an issue and stakeholders and the general public are adequately informed of the issues surrounding a particular subject matter;
 - (b) acquire substantive information and knowledge from stakeholders, regulatory and industry professionals on any issue;
 - (c) obtain input, information and feedback from persons affected by the proposed decision, other stakeholders and the public;
 - (d) ensure that stakeholders and the general public are given the opportunity to express their views;
 - (e) ensure regulatory transparency and objectivity,
 - (f) ensure adequate and accurate information is shared between stakeholders and the Commission;
 - (g) make informed decisions and also ensure that every aspect of the issue has been considered,
 - (h) protection of public interest and the consumers, and
 - (i) to strengthen consumer understanding, participation and confidence in the regulatory processes

*Objectives of the
Commission's
Consultations*

5. The Commission may hold consultation
- (i) at the instance of the Commission, whenever it deems it necessary,
 - (ii) upon Request or Petition for consultation by stakeholders, provided that the Commission may decline the request or petition or may modify the issues or subject matter, or may defer or postpone the commencement of the consultation, or
 - (iii) where a complaint or a number of complaints raise substantial issues affecting the industry, and which the Commission deems appropriate to hold consultations on.
 - (iv) Where the Act stipulates that a public inquiry should be held.

*Initiation of
Consultation*

PART 3
CONSULTATION PROCESSES

6. The Commission shall determine the form of the consultation process to take place in respect of any decision or activity proposed to be taken by the Commission depending on the nature of the subject matter the number of parties potentially affected by a decision, the impact on the industry and the consequences to the consumer. The public consultation may take the form of:
- Forms of Consultation Process*
- (a) formal consultations such as
 - i. individual meetings with one or more stakeholders;
 - ii. issuing a draft document and soliciting comments from the public at large before a final decision is taken;
 - iii. A request or invitation (open or restricted) for comments on certain issues;
 - iv. an invitation to affected persons to submit written submissions on the subject matter of the consultation within the stipulated period in the request;
 - v. Public hearings;
 - (b) or informal consultations such as
 - i. general meetings, seminars, and workshops with representative groups and other interested parties and stakeholders;
 - ii. Market, industry or citizen surveys;
 - iii. Field interviews;
 - iv. Key group sessions;
 - v. Consumer fora; or
 - vi. Any combination or modification of the above.
7. Where the Commission intends to hold formal consultations, the Commission may at the time of notification of consultation or at its website or within reasonable time, issue notification regarding
- Consultation Meetings, Workshops and Public Hearings*
- (i) Purpose of the consultation
 - (ii) Venue of the consultation
 - (iii) Time
 - (iv) Date

- (v) Subject matter of Consultation
- (vi) Whether Consultation is public or private

8. The Commission may, at its discretion, revise the consultation or consultation document or the consultation process at any stage of the consultation process.

*Revision/Modification
of the Consultation*

PART 4

INSTRUCTIONS AND PROCEDURES

9. Where the Commission decides to hold an internal consultation, no specific procedure is required and the Commission may direct how the consultation shall be conducted.
10. Where the Commission decides to hold an informal consultation, the Commission may publish instructions on procedure for responses, time, hearings, or such other matters, as the Commission may deem appropriate in the circumstances.
11. The Commission may state the time frame for the performance of any act pursuant to any consultation process.
12. The Commission may extend or abridge such times indicated in any consultation process.
13. In the case of formal consultations, the Commission shall publish a notification of the consultation. The notification shall appear in at least two (2) national newspapers, and should indicate at minimum:
- (i) Title of consultation,
 - (ii) Goals and substance of the consultation,
 - (iii) Address of website from which downloadable documents can be found,
 - (iv) Deadline for submission of comments, and
 - (v) Contact information for the relevant personnel to which queries may be addressed
 - (vi) Any other relevant information
14. Consultation documents, if any, may be posted on the Commission's website.

*Instructions on
procedure*

Time

*Notification of
Consultation*

PART 5

CONSULTATION DOCUMENTS

15. This part shall not apply to informal consultations *Development of Consultation Documents*
16. The Commission may develop information papers or documents on any matter scheduled for consultation, which may be accessed by stakeholders or members of the public
17. The Commission may engage the services of a Consultant or such persons as the Commission may decide, to develop the document, and such participation of consultants or other persons could be at any stage of the consultation process.
18. Where the Commission decides to issue a consultation document, the Commission will determine the content of such document and this may include (but not limited to) the following: *Contents of Consultation Document*
- (i) Reasons for the consultation,
 - (ii) Executive summary,
 - (iii) Consultation process (procedures for the particular consultation),
 - (iv) Options for consideration, suggestions, recommendations, next steps, etc being considered by the Commission,

PART 6

FORMAL RESPONSES

19. In formal consultations, the period for submission of written responses to the Commission shall not be less than 21 days. Where a shorter period of consultation is necessary, a shorter period may be prescribed by the Commission. *Time for Responses*
20. The Commission may, but shall not be obliged, to use any comments or response received after the expiration of the time stipulated for submission.
21. The consultation response shall contain *Contents of Responses*
- (i) name of respondent,
 - (ii) respondent's details and information,
 - (iii) a statement that the response should or should not be published by the Commission for purposes of consultation,
 - (iv) signature (provided that in the case of electronic submissions, an electronic signature should be used), and

- (v) position or rank of the signatory
 - (vi) The response should represent the view of the organization represented
22. The Commission shall consider responses and comments received before making a final decision. *Commission's Use of Responses*
 23. In considering responses and comments, the Commission shall not be under obligation to respond to, follow, use or be guided by any particular response or comment.
 24. The Commission may decline to consider or use any response not submitted in accordance with its consultation process.
 25. The Commission may, in its absolute discretion, use or decline to use an anonymous response.
 26. The Commission may publish responses received if such information is not of confidential nature or if the respondent has not objected to its responses being published.
 27. Comments submitted by any person or stakeholder will not be used against that person in any process in which that person is involved with the Commission.
 28. The Commission may allow an interested party to request for information or document issued by the Commission in the course of a consultation process, not later than two weeks before a hearing. *Request for Further Information*
 29. The Commission may allow participants in the process a further opportunity to comment if request is made within reasonable time. *Further Comments*

PART 7
CONFIDENTIALITY

30. Where information is submitted to the Commission by a respondent in relation to any consultation, such information shall not be considered information subject to the restrictions on disclosure of information. *Confidentiality*
31. The Commission shall, however, consider representations from applicants or other persons submitting information that such information should not be made available to the public or otherwise be disclosed. The request to keep information confidential shall be based on the options in the Schedule. *Schedule*
32. The Commission may, without request of the party presenting information, consider the information submitted as confidential information in the interest of the industry.
33. Where the need arises, the Commission may require that any claim for confidentiality shall be accompanied by the reasons therefore,

and, where it is asserted that specific direct harm would be caused to the person claiming confidentiality, sufficient details shall be provided as to the nature and extent of such harm.

34. A person claiming confidentiality in connection with the information may file with the Commission an abridged version of the information or response or document to be placed on the public domain.
35. Any person wishing the public disclosure of information in respect of which there has been a claim for confidentiality may file with the Commission
 - (a) a request for such disclosure setting out the reasons therefore, including the public interest in the disclosure of all information relevant to the Commission's regulatory responsibilities; and
 - (b) any material in support of the reasons for public disclosure.
36. A copy of a request for the public disclosure of the information shall be served on the person claiming confidentiality and that person may, unless the Commission otherwise determines, file a reply with the Commission within 7 days after the date of service of the request and shall, where a reply is filed, serve a copy thereof on the person requesting public disclosure.
37. Where the Commission requests that a document or information be placed on the public record, the person claiming confidentiality shall have 7 days to file a reply.
38. Where the Commission has determined that no specific direct harm would be likely to result from disclosure, or where any such specific direct harm is shown the document or information shall be placed on the public record.
39. Where the Commission is of the opinion that, based on all materials before it, the specific direct harm likely to result from public disclosure justifies a claim for confidentiality, the Commission may
 - (a) order that the document or information not be placed on the public record;
 - (b) order disclosure of an abridged version of the document or information ; or
 - (c) order that the document or information be disclosed to parties at a hearing to be conducted in camera.

SCHEDULE

Non-Disclosure Options

Indicate which of the following information that should be treated as confidential:

Your Name

Your Organisation

Your rank or position

Your contact details

The Whole of your response

A part of your response (indicate the pages and paragraph)

Your business information (indicate the information and the pages where they appear)

Your annexes (or any particular annexure)

Your information source (as indicated in your response)

If you prefer a summary or an abridged version of your response or confidential information, please state a brief outline of the abridged version.