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NIGERIAN COMMUNICATIONS ACT, 2003
LICENSING REGULATIONS, 2019



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S. I. No. 15 of 2019

NIGERIAN COMMUNICATIONS ACT, 2003

LICENSING REGULATIONS, 2019

[11th Day of January, 2019]

Commence-
ment.

In exercise of the powers conferred upon it by sections 33 and 70 of the Nigerian Communications Act, 2003 and all other powers enabling it in that behalf, the Nigerian Communications Commission hereby makes the following Regulations—

PART I—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.

Objective.

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.

Application
of these
Regulations.

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.

Classification
and re-
classification
of licences.

(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.

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Amendment, Modification and Variation of Licence Conditions.

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.

PART II—LICENSING PROCESS AND EXEMPTIONS

Pre-condition for Communications.

5. All communication services provided in Nigeria must be provided pursuant to a licence granted by the Commission.

Non-discriminatory Provisions.

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.

Exemptions from Licensing.

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.

Exemptions from Non-Radio Communications Equipment.

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.

Scope of 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—

Licence Application Conditions.

- (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

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(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.

Existing Licence.

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.

Limitation on Issuance of Licence.

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.

Operating without a Licence.

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 ₦5,000,000 for the contravention and ₦500,000 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 ₦100, 000 for each day that the contravention persists after the expiration of the licence.

Quality of Service.

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

PART III—INDIVIDUAL LICENCE

Grant of 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.

Requirements for Information and Documents.

(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.

Processing of Application.

(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.

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(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.

Restriction on Individual 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.

Undertakings for an Individual Licence.

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.

Frequency or Network Dependent Individual Licence.

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.

Duration and Expiration of an Individual Licence.

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.

Removal from the List of Licensees.

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.

Renewal of an Individual Licence.

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—

Surrender of Individual Licence.

(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.

Extension of time to surrender a Licence.

PART IV—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.

Application for Class Licence.

(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.

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(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.

Obligations to provide accurate information.

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.

Deregistration of Class Licence.

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.

PART V—FREQUENCY LICENCE

Issuance of 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.

Conditions for the grant of Frequency Licence under Administrative Process.

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.

Application and Processing of Frequency Licence.

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.

Application Subject to Public Notice.

33. The Commission shall cause to be published, a notice of the applications received for the grant of a Frequency licence.

Publication of Public Notice.

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Refusal to grant Frequency Licence.

34. An 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.

Undertakings for Frequency 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.

Duration and Termination of Frequency Licence.

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.

Renewal of Frequency 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 1st 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.

Surrender of 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.

Forfeiture of
Frequency
Licence.

(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.

Usage of
Spectrum.

(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.

PART VI—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.

Transfer of
Licence.

(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.

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Transfer of Shares.

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.

Approval-In-Principle for Transfer.

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.

Anti-competitive Measures.

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. Prohibition of Use of Licence as Security.

(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 ₦10,000,000.

(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. Change of Name

47. A licensee shall notify the Commission within 7 days of any change in its registered or operational office address. Change of Address.

48. A licensee shall notify the Commission in writing where any of the following occurs— Notice of Change of Information and Intention to Enter into Agreements.

(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— Prior Approval for Listing on a Stock Exchange.

(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.

PART VII—REGISTERS

50.—(1) The Commission shall maintain registers at its head office containing— Register of Licence.

(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.

PART VIII—SANCTIONS

Grounds for suspension and revocation.

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.

Notice of intention to suspend or revoke.

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.

Confirmation of Withdrawal or Modification of Intention.

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.

Suspension and Revocation of Licence.

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.

PART IX—MISCELLANEOUS PROVISIONS

- 56.** An Applicant for a licence shall obtain an application form at any of the following places—
- Application Forms.
- (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—
- Payment of Fees.
- (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—
- Spectrum Fees.
- (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.
- Other Fees.
- 60.** Any licence issued pursuant to these Regulations requires the licensee to—
- Terms and Conditions.
- (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

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(d) adopt and pursue a maintenance program aimed at achieving efficient operations of its systems to render safe, adequate and uninterrupted service to its consumers.

General
Duties of a
Licensee.

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.

Resolution
of conflicts
between
Regulations
and Licence.

62. Where any condition of a licence is in conflict with any provision of these Regulations, the provision of the Regulations shall prevail.

General
Undertakings.

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.

Interpretation.

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 [Regulation 63]

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 sub-headings 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 :

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 (Infraco) ;
- (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

[*Regulation 26*]

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 DANBATTÀ, FREAS, FA Eng, FNSE
Executive Vice Chairman
Nigerian Communications Commission

EXPLANATORY MEMORANDUM

*(This memorandum does not form part of these Regulations,
but is intended to explain its purport)*

These Regulations provide a regulatory framework for a legal and regulatory framework for licensing processes and procedures of communications systems, facilities and services in Nigeria.