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The Legal Imperatives of the Management of the Telecommunications Sector and Consumer Protection in Nigeria

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Abstract:

The prime objective of any technological revolution, is to improve the quality of human life. This can be achieved by successfully assimilating these technological innovations into human society. Technological development in the information and communication technology has found its way into modern human societies for good. However, in order to take the full advantage and benefits of this system, there is the need to put in place a comprehensive legal and regulatory framework to engender the growth and development of the industry. Equally, there is the need for consumer protection in the competitive business environment where many stakeholders pursue variety of interests. This paper shall examine the Legal Imperatives of the Management of the Telecommunications Sector and Consumer Protection in Nigeria. It shall scrutinize the provisions of the law establishing the National regulator, vis-a-vis the service providers and the consumers of these telecommunication services. Such laws as the companies And Allied Matters Act, Nigeria communication Act, Criminal law, law of tort, Physical planning Laws, Land Use Act, Lottery Act and other regulations working in tandem with the provisions of telecommunication services in the country. In examining these laws, the paper shall identify the lacuna, drawbacks and limitations existing in these regulations and proceed to advance reforms and recommendations towards the efficient administration and implementation of telecommunication laws in Nigeria for the overall benefits of all stakeholders including the consumers whose safeguards, the Consumer Protection Law seeks to achieve with particular interest in the telecommunications business in Nigeria.

Keywords: Legal imperatives, management, telecommunication sector, consumer protection, national regulator, Nigeria

1. Introduction

Every human society, from the most primitive to the most advanced, depends on some form of telecommunications network. It will be virtually impossible for any group of people to define their collective identities or make decisions about their common and binding interests, without communications. Communication networks make society a reality.ⁱ It makes it possible for people to cooperate, to produce and exchange commodities, to share ideas and information and to assist one another in times of need. Indeed, every facet of the basic rights is dependent on telecommunication. Such basic rights of the individual as the right to life, the right to personal liberty and dignity, the right to free expression and information and the right to free movement, all of which enhance the quality of life of the individual, are facilitated by telecommunications.

That no modern economy can be sustained today without an integral telecommunications infrastructure is widely acknowledged. Robust telecommunications network is important for the economic growth of nations and constitutes a base infrastructure that supports the world economy. Communication is a vital aspect of human existence and effective telecommunications services enhance living standards and improve productivity and efficiency in other sectors. Thus, communications and the technologies that support it, occupy a strategic position now more than ever in every aspect of human existence; and nations and businesses would become less competitive and lag behind others if they fail to avail themselves of this vital infrastructure of the Information age.ⁱⁱⁱⁱⁱ

Telecommunications is both dynamic and capital intensive and in view of its catalytic effect on the development of other sectors of the economy such as agriculture, health, tourism and education and its necessity for the commercial, industrial, socio-economic and political development of the country, the need for an orderly and efficient development of telecommunications infrastructure in Nigeria has now been found more urgent in order to keep pace with the development of the other sectors of the economy.

Nigeria is widely recognized as one of the major markets for telecommunications business opportunities in the world. With a population of over 150 million,^{iv} Nigeria remains Africa's most populous nation and is in fact home to at least one fifth of the population of Africa.

The country is also blessed with abundance of natural resources and is the 14th largest producer of oil in the World.^v The nation therefore has what it takes to attract attention of potential investors to this largely untapped telecommunications market. The government of Nigeria is conscious of the role telecommunications can play in national development and is committed to ensuring that telecommunications facilities and services are expanded rapidly.^{vi} Private investment in the sector has grown from about \$50m in 1999 to over \$25 billion by 2010^{vii} with commensurate rapid growth in subscriber lines. The nation's tele-density stands at about 65 per cent with about 89 million connected lines by end of 2010.^{viii} The progress recorded in the industry has been brought about by government's liberalization of the sector and opening up of the market to private investment.

In spite of the liberalization in the sector, government has a vital role to play in catalyzing the development and growth of the nation's telecommunications infrastructure and in ensuring the continued existence of a competitive environment that fosters continuous growth and consumer satisfaction. Government achieves this role through the enactment of progressive policy and legal framework for the sector and the establishment of a strong independent Regulatory authority; thus, the establishment of the Nigeria Communication Commission via an Act in 2003.^{ix} In spite of the enactment of this Act, it is pertinent to take a general overview of the Laws and regulations in this vital area of our National life in order to ensure that law and policy in this area advances the betterment of all.

This paper thus sets out to examine the legal and regulatory framework surrounding the business of telecom industry in Nigeria. It particularly scrutinizes the provision of the law establishing the National regulator *vis a vis* the service providers and the consumers of this telecom services. Such laws as the Companies and Allied Matters Act, Nigeria Communication Act, Criminal law, Law of Tort, Planning Laws, Land Use Act and other regulations tangential to the provision of telecom services in the country. In examining these laws, the paper seeks to identify the lacunas, drawbacks and limitations existing in these regulations and proceeds to advance reform and recommendations towards the efficient administration and implementation of telecom laws in Nigeria in the overall interest and benefit of the telecom business in Nigeria. The paper thus sets out *seriatim*.

2. The Nigerian Communication Commission Act.

The Nigerian telecommunications sector was grossly under-developed before the sector was deregulated under the military regime in 1992^x and placed under the jurisdiction of the Nigerian Communication Commission (NCC). This is the regulatory authority for the telecommunications industry in Nigeria. Its major role is to facilitate private sector participation in communication services delivery, co-ordinate and regulate the activities of the operators to ensure consistency in availability of service delivery and fair pricing. Since then, the NCC has issued various licences to private telephone operators. These licences allow private telephone operators (PTOS) to roll out both fixed wireless telephone lines and analogue mobile phones.^{xi} However the full weight of deregulation of the sector came to fore with the coming of democratic government in 1999. The Nigerian Communications Act 2003 was signed into law by President Olusegun Obasanjo on the 8th of July 2003 after being passed by both Houses of the National Assembly. The Act strengthens the capacity of the Nigerian Communications Commission to properly carry out its activities as the independent regulator of the telecommunications industry in Nigeria. The 158 sections Act repealed the 1992 Decree and all previous enactments.

The Act created the Nigerian Communication Commission (NCC)^{xii} headed by an executive vice Chairman^{xiii} and saddled with the responsibility of overseeing the regulation of the telecommunication sector in the country. It provides an elaborate and comprehensive legal regime for the establishment control and management of telecommunication services in the Country. The commission composed of technocrats and professionals is amongst other powers given the power to make regulations in furtherance of the objectives of the Act.^{xiv} The rule making powers of the commission is wide and enormous, the objective of which is to enmesh the commission in the performance of its objectives without unnecessary bureaucracy and civil service red-tapism.

However, it is this rule making powers of the commission that ought to be subject of control in the interest of the citizens, consumers and investors in this sector. Section 71 of the Act empowers the commission to make rules on so many subject-heads; enjoins it to hold a public enquiry on the subject-matter of rulemaking and to take into consideration the findings of the inquiry in the making of the regulation. Under section 72 the Commission may review, **as at when it deems necessary**;^{xv} 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; though such review is also subject to public enquiry procedure.¹⁵

The provision requiring the commission to hold a public enquiry and take cognizance of its outcome in rule making is ordinarily meant to curb the wide discretionary powers of the commission by subjecting it to public participation. However, there is no supervisory power to ensure that the recommendation of the public enquiry is considered and reflected in the regulations and guidelines so made. Ordinarily, this lacuna would have been obliterated had there being a National legislation on rule making procedure which would have ensured a parliamentary censorship of the regulation before its implementation; unfortunately, there is none.^{xvi} While it is good and desirable to give rule making powers to the commission in the discharge of

its obligations under the Act, it is an act of legislative abandonment for the National Assembly not to exercise some supervisory powers over the exercise. In fact, we think is nigh time for the national assembly to enact a law on procedures and powers of Statutory Instrument in the Country.

Another area for review of this Act is to be found in part XII on notification and resolution of disputes. Section 73 of the Act provides that '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. This provision is ordinarily good as its essence is to foster the growth of alternative dispute mechanism through consultation, mediation, arbitration and conciliation. It is however saddening that the Act did not recommend the use of professionally qualified personnel in this exercise; though it provides that the decision of the commission shall be enforceable before the court without more.^{xvii}

The worrisome part of this provision is that the commission; ordinarily an administrative outfit, is indirectly turned into a judicial organ ranking *parri-passu* with the Federal High Court since reference to court under the Act means the federal high court.^{xviii} In as much as it is considered good to incorporate alternative dispute resolution scheme into the Act to fast track dispute resolution; it amounts to negation of the doctrine of separation of powers if such quasi-judicial function of the administrative organ is not subject to judicial review of the superior courts *a-priori*. In fact the golden rule of administrative law is that quasi-judicial powers of the administration are subject to judicial review espoused in the twin judicial control mechanism: prohibition and certiorari.^{xix} Furthermore the Act provides that 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. However, no certificate is required if the action is taken by the Commission under this section.^{xx} The import of this provision is to make the commission a judge in its own cause contrary to the hallowed principle of law: *Nemo judex in causa sua*, which is you shall not be a judge in your own cause.

Section 88 of the Act seems to have addressed the problem of judicial review of the commission's actions as it permits a party to seek for judicial review of the commission's action. However, the exercise of the powers of judicial review under the Act is circumvented with a lot of qualifications, which qualifications may eventually defeat the essence of the exercise of the powers. For example, it is mandatory for a complainant against the decision of the commission to appeal to the commission for review of its decision, a process that could take 90days to complete.^{xxi} Meanwhile the initial decision of the commission remains valid and subsisting. The Act sought to introduce the doctrine of exhaustion and ripeness via the provision that the aggrieved party must exhaust all remedies provided under the Act before seeking for judicial review of the commission's action.^{xxii} However, the essence of seeking judicial review may have been defeated if there is no way for quick judicial intervention. In fact, the fundamental rights of a party may have been suspended and good business opportunity lost while waiting to exhaust all the internal remedies provided by the Act. Given the current provision under the Act a party cannot anticipate the commission and pray the court for an order of prohibition precluding the commission from taking a decision on a dispute placed before it. It is imperative to remove all inhibitions in the Act militating against the exercise of the powers of judicial review by the courts.

The Act in trying to empower the commission uses some subjectively worded expressions which cannot be empirically determined and or objectively construed. The use of these expressions gives so much latitude and leverage to the commission which can be easily abused and used to subvert the interest of a party. Such expression as 'as the commission deems fit', as the Commission thinks fit,^{xxiii} 'at the discretion of the commission' are subjectively worded and may be used to impugn on rights of others if not checked. Save for these observed lapses the Act remain a vibrant legislation in the regulation of telecommunication industry in Nigeria.

It is also observed that the compliance level of the service providers to the commission's regulations is on the low ebb. The commission has mostly turned lukewarm attitude towards monitoring and enforcement of its regulations. This present posture is not unconnected with the commission's perceived harsh business environment within which these companies operate. It would therefore appear that the service providers have taken this soft approach towards enforcement and compliance to regulations for granted in the discharge of their responsibilities to the nation, the Commission and the consumers.^{xxiv} A lot of consumer issues prevalent in the industry today are as a result of tardy compliance to regulations instituted by the regulator. There is therefore the need for all the stakeholders in the industry to inject a new corporate governance approach towards compliance to existing regulations and directions. To give impetus to this aspiration, the monitoring and compliance department recently set up by the Commission should be equipped with the human and material resources needed for effective performance of their jobs in line with the new focus of the Commission.

3. The Companies and Allied Matters Act^{xxv}

While the Nigerian Communication Act sets the standards for the operation of the telecommunications industry in Nigeria, there are other relevant legislation and regulations that must be complied with by any would be service provider in the Country. One of such relevant legislation is the companies and allied matters Act.

Any operator of telecommunication services or service provider must be a corporate entity registered as such under Nigerian law. The Nigerian law provides that a corporate body or a partnership of such is the recognized entity to hold communication license.^{xxvi} Such entity must be incorporated and registered in Nigeria under the Companies and Allied Matters Act.^{xxvii} A non Nigerian is at liberty, and indeed encouraged to invest and participate in the operation of any enterprise in

Nigeria. However, the promoters or investors would have to register a company in Nigeria. This company will be a separate and distinct entity from its parent company. Until so incorporated, a foreign company may not carry on business in Nigeria or exercise any of the powers of a registered company.^{xxviii} A foreign investor may incorporate a Nigerian branch or subsidiary of the parent company by giving a Power of Attorney to a qualified solicitor in Nigeria for this purpose. The incorporation documents in this instance would, disclose that the Solicitor is merely acting as an "agent" of a "principal" whose name(s) should also appear in the document. The Power of Attorney should be designed to lapse, thus indicating that the appointed Solicitor shall be cease to function upon the conclusion of all registration formalities. When this is accomplished, the locally incorporated branch or subsidiary company must then apply to the Nigerian Investment Promotion Commission^{xxix} ("NIPC") for a Business Permit, Expatriate Quota, and other requisite approvals and licences. The NIPC is the only legally empowered Federal Government agency in Nigeria established by law to promote, coordinate and monitor all investment in Nigeria. It is therefore a condition precedent for any would be foreign investor to register with the commission after registering the enterprise with the corporate affairs commission.

Section 20 of the Act provides that an 'enterprise in which foreign participation is permitted under section 17 of this Act shall, before commencing business, apply to the Commission for registration and the Commission shall, within fourteen working days from the date of receipt of completed registration forms, register the enterprise if it is satisfied that all relevant documents for registration have been duly completed and submitted or otherwise advise the applicant, accordingly.

To assure would be investors of their investments in the country, the NIPC Act also provides^{xxx} that: No enterprise shall be nationalized or expropriated by any government of the Federation, and no person who owns, whether wholly or in part, the capital of any enterprise shall be compelled by law to surrender his interest in the capital to any other persons. There will be no acquisition of an enterprise by the Federal Government unless the acquisition is in the national interest or for a public purpose under a law which makes provision for: Payment of fair and adequate compensation and a right of access to the courts for the determination of the of the investor's interest of right and the amount of compensation to which he is entitled.

It is therefore obvious that the telecommunication companies operating in the country mostly with foreign investment content were subjected to the regulation and procedures as spelt out by the commission.

4. Tort Law and Telecommunications

The fear of invasion of privacy lies in the real possibilities and/or occurrences of misuse of advancing technology. The abuse from either a big institution, such as the government, or a private individual can easily deprive unsuspecting victims of privacy. Although the types of intrusion may differ depending on the size, number, and the intention of invaders, the results all point to the common denominator--privacy loss. The large organizations generally focus more on electronic surveillance of individuals. Telecommunication technology allows one to gain more information about an individual for the sake of knowledge or to manipulate private information for the organization's profit. On the other hand, private individuals may simply invade one's privacy for amusement or for the pleasure of manipulating the technology. With the integration of the computer into the telecommunication information highway, more threats to privacy invasions arise.^{xxxi}

A veritable law in the regulation and use of telecommunication services viz a viz right to privacy is the law of torts which seeks to regulate the civil relationship among members of the society through the mechanism of payment of compensation for breach of legal duties or infringement on the rights of others. A tort is a wrongful act, not including abreach of contract or trust, that results in injury to another's person, property, reputation, etc. and for which the injured party is entitled to compensation.^{xxxii} It is a branch of the law which covers civil wrongs, such as defamation and trespassing, among many other transgressions. The main purpose of tort law is to compensate the victims of wrongdoing for the injuries they suffer as a result.

It is not generally concerned with punishing, or casting moral judgment on, the wrongdoer - it simply compels the person who caused the harm to compensate the person who suffered the harm.

A tort does not have to cause physical injury or distress. It might cause economic damage, by forcing someone to replace something, interfering with someone's business, or causing someone to miss work. Or it may cause damage to someone's reputation or quality of life. In order for a tort case to succeed in court, the lawyers must generally be able to prove that the accused party had committed the wrong in question, and that the client suffered as a result. Damages may be awarded by a jury or a judge, depending on the case.^{xxxiii}

The thorny nexus between telecommunications and tort law can be found in the provisions of the Constitution³⁴ on fundamental rights. On one hand there is the constitutional guaranty of the individual right to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference and every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions.³⁵ On the other hand there is also the provision of section 37 of the constitution on right to privacy. The section provides: The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected. It is however to be noted that whilst the provision of section 39 is subject to the provisions on derogation of rights and to law regulating telephony, wireless broadcasting, television or the exhibition of cinematograph film; the provision of section 37 on right to privacy is only subject to the provisions on derogation of rights under section 45 of the constitution.^{xxxiv}

The Nigerian Communications Commission Act, remains silent on the role of the Commission in dealing with privacy issues in communications, although this can be implied from analysing one of its functions. The Commission has a duty to carry on any other functions related to communications services and operations in Nigeria and also ensure compliance with international standards and obligations relating to communications.^{xxxv} Save for this omnibus provision the Act is silent on the protection and enforcement of right to privacy; the only other provision bordering on this issue is found in section 106 which left the issue of protection of consumer information in the hand of service providers. This is unlike the provision of Section 67 of Uganda Communication Act^{xxxvi} which makes it an offence for an operator of a communications service or system or employer of the same to disclose any information in relation to a communication unless done in accordance with a court order. Or Section 73 which provides that;

'any person who without lawful excuse intercepts and divulges any communication except where permitted by the originator commits an offence and liable on conviction to a penalty'.^{xxxvii}

The objectives of The NCC indicate government's emphasis on developing investment in the sub-sector rather than focus on consumer interests related thereto –it does not give direct focus on consumer interests such as the right to privacy but emphasizes competition, network development among others. Save for the provisions in the NCC and licence terms and conditions requiring respect for privacy, presently, there are no regulations or guidelines. Operators are expected to respect consumer privacy through the mastermind operator/customer agreement.

However, with the constitutional provision guarantee of right to privacy of the individual, an aggrieved party can use the agency of the court and the machinery of the tort law, to control and regulate the activities of the service providers viz a viz the protection and enforcement of right to privacy of the individual. Such tort as defamation, negligence and economic torts of passing off^{xxxviii} and others can be called upon to redress any infringement of the right to privacy as enshrined in the constitution. It is also worthy to note that the provisions of the Copyright Act,^{xxxix} Patent and Design Act^{xl} and Trademarks Act^{xli} can also be used to enforce protected rights under our constitution.

5. Criminal Law and Telecommunications

The emergence of low-cost computing, the Internet, and advances in wireless telecommunications has fueled one of the most significant developments of our time - the information age. But, in addition to the numerous advantages of this progress, significant challenges face society today.^{xlii} The impact of telecommunication on the development of economic and social life has had some unwelcomed effect, as some individuals have taken advantage of technology to commit crime. Crime in the Digital Age catalogs current and emerging criminal techniques involving telecommunication systems and the Internet, in addition to identifying measures that potentially can mitigate future risk to society.^{xliii} Today there are so many communication related crimes including theft of services; communications in furtherance of criminal conspiracies; information piracy; the dissemination of offensive materials (including extortion threats); electronic money laundering; electronic vandalism and terrorism; telemarketing fraud; illegal interception; and electronic funds transfer fraud amongst others.^{xliiv}

The Nigerian Communications Act 2003 provides for certain consumer rights and obligations in the telecommunications industry. Some of the relevant sections that provide for consumer rights include:

Section 1(g), which protects the rights and interest of consumers residing within the country. Section 4(b) covers 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 availability and quality of communications services, equipment and facilities.

Section 4(c) ensures that licensees implement and operate at all times the most efficient and accurate billing system. Section 1(h) extends the rights to people with disabilities and elderly persons thus ensuring that their needs are taken into consideration in the provision of communications services.

Section 85 of the Act provides the right for consumers to sue if dissatisfied with service(s) provided by the operators.

Despite these provisions, there had been fresh calls from subscribers and other industry watchers for a more contemporary and subscriber-friendly law.

This has become very necessary owing to the current number of subscribers on the various telecoms networks, and their contributions to boosting the coffers of the operators, and largely the country's Gross Domestic Product.

With complaints from almost all quarters of the country on account of poor quality of service, and the huge losses recorded by subscribers via dropped calls and the likes, it has become increasingly necessary for the regulator to find a lasting solution that will adequately protect subscribers.

Some schools of thought have called for the compensation of subscribers in form of airtime without any condition attached. This, some say, will create a mindset for the subscriber, who is fully aware of some sort of compensation at the end of the day in cases of poor service.

But the NCC has continued to shy away from this line of action. According to it (the NCC), the existing Communications Act does not provide for such.

The NCC, from all indications may not be able to do anything in this regard if the existing law is allowed to function. Hence, it may be unlawful for the commission to hearken to the calls of the subscribers at its own peril; as such actions will not be backed by any existing law.

In Nigeria there are many laws in the area of crime regulation, but the primordial law in this regard is the Criminal/Penal code. Our criminal code provision is grossly inadequate to address the criminal conduct arising from the modern telecommunication system. Chapter 17 of the criminal code^{xlv} on Offences Relating to Posts and Telecommunications failed woefully to address the problem as its provisions is outdated and a relic of past colonial history. The Penal code did not fare better. The NCC Act stipulates no specific provision or penalty for telecommunication offences save that it provides for the immunity of the service providers in cases of disclosure of customers' information in furtherance of national security.^{xlvi} Section 146(1) of the Act provides that '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.' However, the pertinent question at this juncture is to ask whether presently there is any law or regulation on telecommunication offences in Nigeria? In all the regulations and guidelines made by the NCC there is none that touches on the issue of telecommunication crimes. The Advance Fee Fraud and other Fraud Related Offences Act^{xlvii} only provides a tangential provision that bothers on telecommunication offences; in fact, it only concerns itself with the fraudulent use of communication device to achieve economic fraud.ⁱ

Given the present legal framework and the current lacuna in the law, it is our opinion that the provision of the UK law on the subject will be a relevant guide to Nigerian legislators for adaptation and adoption. Sections 125 and of the subsequent sections of the UK Communications Act 2003, provides several sanctions for telecommunication offences ranging from dishonestly obtaining electronic communications services; Possession or supply of apparatus etc. for contravening,^{xlviii} cloning, reprogramming to Improper use of public electronic communications network.^{xlix} A person guilty of an offence under section 127 shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine or to both.

6. Planning Law and Telecommunications

Telecommunications masts are ordinarily installed or placed on land or on any structures permanently attached thereto and are therefore subject to the operative land law and land use policy in the federating units/ States in the country, as a residual matter. All transactions in respect of leases, sub-leases and any assignment arising thereon are therefore subject to the provisions of the Land Use Act which is the operative land law in the Country. In line with the provisions of the

Land Use Act, telecommunication operators are to obtain the necessary Governor's consent to any lease or sub-lease of land on which to cite telecom mast.¹ They are required to apply for State grant for Land and where their interest in the land pre-dates the Act as a Deemed grantee, their absolute ownership is technically converted to a right of occupancy of a definite period with the promulgation of the Act. They are also subject to the Governor's power to grant easement and other rights appurtenant to land in respect of passages, right of way and installation of telecom masts and base stations.ⁱⁱ

The fact that the telecom companies obtained their licences from the Federal government but have to subject their operation licences to State Land policy, particularly the operation of the Land Use Act, could engender conflict between the States, Local Governments and the federal agency empowered to regulate the telecommunication industry in Nigeria to the detriment of industry operators and ultimately the consumers of these services. Refusals by the State Governors/Local Government authorities to grant right of occupancy, leases and or consent to subsequent transactions involving assignment, leases or sub-leases for the erection and installation of telecom mastⁱⁱⁱ or the revocation of existing right of occupancy over which a mast stands could provoke the failure of the industry in the country. It is therefore imperative to have a synergy of law and administrative process to fine-tune this overlapping functions and responsibilities of the various arms of government in order to untangle the maze into which this area may fall.

Recently the federal High court in Lagos had course to resolve a dispute bordering on this area in

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Lagos State Government and Others.ⁱⁱⁱ In that case the Lagos State Government promulgated the Infrastructure Maintenance and Regulatory Agency Law to regulate and control the erection and installation of Masts, Towers and for connected purposes.^{iv} In line with the provisions of Section 16 of the law, the State sought to regulate the construction and installation of telecommunication masts in Lagos State. The Claimant/Applicant challenged the legality and validity of the State legislation on this matter. The Claimant's argument was hinged on the constitutionality of the contending legislation and its duplicity *vis a vis* the Nigerian Communications Commission Act. In a well-reasoned judgment, the court affirmed the exclusive powers of the Federal government to legislate on telecommunication matters and struck out the Lagos state law to the extent that it sought to impose quality control and environmental standards in the citing of telecommunication mast within the State. The court reasoned that 'it will be difficult to do Telecommunication business in Nigeria if every State in the federation, which is not unlikely, if this case succeeds, to enact their own laws, to take a piece of the action.'^v

There is no doubt that the State law in contention in this case encroached on Federal legislative powers by seeking to regulate matters beyond its legislative competence. It is however incorrect to state that the State has no role to play in the whole exercise. The provision of section 135 of the NCC Act is not meant to be cosmetic or a façade; it is in recognition of the constitutional legislative powers vested in the Federating units exercisable over land and physical planning matters. It is argued hereunder that the State have the legislative right to regulate the indiscriminate citing of mast within its territory using the agency of appropriate law, particularly its zoning policy. It is therefore outlandish and an over-generalization to argue that the power is at variance with section 4(2) Of the constitution and items 46, 66 and 68 of the exclusive list of the constitution.^{vi}

It is important to put in place a workable administrative mechanism to avert this type of conflict particularly when the regulatory law on the subject ordinarily recognizes the important role of the State in this area. In fact, the need to have in place a workable arrangement in this area cannot be over emphasized as it will act as the administrative melting point for all sorts of dispute on the matter. It is therefore recommended that a joint committee of the 3 arms of government in the country be set up to oversee the trouble spots in the whole exercise and set an equitable agenda for all parties and stakeholders concerned. The committee should particularly work towards recommending a uniform procedure and administrative levies applicable throughout the country with respect to application and approvals required for the installation of Telecommunication mast and towers. If necessary, a legal framework for the implementation of this recommendation should be put in place by inserting an amendment into the current law.

7. Conclusion

This paper examined and explored the Legal Regime Governing the Telecommunications Sector in Nigeria and the Consumer Protection Law., particularly such laws as the company Act, Nigeria communication Act, Criminal law, law of tort, planning Laws, Land Use act and other regulations tangential to the provision of telecom services in the country. The study identified the lacunas, drawbacks and limitations existing in these regulations and proceeded to advance reform and recommendations towards the efficient administration and implementation of telecommunication laws in Nigeria in the overall interest and benefit of every stakeholder (including the consumer) of the telecommunication business in Nigeria.

8. Recommendations

The following recommendations have been made in this study:

1. There is the need for behavioural and attitudinal change in the mindset of the consumers and service providers towards this development, thus the need for relevant laws and massive sensitisation cum awareness creation on this course of action.
2. The regulator of telecoms business in Nigeria, the Nigerian Communications Commission describes the telecoms consumer as a major stakeholder in the telecoms industry who uses telecoms products and services. They may be individuals, corporate bodies, communities or institutions.
3. As the regulator of the telecommunications Industry, the role of the NCC involves the effective management of consumers, and consumer protection is essentially a critical part of this mandate
4. The Nigerian Communications Act 2003, which governs telecommunications services in the country, uses the term 'consumer', 'customer' and 'subscriber' interchangeably. These terms are collectively defined as any person who subscribes to and uses a communications service.
5. Like any other consumer, telecoms consumers need value for money therefore efficient consumer management requires effective protection of consumer rights in the industry.

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- xv. Emphasis to bring out the wide discretionary rule making powers of the Commission 15 Section 72(2)
- xvi. This is unlike the situation in Lagos State where there is a legislation regulating the procedure for the making and validation of Statutory Instruments.
- xvii. Section 78
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- xxv. Cap C20 LFN 2004
- xxvi. See section 157 Nigerian communication Act 2003
- xxvii. Cap C20 LFN 2004 The Companies and Allied Matters Act, 1990 [CAMA] is the principal statute governing the registration of enterprises in Nigeria. The administration of CAMA is the responsibility of the Corporate Affairs Commission (CAC), with headquarters in Abuja, and zonal offices all over the country. The functions of the CAC among other things include the following: -
The regulation and supervision of the formation, incorporation, registration, management and winding up of companies; the establishment and upkeep of a suitable and well-equipped Companies Registry; the conduct of investigation into the affairs of any company where the interests of shareholders and the public so demand; etc.
- xxviii. It is worthy to note however that a foreign company may engage in business without registration in Nigeria, if the foreign company applies for exemption from local incorporation in accordance with Section 56 of the Companies Act, to the National Council of Ministers for exemption if such a foreign company belongs to one of the following categories:- "foreign companies invited to Nigeria by or with the approval of the Federal Government of Nigeria to execute any specified individual project; foreign companies which are in Nigeria for the execution of a specific individual loan project on behalf of a donor country or international organization; foreign government-owned companies engaged solely in export promotion activities, and; engineering consultants and technical experts engaged on any individual specialist project under contract with any of the Governments in the Federation or any of their agencies or with any other body or person, where such contract has been approved by the Federal Government.
- xxix. Provided for under the Nigerian Investment Promotion Commission Act No.16 of 1995.
- xxx. section 25 (1) N.I.P.C. Act
- xxxi. Right to Privacy in the Age of Telecommunication. Available at: http://www.tscm.com/full_text.html accessed 24/07/2011
- xxxii. See: <http://dictionary.reference.com/browse/tort> accessed 24/07/2011
- xxxiii. See generally: Deakin, Johnston and Markesinis(2008). Markesinis & Deakin's Tort Law. Oxford: Oxford University Press, Williams, G. [1951] "The Aims of the Law of Tort", Current Legal Problems 137 34 Constitution of the Federal Republic of Nigeria 1999 35 Section 39(1) & (2)
- xxxiv. See generally: E. Noam; 'Privacy in Telecommunications: Markets, Rights and Regulations-Policy Approaches; New Telecom Quarterly ; Privacy International, 'Privacy and Human Rights 2003: Threats to Privacy', available at <http://www.privacyinternational.org/survey/phr2003/threats.htm> accessed 15/07/2011.; See also Lee. A. Bygrave; 'Privacy Protection in a Global Context-A Comparative Overview', Scandinavian Studies in Law, 2004, Vol. 47, p 319-348, 328. M. Froomkin; "The Death of Privacy?" 52 Stanford Law Review (May 2000) 1501 available at <http://personal.law.miami.edu/~froomkin/articles/privacy-deathof.pdf> accessed 15/07/2011. Chris J. Hoofnagle, Consumer Privacy In the E-Commerce Marketplace 2002, Third Annual Institute on Privacy Law 1339, Practising Law Institute G0-00W2 (June 2002), available at <http://www.epic.org/epic/staff/hoofnagle/plidraft2002.pdf> accessed 15/07 2011
- xxxv. Section 4
- xxxvi. Uganda Communications Act 1997. Contra the provision of Section 230 of the Communications Decency Act of 1996 USA which provides immunity from liability for providers and users of an "interactive computer service" who publish information provided by others.
- xxxvii. supra
- xxxviii. See generally: Winfield & Jollowitc on Tort Sweet & Maxwell
- xxxix. Copyright Act, Cap C28 Laws of the Federation of Nigeria, 2004
 - xl. Patent & Design Act, Cap P2, LFN, 2004. See also: Deji Olatoye : 'Copyright Law & Piracy – Legal Issues in the Information Society' Lecture Delivered at Public Lecture Day of Association of Information Resources Management Students Babcock University Ilishan, Ogun State On Wednesday 7th October, 2009 Available at: www.thelodt.com. Accessed 24/07/2011
 - xli. Cap T13, LFN, 2004
 - xl.ii. See generally: Grabosky. P & Smith R. G. Crime in the Digital Age: Controlling Telecommunications and Cyberspace Illegalities. Rutgers University press, , Australia, 1998
 - xl.iii. Grabosky. P. Computer Crime in a World Without Borders. Available at: <http://www.crimeresearch.org/library/Peter.htm> accessed 24/07/2011
 - xl. iv. Longe, O.B & Chiemeké, S. C: Cyber Crime and Criminality in Nigeria – What Roles are Internet Access Points in Playing? European Journal of Social Sciences – Volume 6, Number 4(2008) 132-139
 - xl. v. Chapter 77 Laws of the Federation of Nigeria 1990
 - xl. vi. Section 146 NCC Act

- xlvi. Advance Fee Fraud and other Fraud Related Offences Act 2006 50 Sections 6,7,11 of the Act
- xlvi. Section 126 Communication Act (UK) 2003
- xlix. Ibid Section 127
 - i. See Section 21& 22 Land Use act 1978
 - ii. Land use Act
 - iii. There is no provision in the Land Use Act to compel the Governor/local Government to grant a right of occupancy or give consent to any applicant. The power to grant same is totally at the discretion of the Governor.
- liii. Unreported suit No. FHC/L/CS/517/06
- liv. Lagos State of Nigeria Official Gazette No. 23 Vol.37 dated 27th August, 2004.
 - lv. Page 24 of the judgment.
 - lvi. This is one of the arguments canvassed by counsel to the applicant in the case. See p. 9

Appendix 1 CONSUMER PROTECTION COUNCIL ACT**Arrangement of Sections**

➤ PART I

Establishment of Consumer Protection Council, etc.

SECTION

1. Establishment and composition of the Consumer Protection Council, etc.
2. Functions of the Council.
3. Additional powers.

➤ PART II

State Committee, duty, etc.

4. Establishment of State Committees, membership, etc.
5. Duty of State Committee.
6. Complaint.
7. Power to require executive of association, etc., to inquire into complaint.
8. Redress.
9. Unforeseen hazard and duty to inform public.
10. Power to obtain satisfactory written assurance.
11. Issuing wrong advertisement.
12. Contravention of enactment protecting consumer.
13. Compensation order.
14. Power of the Council to establish laboratories, etc.
15. Designation of inspecting officer.
16. Application of Attorney-General.
17. Mileage allowance.
18. Disobedience to summons.
19. Making of false entry, etc.
20. Liability of advertising medium.
21. Violation of order of Council.

➤ PART III Appointment of Director-General and other staff 22. Director-General and other staff.

22. Pension.
23. Staff regulations.

➤ PART IV

Financial provisions

24. Financial provisions.
25. Power to accept gifts.
26. Borrowing power.
27. Accounts and audit.
28. Annual reports.

➤ PART V Miscellaneous

29. Power of the Minister to give directives to the Council.
30. Regulations.
31. Interpretation.
32. Short title.

SCHEDULE

Proceedings of the Council

CONSUMER PROTECTION COUNCIL ACT

An Act to provide for the establishment of the Consumer Protection Council and for matters connected therewith.[1992 No. 66.]

[23rd

November, 1992]

[Commencement.] PART I

Establishment of Consumer Protection Council, etc.

1. Establishment and composition of the Consumer Protection Council, etc.

1. There is hereby established a council to be known as the Consumer Protection Council (in this Act referred to as "the Council") which shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name.
2. The Council shall consist of-
 - a) a chairman to be appointed by the President on the recommendation of the Minister;
 - b) one person to represent each of the States of the Federation on the recommendation of the Governor of the State; and
 - c) five persons to represent the following Federal Ministries that is-(i)Commerce;
 - i. Industry;
 - ii. Science and Technology;
 - iii. Health; and
 - iv. Petroleum Resources.
3. The chairman and members of the Council, other than ex-officio members, shall each hold office for a period of three years and shall be eligible for re-appointment for one further term only.
4. A member of the Council, other than an ex-officio member, may resign his appointment by a letter under his hand addressed to the President.
5. Notwithstanding the provision of subsection (3) of this section, the President may at any time, whether or not pursuant to subsection (4) of this section, remove any member of the Council from office if he is of the opinion that it is not in the national interest or in the interest of the Council for such member to continue in office and shall cause such member to be notified to that effect.
6. Where the Council is of the opinion that the continued presence on the Council of any member is not in the national interest or the interest of the Council, it may recommend to the President through the Minister that the member concerned be removed from office.
7. The provisions of the Schedule to this Act shall have effect with respect to the proceedings of the Council and the other matters therein mentioned.

[Schedule.]

2. Functions of the Council

The Council shall-

- a) provide speedy redress to consumers' complaints through negotiation, mediation and conciliation;
- b) seek ways and means of removing or eliminating from the market hazardous products and causing offenders to replace such products with safer and more appropriate alternatives;
- c) publish, from time to time, the list of products the consumption and sale of which have been banned, withdrawn, severally restricted or not approved by the Federal Government or foreign governments;
- d) cause an offending company, firm, trade, association or individual to protect, compensate, and provide relief and safeguards to injured consumers or communities from adverse effects of technologies that are inherently harmful, injurious, violent or highly hazardous; (e)organise and undertake campaigns and other forms of activities as will lead to increased public consumer awareness;
- e) encourage trade, industry and professional associations to develop and enforce in their various fields quality standards designed to safeguard the interest of consumers;
- f) issue guidelines to manufacturers, importers, dealers and wholesalers in relation to their obligation under this Act;
- g) encourage the formation of voluntary consumer groups or associations for consumers, well-being;
- h) ensure that consumers' interests receive due consideration at appropriate forums and provide redress for obnoxious practices or the unscrupulous exploitation of consumers by companies, firms, trade associations or individuals;
- i) encourage the adoption of appropriate measures to ensure that products are safe for either intended or normally safe use; and
- j) perform such other functions as may be imposed on the Council pursuant to this Act.

3. Additional powers

In the exercise of its functions under this Act, the Council shall have power to-

- a) apply to court to prevent the circulation of any product which constitutes an imminent public hazard;
- b) compel a manufacturer to certify that all safety standards are met in their products; (c)cause, as it deems necessary, quality tests to be conducted on a consumer product; (d)demand production of labels showing date and place of manufacture of a commodity as well as certification of compliance;
- c) compel manufacturers, dealers and service companies, where appropriate, to give public notice of any health hazards inherent in their products;
- d) ban the sale, distribution, advertisement of products which do not comply with safety or health regulations.

PART II

State Committee, duty, etc.

4. Establishment of State Committees, membership, etc.

1. There shall be established to assist the Council in each State of the Federation, a State Committee which shall, subject to the general supervision of the Council, receive, investigate and act on complaints from consumers.

2. The State Committee shall consist of the following persons-

a) three members to be nominated by the Governor of that State, one of whom shall be the chairman of the State Committee and the remaining two persons to represent other diverse interests; and

b) two other members to be appointed by the Minister, one of whom shall be the professional officer in charge of the Ministry of Commerce in the State who shall act as the Secretary of the State Committee.

3. There shall be appointed by the Minister an officer to be Secretary to the State Committee and the Minister may appoint such other staff as he thinks may be necessary, from time to time, including on secondment or transfer from any public service in Nigeria.

4. The Minister shall have power to remove from office any member of the State Committee.

5. Duty of State Committee

The State Committee shall, subject to the control of the Council-

a) receive complaints and enquiries into the causes and circumstances of injury, loss or damage suffered or caused by a company, firm, trade, association or individual;

b) negotiate with the parties concerned and endeavour to bring about a settlement; and

c) where appropriate, recommend to the Council the payment of compensation by the offending person to the injured consumer.

6. Complaint

1. A consumer or community that has suffered a loss, injury or damage as a result of the use or impact of any goods, product or service may make a complaint in writing to or seek redress through a State Committee.

2. Where a consumer, or a person having an interest in a matter is an illiterate or is subject to any physical disability and thereby unable to write, the clerk or other official working with the State Committee shall cause such consumer or person's statement to be written at no fee or payment of any kind from such consumer or person.

7. Power to require executive of association, etc., to inquire into complaint

Where a complaint is made against any person, the State Committee may require the executive or officials of the company, firm, trade, business, association or professional body in which the person complained against is a member, to enquire into the complaint and report back to the State Committee within a specified period and on the receipt of the report, the State Committee may take such action as it may deem reasonable and just in the circumstance.

8. Redress

Whereupon an investigation by the Council or State Committee of a complaint by a consumer it is proved that-

a) the consumer's right has been violated; or

b) that a wrong has been committed by way of trade, provision of services, supply of information or advertisement, thereby causing injury or loss to the consumer, the consumer shall, in addition to the redress which the State Committee, subject to the approval of the Council, may impose, have a right of civil action for compensation or restitution in any competent court.

9. Unforeseen hazard and duty to inform public

a) It shall be the duty of the manufacturer or distributor of a product, on becoming aware after such a product has been placed on the market, of an unforeseen hazard arising from the use of such product, to notify immediately the general public of such risk or danger and cause to be withdrawn from the market such product.

b) Any person who violates the provision of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of N50,000 or imprisonment for a term of five years or to both such fine and imprisonment.

10. Power to obtain satisfactory written assurance

1. Where it appears to the Council or the State Committee that a person carrying on a business has in the course of that business persisted in a course of conduct which is detrimental to the interest of consumers, the Council or the State Committee shall use its best endeavour to obtain from him a satisfactory written assurance that he will refrain from a continuation of that course of conduct.

2. If in the circumstances specified in subsections (1) of this Act-

- a) the Council or the State Committee is unable to obtain from the person in question such an assurance as is mentioned in subsection (1) of this section; or
- b) that person has given such assurance and it appears to the Council or the State Committee that he has failed to observe it, the Council or the State Committee shall notify the Attorney-General of the Federation who shall cause proceedings to be commenced against the offending person for violation of the provisions of this Act.
3. Where in any proceedings before a court, the court finds that the person against whom proceedings are brought has in the course of his business carried on or persisted in such course of conduct as is mentioned in subsection (1) of this section, and that unless an order is made against the person he is likely to continue that course of conduct, the court may make an order against him to restrain him from continuing that course of conduct.

11. Issuing wrong advertisement

Any person who issues or aids in issuing any wrong advertisement about a consumer item, is guilty of an offence and liable on conviction to a fine of ₦50,000 or to imprisonment for a term of five years or to both such fine and imprisonment.

12. Contravention of enactment protecting consumer

Any person who, in contravention of any enactment whatsoever for the protection of the consumer-

(a) sells or offers for sale any unsafe or hazardous goods; or

(c) provides any service or proffers any information or advertisement thereby causing injury or loss to a consumer, is guilty of an offence under this Act and liable on conviction to a fine of ₦50,000 or to imprisonment for a term of five years or to both such fine and imprisonment.

13. Compensation order

1. A court by or before which a person is convicted of an offence may, in addition to dealing with such person in any other way, make an order (in this Act referred to as "compensation order") requiring the person to pay compensation for any personal injury, loss or damage resulting from that offence of such amount as it may deem fit or as assessed by a competent professional authority.
2. In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the Court shall have regard to the means of the respondent in so far as they appear or are known to the Court.

14. Power of the Council to establish laboratories, etc.

In the discharge of its functions under this Act, the Council may seek collaboration with government agencies or other professional bodies in establishing laboratories or in joint use of testing facilities, common procedures or in ensuring or enforcing standards of consumer goods or in assessing the quantum of loss or damage.

15. Designation of inspecting officer

1. The Council may designate as an inspector, any person (whether or not a member of the public service of the Federation) who possesses such qualifications and fulfils such requirements, if any, as may be prescribed and shall furnish to every such person so designated a certificate of designation.
2. An inspecting officer may, in the course of his duty, at any reasonable time and on production of his certificate of designation if so required-
 - (a) enter (if need be by force) any premises for the purposes of conducting an investigation;
 - (b) examine or take samples or specimens of any goods or product;
 - (c) open and examine, whilst on the premises, any container or package which he reasonably believes may help him in his investigation;
 - (d) examine any book, document or other records found on the premises which he reasonably believes may contain any information relevant to the enforcement of this Act or the regulations made there under and make copies thereof or extracts therefrom;
 - (e) seize and detain for such time as may be necessary for the purposes of this Act, any article or goods by means of or in relation to which he reasonably believes any provision of this Act or the regulations has been contravened.
3. The owner or person in charge of any premises entered into by an inspecting officer pursuant to this section and every person found therein, shall give all reasonable assistance to the inspecting officer and shall make available to the inspecting officer all such information as the inspecting officer may reasonably require for the purposes of this Act.
4. Any article or good seized under this Act shall be kept or stored in such a place as the inspecting officer may direct and shall be returned to the owner or the person from whom it was seized if the article or good upon analysis or examination is found not to have contravened the provisions of this Act.

16. Application of Attorney-General

The Attorney-General of the Federation may, at the request of the Council, apply to a court for an order commanding any person, partnership, company, trade association or agent, to comply with the provisions of this Act or any order of the Council made in pursuance thereof.

17. Mileage allowance

A witness summoned before the Council or a State Committee shall be paid such fees and mileage allowance as are normally paid to witnesses summoned by a court.

18. Disobedience to summons

Any person who, without sufficient cause, neglects or refuses to attend and testify before the Council or the State Committee or to answer any lawful enquiry, or to produce any document as may be required of him is guilty of an offence and be liable on conviction to a fine of not less than N 1 0,000 or imprisonment for a term of five years or to both such fine and imprisonment.

19. Making of false entry, etc.

Any person who willfully makes or causes to be made any false entry or statement in any report required to be made under this Act, or who willfully makes or causes to be made any false entry in any account, record, or memorandum kept by any person, partnership, company or trade association, is guilty of an offence and liable on conviction to a fine of N 10,000 or imprisonment for a term of three years or to both such fine and imprisonment.

20. Liability of advertising medium

A publisher or any advertiser shall not be liable under this section of this Act by reason of the dissemination by him of any false advertisement, unless he refuses at the request of the Council to furnish the Council with the name and address of the manufacturer, packer, distributor, seller, or advertising agency requiring him to disseminate or cause such advertisement to be made.

21. Violation of order of Council

Any person who violates any order of the Council or a State Committee is guilty of an offence and liable on conviction to a fine of N 10,000 or imprisonment for a term of three years.

PART III**Appointment of Director-General and other staff****22. Director-General and other staff**

(1) There shall be appointed by the President, a Director-General for the Council who shall possess such relevant academic qualifications and practical experience as are appropriate for the functions of the Director-General under this Act.

(2) The Director-General shall be the chief executive of the Council and shall be responsible to the Council for the execution of the policies of the Council and the day-to-day running of the affairs of the Council.

(3) The Director-General shall hold office on such terms and conditions as to emoluments and conditions of service as may be specified in his letter of appointment, and on such other conditions as may, from time to time, be approved by the Federal Government generally in respect of public officers.

(4) Subject to the provisions of this Act, the Council may appoint other employees to assist the Director-General in the exercise of his functions.

(5) The remuneration and terms of office of other employees of the Council shall be determined by the Council in accordance with salaries approved, from time to time, by the Council and in accordance with the terms and conditions approved by the Federal Government for public officers.

23. Pension

(1) Service in the Council shall be pensionable service under the Pensions Act and accordingly, employees of the Council shall, in respect of their services therein, be entitled to such pensions, gratuities and other retirement benefits as are prescribed thereunder.

[Cap. P4.]

(2) Notwithstanding the provisions of subsection (1) of this section, nothing contained in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office.

(3) Subject to subsection (2) of this section, the Pensions Act shall, in its application by virtue of this section to any office, have effect as if the office were in the public service of the Federation within the meaning of the Constitution of the Federal Republic of Nigeria.

[Cap. P4. Cap. C23.]

24. Staff regulations

(1) The Council may, subject to the provisions of this Act, make staff regulations relating generally to the conditions of service of the staff of the Council and without prejudice to the generality of the foregoing, such regulations may provide for-

(a) the appointment, promotion, termination, dismissal and disciplinary control of staff of the Council; and

(b) appeals by such staff against dismissal or other disciplinary measures, and until such regulations are made, any instrument relating to the conditions of service of the officers in the public service of the Federation shall be applicable, with such modifications as may be necessary to the staff of the Council.

(2) Staff regulations made under subsection (1) of this section, shall not have effect until approved by the Minister and when so approved the same shall not be published in the Gazette but the Council shall cause them to be brought to the notice of all affected persons in such manner as it may, from time to time, determine.

PART IV**Financial provisions****25. Financial provisions**

(1) The Council shall establish and maintain a fund which shall consist of-

(a) such sums as may, from time to time, be provided by the Federal Government for the running of the expenses of the Council;

(b) such other sums as may accrue to the Council either in the execution of its function under this Act or in respect of any property vested in the Council or otherwise however.

(2) The Council may, from time to time, apply the proceeds of the fund established pursuant to this section-

(a) to the cost of administration of the Council;

(b) for reimbursing members of the Council or of any committee set up by the Council of such expenses as may be expressly authorised by the Council in accordance with such rates as may be approved, from time to time, by the Federal Government;

(c) to the payment of salaries or other remuneration or allowances and pensions payable to the employees of the Council;

(d) for the maintenance of any property acquired or vested in the Council; (e) for and in connection with all or any of the functions of the Council under this Act.

(3) The Council shall, not later than 30 June in each year, submit to the Minister for approval its estimate of income and expenditure during the next succeeding year.

26. Power to accept gifts

1. The Council may, with the approval of the Minister, accept gifts of land, money or other property upon such terms and conditions if any, as may be specified by the person or organisation making the gift.

2. The Council shall not accept any gift if the conditions attached by the person or organisation making the gift are incompatible with the functions of the Council.

27. Borrowing power

1. The Council may, with the consent of the Minister or in accordance with the general guidelines approved by the President, borrow, by way of loan or overdraft from any source, any money required by the Council for meeting its obligations and discharging its functions under this Act.

2. The Council may invest any surplus funds of the Council in such securities as may be approved by the President.

28. Accounts and audit

The Council shall keep proper account and proper records in relation thereto and shall cause such account to be audited annually by a qualified auditor appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

29. Annual reports

The Council shall prepare and submit to the President through the Minister, not later than June in each year, a report in such form as he may direct on the activities of the Council during the immediately preceding year and shall include in such report, a copy of the audited accounts of the Council for that year and the Auditor-General's report thereon.

PART V**Miscellaneous****30. Power of the Minister to give directives to the Council**

The Minister may give to the Council directives of a general nature with regard to the exercise by the Council of its functions under this Act, and it shall be the duty of the Council to comply with such directions.

31. Regulations

The Council shall, with the approval of the Minister, have power to make regulations as may in its opinion be necessary or expedient for giving full effect to the provisions of this Act and for the administration thereof.

32. Interpretation

In this Act, unless the context otherwise requires-

- "chairman" means the chairman of the Council;
- "consumer" means an individual who purchases, uses, maintains or disposes of products or services;
- "Council" means the Consumer Protection Council established under section 1 of this Act;
- "member" means any member of the Council including the chairman;
- "Minister" means the Minister charged with responsibility for matters relating to commerce and "Ministry" shall be construed accordingly.

33. Short title

The Act may be cited as the Consumer Protection Council Act.

SCHEDULE

[Section 1 (7).]

Proceedings of the Council

1. (1) Subject to this Act and to section 27 of the Interpretation Act, the Council may make standing orders regulating the proceedings of the Council or of any committee thereof.

[Cap. 123.]

(2) The quorum of the Council shall be the chairman and ten other members, and the quorum of any committee of the Council shall be determined by the Council.

2. (1) The Council shall meet not less than four times in each year and subject thereto, the Council shall meet whenever it is summoned by the chairman; and if the chairman is required to do so by notice given to him by not less than nine other members, he shall summon a meeting of the Council to be held within fourteen days from the date on which the notice is given.

(2) At any meeting of the Council the chairman shall preside; but if he is absent, the members present at the meeting shall appoint one of their members to preside at that meeting.

(3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards the quorum.

(4) Notwithstanding anything in the foregoing provisions of this paragraph, the first meeting of the Council shall be summoned by the Minister.

3. (1) The Council may appoint one or more committees to carry out on behalf of the Council such of its functions as the Council may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily all members of the Council) as may be determined by the Council; and a person other than a member of the Council shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

4. (1) The fixing of the seal of the Council shall be authenticated by the signature of the chairman and some of the other members authorised generally or specially to act for that purpose by the Council.

(2) Any contract or instrument which if made or executed by a person not being a body corporate will not be required to be under seal, may be made or executed on behalf of the Council by the Director-General or any person generally or specially authorised to act for that purpose by the Council.

5. Members of the Council other than ex-officio members shall be paid out of money at the disposal of the Council, such remuneration, fees or allowance in accordance with such scales as may be approved, from time to time, by the Minister.

6. The validity of any proceedings of the Council or of a committee thereof shall not be affected by any vacancy in the membership of the Council or of a committee, or by reason that a person not entitled to do so took part in the proceedings.

7. Any member of the Council and any person holding office on a committee of the Council, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council or a committee thereof shall forthwith disclose his interest to the Council or committee and shall not vote on any question relating to the contract or arrangement.

Appendix 2**TELECOMMUNICATION COMPANIES IN NIGERIA Accat**

Address: 39, Creek Road, Apapa, Lagos, Nigeria
Phone: 234-1-5878814,
Fax: 234-1-5878814
Website: <http://www.accat.com>

Accelon Nigeria Limited

Address: FABAC Centre, 3B Ligali Ayorinde Avenue, Victoria Island, Lagos
Phones: (+234-1) 2709000, 2705781
Email: customer-service@accelonafrica.com
Website: <http://www.accelonafrica.com/nigeria>

Akkclaim Telecoms

Address: No.21, Blantyre Street, Off Adetokunbo Ademola Crescent, Wuse II, Abuja
Phone: 08032919640
Fax: 08032919640

Bourdex Telecom

Address: 1 Industry Road, South Eastern Nigeria, Abia State
Aba, Nigeria
Phone: 234 82 449914 Fax: 234 82 449901 bourdex@infoweb.abs.net Website: www.bourdex.com

Cell Communications Nigeria Limited

Address: Plot 374 Adetokumbo Ademola Crescent, Wuse II Abuja,
Nigeria
Phone: 234 9 5238692
Fax: 234 9 5238691
Website: www.cellcomng.com

Cisco Systems

Address: Africa Re- insurance building (3rd floor), Plot 1679 Karimu Kotun street
Victoria Island, Lagos,
Nigeria
Phone: 234 1 4621000
Fax: 234 1 4621001
Email: nigeria@cisco.com

Direct On PC

Address: Africa Re- insurance building (3rd floor), Plot 1679 Karimu Kotun street
Victoria Island
Lagos, Nigeria
Phone: 234 1 4621000
Fax: 234 1 4621001
Website: www.directonpc.com

Dizengoff WA Nigeria Limited

Address: 28 Creek Road, Apapa, Lagos, Nigeria
Telephone: +234 1 4600100
Fax: +234 1 4600119
Email: dizengoff@dizengoff.com
Website: www.dizengoff.com

Etisalat Nigeria Limited (9Mobile) Galaxy Information Technology and Tel. Limited

Address: 22 Adetokumbo Ademola Crescent, Wuse II
Abuja – Nigeria
Phone: 09-5233897, 5235044
Email: info@galaxyitt.com
Website: <http://www.galaxyitt.com>

Glomobile

Address: Mike Adenuga Towers, 1 Mike Adenuga Close, Off Adeola Odeku,
Victoria Island,
Lagos, Nigeria
Phone: +234(0)8050020121, +234(0)8050020200
Email: customercare@gloworld.com, corporatecare@gloworld.com

GS Telecom

Address: 46 Saka Tinubu Street, Victoria Island
Lagos, Nigeria
Phone: +234 (0)1 262 4700 / 2388
Fax: +234 (0)1 262 2172
Email steve.chapman@gstelecom.com, info@gstelecom.net
Website: <http://www.gstelecom.net>

Integrated Telekom & Networks Limited

Address: 62a Opebi Road (2nd floor), Ikeja, Lagos, Nigeria Phone: +234 1 7603265, 7612961, 8755477, 8901412.
Email: mails@itelekom.net
Website: <http://www.itelekom.net>

IPNX Nigeria Limited

Address: No. 4, Balarabe Musa Crescent,
Victoria Island Lagos
Phone: 234-1-4619943-6
Fax: 234-1-261 4633
Website: <http://www.ipnxnigeria.net>

Megatech Networks

Address: 147b, Murtala Mohd. Way, P.O Box 12178, Kano
Phone: 064-200200, 200201, 200202, 234-8036079235
Website: <http://www.megatechnet.com>

Mobitel

Address: First floor Icon House, Plot 999f Idejo / Danmole Street, Victoria Island, Lagos, Nigeria
Phone: 234-1-320-1020, 3201164
Fax: 234-1-320-1015

Motorola Nigeria Limited

Address: 6th floor African Reinsurance Building,
Plot 1679 Karimu Kotun Street
Victoria Island, Lagos, Nigeria
Phone: 234-1-2626700/1
Fax: 234-1-2626702
E-mail: aoa011@email.mot.com
Website: <http://www.motorola.com>

Mtech Communications

Address: Mtech House: 5, Campos Street, Lagos, Nigeria.
Phone: 234-1-264706, 2635860, 8033066469, 8033 068354

MTN Nigeria

Address: Golden Plaza Building, Awolowo Road, Falomo, Ikoyi,
Lagos, Nigeria
Phone: 0803 902 0001
Email: customercare@mtnnigeria.net
Website: www.mtnonline.com

MTS First Wireless

Address: IMB Plaza, 1 Akin Adesola Street, Victoria Island, Lagos, Nigeria.

Phone: 234-1-264706, 2635860, 8033066469, 8033 068354

Mtech Communications

Address: Mtech House: 5, Campos Street, Lagos, Nigeria.
Phone: 234-1-264706, 2635860, 8033066469, 8033 068354

Multi-Links Telecommunications Limited

Address: 321, Adeola Odeku Street, Victoria Island. P.O. Box 3453 Marina, Lagos, Nigeria.
Phone: 234-1-774-0000, 234-1-7730000
Fax: 234-1-262-2452,
E-mail: sales@multi-links.com

Netcom

Address: 6/F South Atlantic Petroleum Towers
7, Adeola Odeku Street, Victoria Island, Lagos Nigeria
Phone: 234-1-2718888, 234-1-4611234, 234-1-2718890
Fax: 234-1-4611235
Website: <http://www.netcomng.com/>

Nigerian Telecommunications Limited (NITEL)

Address: 2 Bissau Street, (Off Herbert Macaulay Way, Wuse Zone 6, Abuja, Nigeria
Phone: 234-9-5233031, 5234554, 234-9-5245000, 234-9-5235707
Fax: 234-9-5234701
E-mail: md@nigtel.com, info@nitelnet.com
Website: <http://www.nitelnet.com>

O'Net (Odu'a Telecoms)

Address: O'Net Friendship Center, Cocoa House Complex, Annex, Oba Adebimpe Road,
P.M.B 5350, Ibadan, Oyo State, Nigeria
Phone: 234-2-2001234
Fax: 234-2-2005040-43
Website <http://www.onet-ng.com>

Rainbownet Limited

Address: Plot 4 Ebeano Estate, Independence Layout, Enugu, Nigeria
Phone: 234-42-300304 – 7
E-mail: support@rbow.net
Websits: <http://www.rbow.net/>

Reliance Telecommunications Limited

Address: Reliance House, 219A Moshood Abiola Way,
(Opposite Nigerian Breweries Plc.) Iganmu, Lagos, Nigeria
Phone: 234-1-4801111-4, 4801234
E-mail: sales@reitel.org

Signal Alliance / SDI

Address: 12 Mba Street, Off Adeniran Ogunsanya Street, Surulere,
Lagos, Nigeria
Phone/Fax: 234-1-5454993
Email: signal@infoweb.abs.net, sdin@yahoo.com

Speakeezee Systems

Address: 92 Awolowo Road, SW, Ikoyi, Lagos, Nigeria
Phone: 234-1-2693925, 2695857
Fax: 234-1-2692700
E-mail: info@speakeezee.com
Website: <http://www.speakeezee.com>

Starcomms Limited

Address: Plot 1261C, Bishop Kale Close, Off Saka Tinubu Street
Victoria Island, Lagos, Nigeria
Phone: 234-1-8041234, 8041080
Fax: 234-1-8041235
Website: <http://www.starcomms.com>

Swift Networks Limited

Address: 31B Saka Tinubu Street, Victoria Island
Lagos, Nigeria
Phone: +234 1 270 0198-9
Fax +234 1 270 0197
Website: <http://www.swiftng.com/>

Taylor Communication Solutions

Address: 18th Floor, Western House, Broad Street
Lagos, Nigeria
Phone: 234-1-2630553, 2631097

Teledom International Limited

Address: 24 Bamishile Street, New World Bus Stop
Off Allen Avenue Ikeja, Lagos, Nigeria
Phone: 234-1- 4977892, 7730528, 4716398
Website: <http://www.teledominternational.com>

Telnet Nigeria Limited

Address: Plot 242, Kofo Abayomi Street, Victoria Island. Lagos.
Phone: +234 1 2611729, 2619954, 3200580-5
Email: info@iteco.com
Website: <http://www.telnetng.com>

VGC Communications Limited

Address: 10B, VGC Shopping Centre, First Floor, Road 2, Victoria Garden City
KM 22 Lagos-Epe Expressway
Phone: 234-1-4618005
Fax: 234-1-4618007
E-mail: sales@vgccl.com
Web: <http://www.vgccl.com>

Warsun Network Solution Limited

Address: Plot 242B Muri Okunola Street, Victoria Island, Lagos, Nigeria
Phone: 234-1-3200430-3, 4812046-8
Fax: 234-1-3200434
Email: info@warsun.com
Website: <http://www.warsun.com>

Webcom Limited

Address: 58, Toyin Street, Ikeja, Lagos, Nigeria.
Phone: 234- 1-2551010, 234-1-2551011, 234-1-2551012
Fax: 234-1-2551015
Email: info@webcomng.com

Weco Systems International Limited

Address: Plot 1A, Block 129, Uchenna Obidike Street, Off Oriwu Road, Elf/ UPDC Est. Junction, Lekki Peninsula, Nigeria.
Phone: [+234] 1-2714045-8
Fax [+234] 1-2701922
Email: wecosys@wecosysgroup.com
Website: www.wecosysgroup.com