

Evolutionary Trends in The Regulatory Regime of The Nigerian Telecommunications Industry and International Best Practices.

By

Bolaji A. Agoro Esq*

Abstract

Today in Nigeria, telecommunications is ultimately an integral part of people's existence and has become a way of life. There is no community in Nigeria without telecommunications facilities. All adults in the nooks and crannies of the country have telephone sets. This is the extent to which telecommunications sector has been democratised through the Global System for Mobile communication (GSM). The GSM revolution of 2001 graduated telecommunications as a system of communication of the people, by the people and for the people as against the often held notion that ownership or possession of a telephone is a luxury of the elites and rich members of the society only. The relevance and roles of telecommunication services as the driving force for the development of the Nigerian economy cannot be over-emphasized. The telecommunications industry has integrated Nigeria into the new age of borderless and globalized economy. There is remarkable expansion of electronic commerce through modern distribution systems using telecommunications networks and services. Telecommunications service is an inclusive vehicle that promote and enhances the development of social, cultural, and economic activities including trade and investments. The growth of electronic commerce in Nigeria and development of new sophisticated distribution systems and provision of services such as e-delivery, e-payments and e-campaigns through service providers in financial and non-financial institutions using telecommunication networks and online digital strategies is a grand testimony. This paper examines the evolutionary trends of the legal framework and regulatory regime of this phenomenon which has impacted positively on the lives of Nigerians in terms of job creation and opportunities, enhanced living conditions, service delivery as well as ease of doing business. The paper x-rays the stages of Nigeria's telecommunications development, its emergence, progress, problems, and prospects and of course the expansion and modernisation efforts since 1990.

KEY WORDS: Evolution, Telecommunications, Legal Framework and Regulatory Regime

Introduction

Globally, the telecommunication industry has witnessed rapid growth and innovation over the past three decades.¹ The significance of telecommunication to globalisation, internationalisation and effective coordination of economic activities over very far distances and across national borders is

* Managing Partner, Agoro & Agoro B &L Advocates, Mokola, Ibadan.

¹ *Global Telecommunications Study: Navigating the Road to 2020.*

[http://www.ey.com/Publication/vwLUAssets/ey-global-telecommunications-study-navigating-the-road-to-2020/\\$FILE/ey-global-telecommunications-study-navigating-the-road-to-2020.pdf](http://www.ey.com/Publication/vwLUAssets/ey-global-telecommunications-study-navigating-the-road-to-2020/$FILE/ey-global-telecommunications-study-navigating-the-road-to-2020.pdf). Assessed on Aug. 29, 2017,

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unarguable.² The importance of telecommunication goes well beyond facilitating business activities and interaction to making substantial contribution to the national incomes, as well as engendering many diverse and novel job opportunities.³

The revolution in the telecommunication industry that has resulted in today's highly dynamic information age began in the mid-1980s when, due to changing ideology of how best to organize markets, the state monopoly in the telecommunications industry was ended in the United States of America (USA), The United Kingdom (UK) and Japan.⁴ By the late-1990s, with the agreement of the European Union⁵ to fully liberalize its telecommunications markets and the similar agreement of the World Trade Organization (WTO), there was widespread consensus that the liberalization of telecommunications is essential to industry efficiency. Further innovative developments in the 1990s brought about fundamental changes that further transformed the telecommunications industry into the info-communications industry.⁶

The telecommunication revolution in Nigeria remains a vital engine for development of the economy. Telecommunication is an essential infrastructural component of the economy that promotes the development of other sectors including agriculture, education, industry, health, banking, defence, transportation and tourism.⁷ It is indispensable in day to day interactions and necessary in times of national emergency or natural disasters. It also reduces the risks and rigours of travel. Therefore, the availability of a functional and efficient telecommunications infrastructure is a sine-qua-non for any country that wants to compete in today's global economy.⁸

Since its inception over a century ago, Nigeria's telecommunications system has progressed through various stages of development from the primitive communications equipment in its colonial days to the enormous variety of technologies available today. In this work, the processes of Nigeria's telecommunications development and its progress, problems, and prospects are examined and discussed from its emergence to the expansion and modernization efforts since three 1990s.

² National Academic of Science. 2017. *Renewing U.S. Telecommunications Research: The Importance of Telecommunications and Telecommunications Research*. Retrieved Aug. 29, 2017, from <http://www.nap.edu/read/11711/chapter/3>

³Global telecommunications Study: *ibid*

⁴ *Ibid*

⁵ Department of Trade & Industry, Mar. 2001. *Communications Liberalisation in the UK*. Retrieved Aug. 29, 2017, from https://www.wto.org/english/tratop_e/serv_e/symp_mar02_uk_com_e.pdf

⁶*History of Telecommunication Liberalization*. Assessed on Aug. 29, 2017, from <https://www.cesifo-group.de/ifoHome/facts/DICE/Infrastructure/Communication-Networks/Liberalisation-Process/history-telecom-liber/fileBinary/history-telecom-liber.pdf>

⁷ Ernest, N. *The Telecommunication Revolution in Nigeria*. (Being the text of the Convocation Lecture delivered at the Igbinedion University Okada on the 2nd December 2011 at the Annual Convocation Ceremony of the University). Assessed on Aug. 29, 2017, from <http://www.iuokada.edu.ng/files/c/The%20Telecommunications%20Revolution%20In%20Nigeria.pdf>

⁸ Ernest, N. *Ibid*

The ground work and effort to deregulate and liberalise the telecommunication sector in Nigeria commenced with the promulgation of the first Nigerian Communications Commission Act in November 1992⁹ and the subsequent inauguration of the first Board of the Nigerian Communications Commission (NCC) in 1993.¹⁰ This effort did not yield much fruit as the law had a limiting effect on the liberalisation of the sector. The 1992 legislation, still allowed the Nigerian Telecommunications Limited (NITEL) to retain its monopoly over the fixed wire line systems, Long Distance Transmission services and International Gateway services, thereby retaining its sole national carrier status.¹¹

However, due to the fact that the nation was under a military government during the first seven years of its life, the Commission did not have the necessary freedom and powers to carry out its functions as expected.¹² The rules of the game were not clear and the regulatory body that was to act as referee had neither the requisite autonomy nor the resources to guarantee a predictable market place for potential investors. The growth in the Nigerian telecommunications landscape had recorded significant transformation in regulatory framework, coverage and investment since the introduction of Global Systems of Mobile Communications (GSM) networks.¹³ This was facilitated by the deregulation of the sector, which led to the licensing of major service providers; namely Econet (which has undergone many nomenclature changes such as V-mobile, Zain and now Airtel Mobile), Mobile Telecommunication Network (MTN), Globacom, Visafone - Mobile, and Etisalat (now 9Mobile) who have been taking active participation in the development of the industry and contributing to the growth of the economy. It is worthy to note that the telecommunication sector experienced rapid progress immediately after the deregulation process.¹⁴

Evolution of the Nigerian Telecommunication Industry and the Pre-Independence era

The development of telecommunications in Nigeria began in 1886 when a cable connection was established between Lagos and the Colonial Office in London.¹⁵ By 1893, government offices in Lagos were provided with telephone service, which was later extended to Ilorin and Jebba in the hinterland.¹⁶ A slow but steady process of development in the years that followed led to the gradual formation of the nucleus of a national telecommunications network. In 1923, the first commercial

⁹ Nigerian Communications Commission Decree, 1992. (Decree 75), http://resources.lawscopeonline.com/LFN/NIGERIAN_COMMUNICATIONS_COMMISSION_DECREE_1992_DECREE_NO._75_ACT_CAP._N97_L.F.N._2004_.htm. Assessed on Aug. 29, 2017

¹⁰ After the inauguration of the first Board, the Commission commenced operations in 1993, however, Market liberalization commenced fully in the year 2000. Retrieved Aug. 29, 2017, from <http://www.ncc.gov.ng/documents/722-presentation-of-ncc-mandate-at-ministry-of-communications-technology-retreat/file>

¹¹ Ernest, N. *Ibid*

¹² Ernest, N. *Ibid*

¹³ Ernest, N. *Ibid*

¹⁴ Ernest, N. *Ibid*

¹⁵ Ajayi, O.; Salawu, R. I. and Raji, T. I. *A Century of Telecommunications Development In Nigeria--What Next?* Retrieved Aug. 31, 2017, from <http://www.vii.org/papers/nigeria.htm>

¹⁶ Attah, M.E. 1988. *Current Trends and Future Development in Telecommunications in Nigeria*. (Presented at the Annual Conference of the Nigerian Association of Radio Science, Lagos). Retrieved Aug. 31, 2017, from <http://www.vii.org/papers/nigeria.htm>

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trunk telephone service between Itu and Calabar was established. Between 1946 and 1952, a three-channel line carrier system was commissioned between Lagos and Ibadan and was later extended to Osogbo, Kaduna, Kano, Benin, and Enugu thus connecting the Colonial Office in London with Lagos and the commercial centres in the country with Local Authority Offices.¹⁷

The main transmission medium during the pre-independence era was unshielded twisted pair. This evolved later from rural carrier systems on high gauge lines to line carrier systems of twelve-channel capacity. Around 1955, small-to-medium transmission capacity systems employing VHF and UHF radio were introduced. The first serious attempt at planning telecommunications services in the country was the 1955/62 Development Programme.¹⁸ It provided for the expansion of the trunk using a VHF Multichannel Radio System on a nationwide basis and a short microwave link between Lagos and Ibadan.¹⁹

In the early days, the primitive coordinate pegboard switching system was used. This progressed through manual switchboards of different sizes, shapes, and capacities until Strowger exchanges were installed into the national network at Lagos Island, Ikeja, Ebute Metta, Apapa, and Port Harcourt between 1955 and 1960 along with 116 manual exchanges.²⁰ The installation of the Strowger exchanges marked the beginning of automatic telephone switching in Nigeria. By the time of independence, automatic exchanges were established at the main centres and a subscriber trunk dialling system (STDS) was introduced between Lagos and Ibadan.

The telegraph service also witnessed a parallel development, from telegraph delivery by way of manual coordinate pegboard switching to the use of Morse code for telex switching. Meanwhile, at about 1960, a manual telex exchange of sixty subscriber lines was in service in Lagos.²¹ While all the above efforts were essentially aimed at improving internal telephone services in Nigeria, external telephone services in the pre-independence period were wholly owned by Cable and Wireless of the United Kingdom, which was a colonial private company.²²

Post-Independence Era

With the attainment of independence in 1960, Nigeria embarked on a periodic national development plan. Telecommunications development was featured in each of these plans, which were usually of five-year duration. It is more meaningful, however, to discuss the development of Nigeria's telecommunications since independence, its objectives, and achievements. In 1960, the focus of attention in this period was the expansion of the network to meet the needs of the fledgling commercial and industrial sectors. The specific objectives of the telecommunication developmental plan included: installation of additional 60,000 telephone lines to bring the total

¹⁷ Ayuba, A.T. May, 1986. *Address by the Minister of Communications on the occasion of the 18th World Telecommunication Day*, Lagos. from <http://www.vii.org/papers/nigeria.htm> Retrieved Aug. 31, 2017,

¹⁸ Ayuba, A.T. May, 1986. *Ibid*

¹⁹ Ayuba, A.T. May, 1986. *Ibid*

²⁰ Ayuba, A.T. May, 1986. *Ibid*

²¹ Attah, M.E. 1988. *Ibid*

²² Attah, M.E. 1988. *Ibid*

number of lines to 90,000 by the end of the decade; expansion of trunk dialling facilities to link the major urban centres that were then springing up; and establishment of the Nigerian External Telecommunications (NET) Limited.²³

Under this arrangement, some of the decade's major achievements included the installation of a microwave radio transmission system to link the cities of Lagos, Ibadan, Enugu, Benin, and Port Harcourt, all of which are in the southern part of Nigeria's transmission system. Preparatory work toward the establishment of NET as a limited liability company started during this period. However, only about 26,000 lines (just over 40% of the planned target) could be added to the existing network, partly because of underfunding and partly because of the disruption caused to the economy by the Nigerian Civil War (1967-70). After the end of war, new automatic exchanges were to be constructed and existing automatic exchanges expanded.²⁴ New manual telephone exchanges were considered for construction as well.

In telegraph communication, the torn tape system was to be replaced with teleprinter automatic switching systems, and key and sounder circuits were to be converted to teleprinter.²⁵ Finally, the 1970-75 plans stipulated the establishment of a Nigerian Satellite Communications earth station at Lanlate²⁶ in the South-Western part of Nigeria due to increase in the number of lines in the network from 52,000 to 241,000 and the number of telex lines from 874 to 4,950. Also, the DOMSAT earth station project was completed. Similarly, work started on the aerostat balloon (although this project turned out to be a disaster due to its failure owing to poor implementation). Notwithstanding, a second satellite antenna was built at Lanlate, and this increased the global coverage of the external services.²⁷

Furthermore, an International Telephone Switching Centre (ITSC) was installed at the Nigerian External Communications (NECOM) House in Lagos, and a new microwave link was provided between Lagos and Cotonou (Benin Republic) and computerized telex, telegraph, and data switching centres were provided at NECOM House. It was envisaged that the total number of installed telephone lines in Nigeria at the end of the plan period would increase to 612,000. During this period under review, the telecommunications arm of the Department of Posts and Telecommunications was merged with the NET to form the Nigerian Telecommunications Ltd. (NITEL) in 1985. NITEL was thus a limited liability company that experienced both local and external underfunding. It is noteworthy that the only objective of the 1970-75 plan periods that was completed was the national telex network.

²³ Mark, D.A.B. May, 1990. Address by the Minister of Communications on occasion of the 22nd World Telecommunication Day, Lagos.

²⁴ Okafor, U. 1993. Nigeria - Cellular Telecommunications Equipment Lagos: American Embassy

²⁵ Okafor, U. 1993. Ibid

²⁶ Lanlate is one of the towns in the present Oyo State of Nigeria.

²⁷ Okafor, U. 1993. Ibid

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There were at least six achievements associated with the 1975-80 plans.²⁸ First, 177 locations were provided with telephone exchanges as well as twenty-nine mobile exchanges, telecommunications services in Nigeria. The existing services offered by NITEL were telephony, telex and telex delivery services, telegraphy and registered telegraphic addresses, pay phones and public coin telephones, transmission and reception of real-time television for network services, private leased telephone and telex service, private wire, leased telephone and telegraph services, alternate voice data (AVD) circuits, voice cast and press reception, international public counter services, NIFAX service (facsimile), a data switching system, electronic mail (national service only) and cellular.

The international services provided by Nigeria's telecommunications system included telephony with international direct dialling in some cities, telex and telex delivery, telegraph, and registered telegraph addresses, leased telephone and telegraph services, television transmission and reception with system conversion facilities, alternate voice and data, voice cast, press reception, high-speed data transmission, and facsimile transmission facilities. NITEL, which was a federal government owned, was corporatized in May 1992, with the ultimate objective being eventual full privatization. The system sought to protect the sovereignty and security of the country by keeping NITEL under government control while, at the same time, making the telecommunications service less dependent on the government. The motivating force behind the decision to corporatize rather than privatise was the fear that control of the national network might be lost to foreign companies.²⁹

Privatisation and Deregulation of Telecommunications Sector in Nigeria

Privatisation simply means returning publicly-owned assets to the private sector, usually where the control of an activity is passed from the public sector to the private sector by means of issue of shares. It was argued that privatisation can be carried out through: contracting-out; denationalisation and load shedding or through an arrangement that is now commonly referred to as Public Private Partnership (PPP). In this context, the term is used to describe a variety of 15 policies designed by the Federal Government of Nigeria to transfer fully or partially the Federal Government's shareholding in the nation's telecommunication industry by way of inviting more competent individuals or organisations to take over the ownership, management and control of the affairs of the telecommunication industry in order to encourage efficiency.

In an attempt to define the concept of deregulation on the other hand, one may be tempted to define it as the opposite of the concept of regulation. In other words, deregulation involves the liberalisation of exchange or trading regimes and the financial system³⁰ as opposed to regulation

²⁸ Bitature, C. 1989. Development of an effective Pan-African Telecommunications (PANAFTEL) Network. (M.sc Thesis, Obafemi Awolowo University, Ile-Ife)

²⁹ Iromantu, O.C. April 25, 1994. Models of Deregulation and Liberalization of Telecommunications for Africa and the Middle East (Paper Presented at Africa Telecom '94, Cairo, Egypt) 5

³⁰ Silas, F. A. March 2014. *Deregulation Policy in the Nigerian Telecommunication Sector: A Study of Mobile Telecoms (MTel), Mobile Telecommunications of Nigeria (MTN) and Globacom Limited (Glo)* (PhD Thesis, Department of Public Administration, ABU, Zaria). from

which entails all the forms of government's firm control imposed on the economy and businesses of all kinds to ensure standards compliance and in most cases to render service to the populace usually at subsidised rate. For the purpose of this work, deregulation is seen as the elimination of government monopoly, control and intervention in the activities of public enterprises in the telecommunication industry. In the circumstance, government participation in the telecommunication sub-sector should be invariably limited to key areas of providing enabling environment, supervision of private ownership, engaging private sector participation, removal of subsidy, opening up the telecommunication sector to various competitors through liberalisation in order to enhance service delivery and efficiency.³¹ In effect, the deregulation of the country's telecommunication industry is conceptualised as privatisation, divestment, competitive and open communication market and complete reorganisation of the information and communication sector. It can be referred to as the concept of doing away with the regulations that are concerned with government monopoly and total ownership of the telecommunication industry for a greater collaborative effort of both the government and the private sector for a thriving telecommunication landscape and economic growth.³²

Deregulation is a robust element of economic reform aimed at improving the overall economy through well cut out and coordinated modalities desirable for effective engagement of local and foreign investors. Under the deregulated policy, the government has little or no involvement but provides the leveraging efforts that support expansive private participation in the country's telecommunication sector for the overall economic growth. It allows individuals to participate and exercise their respective wisdom and ingenuity which ultimately thrive the economy. It also ensures competitive economic system devoid of monopoly in an open market which allows price mechanism and the principle of demand and supply to determine the economy and prevail.³³

In Nigeria, deregulation and privatisation were adopted for several reasons, ranging from the demand for efficiency and effectiveness in public enterprises (PEs), to the need for accountability, generation of employment, curb external borrowing, strengthen the capital market amongst others. The greater impetus towards the deregulation of the sector was affected by the promulgation of the National Communications Commission (NCC) Decree of 1992 which was further enhanced by the Nigerian Communications Act, 2003. With this, efforts to liberalise Nigeria's telecommunication

<http://kubanni.abu.edu.ng:8080/jspui/bitstream/123456789/5893/1/DEREGULATION%20POLICY%20IN%20THE%20NIGERIAN%20TELECOMMUNICATION%20SECTOR%20A%20STUDY%20OF%20MOBILE%20TELECOMS%20%28MTEL%29%2C%20MOBILE%20TELECOMMUNICATIONS%20OF%20NIGERIA%20%28MTN%29%20AND%20GLOCOM%20LIMITED%20%28GLO%29.pdf> .

Retrieved Sep. 02, 2017.

³¹ Silas, F. A. March 2014. *Ibid*

³² Silas, F. A. March 2014. *Ibid*

³³ Attah, R. Dec. 2016. Deregulation in Telecommunication Industry and its Effect on the Nigeria Economy 2001 to 2011. from <http://nairastudent.com/deregulation-in-telecommunication-industry-and-its-effect-pon-the-nigeria-economy-2001-to-2011/> Assessed and Retrieved on Aug. 31, 2017.

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sector gained full impetus setting the stage for the licensing of key private operators and the dismantling of NITEL's monopoly and opening up the space for private participants in the sector.³⁴ As part of the policy for NITEL/MTEL, investors needed to specifically buy 76 percent of its equity shares in order to exercise majority control. The owners also needed to own 75 percent equity share to be able to alter the Memorandum and Article of Association whose failure could create problems by preventing key decisions to be taken in respect of the company.

Meanwhile, with the restoration of civil democratic rule in May 1999, there came renewed calls for the reform of the telecommunication sector. Barely a week into his administration, President Obasanjo inaugurated a committee to draw up a telecommunications policy for Nigeria and personally presided over its inaugural sitting. This committee came out with a telecommunication policy document in September 1999. It was later determined that the 1999 policy document was not comprehensive enough and therefore was slated for review. The document was subsequently passed on to the Telecommunications Sector Reform Implementation Committee (TSRIC).³⁵ The TSRIC produced a new version of the National Telecommunications Policy (NTP) which was approved by the Federal Executive Council and released in September 2000.³⁶

The hallmark of the reviewed policy was the provision of a blueprint for full liberalisation of the telecommunications industry. The objectives of the Federal Government and the roles of the different players in the industry were clearly set out in the NTP.³⁷ The NCC, as the independent regulator of the industry, was empowered to issue licences, assign frequencies, issue numbers and perform other regulatory functions as may be consistent with its mandate to promote the development of Nigerian communications industry and protection of consumers.

The National Telecommunications Policy was revised and published in 2000.³⁸ Arising from the policy was the enactment of a new Communications Law in 2003.³⁹ Several regulations and guidelines were also enacted and published for the guidance of the industry. All these laid the foundation for the decade of telecommunications revolution between 2001 and 2011.⁴⁰ It is also instructive to note that before the launch of GSM services by Econet and MTN in August 2001,

³⁴ Attah, R. Dec. 2016. *Ibid*

³⁵ National Policy on Telecommunications 2000. from <https://www.google.com> Assessed and Retrieved Aug. 31, 2017.
<https://www.researchictafrica.net/countries/nigeria/National%2520Policy%2520on%2520Telecommunications.pdf&sa=U&ved=0ahUKEWjOjcadxYHWAhVIb1AKHfb3B2QQFggsMAA&usg=AFQjCNEa09TlhOX9JsmeNqbEfv8W39C0qg>

³⁶ National Policy on Telecommunications 2000

³⁷ *Ibid*

³⁸ *ibid.*

³⁹ The Nigerian Communication Commission Act, 2003

⁴⁰ The return of democracy in 1999 paved the way for the granting of GSM license to 3 service providers: MTN, Communication Nigeria Ltd, ECONET Wireless Ltd, Nigeria and NITEL Plc in 2001 and today NCC has issued more than 200 licenses to intending telecommunication operators. See also Anthony, A. I. and Gbandi, E.C. 2012. Telecommunications Reform In Nigeria: The Marketing Challenges. *JORIND* 10.2: 193- 198. from <https://www.transcampus.org/journals> , <https://www.ajol.info/journals/jorind> Assessed and Retrieved Aug. 31, 2017.

companies such as Multilinks, Intercellular, Reltel, Starcomms and Mobitel had launched commercial services based on the CDMA technology.⁴¹ We have therefore had a telecommunications revolution that has seen the CDMA technology develop side by side with the GSM technology in Nigeria.⁴² Nigeria has the largest number of GSM connections on the continent of Africa, just as it is also true that Nigeria has the largest number of CDMA connections in Africa.⁴³

In the period before the market was liberalised, NITEL did not have an effective Sales/Marketing Department. It was a seller's market and little attention was paid to customer complaints. NITEL hardly used the term "customer" to describe those who patronise their services.⁴⁴ They were just mere subscribers! Today it is an open or buyer's market with plenty of choices unlike the monopolised era of NITEL. Even in the new liberalised market evolution, there is still need for consumer protection.⁴⁵ The NCC has been engaged in this responsibility and has been active and innovative in its effort to inform, educate and protect telecommunication consumers in Nigeria. It had also been discharging this mandate through initiatives such as the Telecommunications Consumer Parliament (TCP), Consumer Outreach Programme (COP) and the establishment of Customer Care Centres.⁴⁶

Given the intense competition that characterises today's telecommunications market in Nigeria as a result of privatisation, no telecommunication companies can afford to ignore consumer promotion schemes. Promotions play a key role in the life cycle of any brand.⁴⁷ It is therefore no surprises that all the telecommunication service providers in Nigeria now engage in one form of

⁴¹ Ernest, N. *The Telecommunication Revolution in Nigeria*. (Being the text of the Convocation Lecture delivered at the Igbinedion University Okada on the 2nd December 2011 at the Annual Convocation Ceremony of the University). <http://www.iuokada.edu.ng/files/c/The%20Telecommunications%20Revolution%20In%20Nigeria.pdf> Retrieved Aug. 29, 2017.

⁴² Ernest, N. *Ibid*

⁴³ Ernest, N. *Ibid*

⁴⁴ Ernest, N. *Ibid*

⁴⁵ Among the three important factors influencing consumer choice between providers of telecommunication services, price stand as the most important factor. Telecommunication consumer faces a menu of price structure and it becomes difficult to determine such pricing structure in a meaningful notion of what is the price of a product or service to be compared to the price of other substitute. Such structure includes, fixed or access charges, variable charges, bundled service discount and night free calls. See also Anthony, A. I. and Gbandi, E. C. 2012. Telecommunications reform in Nigeria: The marketing challenges. *JORIND* 10.2: 193-198. [https://www.transcampus.org./journals, https://www.ajol.info/journals/jorind](https://www.transcampus.org./journals,https://www.ajol.info/journals/jorind) Assessed on Aug. 31, 2017

⁴⁶ Ernest, N. *The Telecommunication Revolution in Nigeria*. (Being the text of the Convocation Lecture delivered at the Igbinedion University Okada on the 2nd December 2011 at the Annual Convocation Ceremony of the University). <http://www.iuokada.edu.ng/files/c/The%20Telecommunications%20Revolution%20In%20Nigeria.pdf> Retrieved Aug. 29, 2017.

⁴⁷ Most of the promotions lack innovation. What strategy the major competitor is using other companies also start following that. They do not come out with their own ideas so that they can make their promotions distinct from other and that can appeal the minds of consumers. This seems to be the single most important reason for the success behind any promotion. The Brand managers must come out of this paradigm and dare to be innovative. See Anthony, A. I. and Gbandi, E. C. 2012.

promotional activities and marketing strategies or the other to sway consumers to their network. Again some unscrupulous elements have capitalised on some of these schemes to defraud innocent subscribers under many disguises using the service providers' network platforms. SMS messages are sent to subscribers and some in the nature of fake rewarding investments thereby depriving people of their hard earned resources. This is an area that must be looked at by the service providers in conjunction with the regulatory authorities such as the NCC, FCCPC, the Nigerian Police, EFCC and other anti-fraud bodies.

Current Framework for Telecommunications Industry in Nigeria

The regulatory authorities of telecommunications industry in Nigeria are considered within the Nigerian legislative framework. This is to ensure coherence and logical arrangement of the work. Although this section may not be an exhaustive discussion of all regulatory authorities of telecommunications industry in Nigeria, it is believed that the section will cover the main regulatory bodies that have direct or indirect link with telecommunications industry and services. The Cable and Wireless Act of 1962 established the Ministry of Communications as the regulator of Nigeria's telecommunication sector.⁴⁸ This Ministry regulated NITEL until the National Communications Commission (Decree) 1992 established the Nigerian Communications Commission (NCC).⁴⁹ The Nigerian Communications Act of 2003⁵⁰ replaced the amended Nigerian Communications Commission Act of 1992. Under the new Act, the NCC is placed within the supervision of the Federal Ministry of Communications Technology.⁵¹ The Nigerian Communication Commission is responsible and empowered with the mandate for initiating and supervising telecommunications policies in Nigeria with specific roles including the following among others:

- (i) Facilitating private-sector investment and participation in the telecommunication sector particularly in the areas of communications services, equipment and facilities,

⁴⁸ Nigerian Communications Commission: *Strategic Management Plan (SMP) 2014-2018: Building Sustainable Development of the Communications Market*. Assessed and Retrieved Aug. 31, 2017, from https://www.google.com.ng/url?q=http://www.ncc.gov.ng/documents/624-strategic-management-plan-smp-2014-2018/file&sa=U&ved=0ahUKEwjLoLzy54HWAhUKZlAKHX_IBXgQFggQMAY&usg=AFQjCNEooUNT6vd7ZH-HvKFhITLv6C8j1Q

⁴⁹ Nigerian Communications Commission Decree 1992 Decree No. 75 Act Cap. N97 L.F.N. 2004. Assessed and Retrieved Aug. 31, 2017, from http://resources.lawscopeonline.com/LFN/NIGERIAN_COMMUNICATIONS_COMMISSION_DEGREE_1992_DEGREE_NO.75_ACT_CAP. N97_L.F.N. 2004 .htm

⁵⁰ The primary object of this Act is to create and provide a regulatory framework for the Nigerian communications industry and all matters related thereto and for that purpose and without detracting from the generality of the foregoing. See generally Chapter I (Sections 1 and 2 of the Nigerian Communications Act 2003.

⁵¹ Nigerian Communication Commission: *Strategic Management Plan (SMP) 2014-2018: Building Sustainable Development of the Communications Market*. *Ibid*

- (ii) Protecting and promoting the interests of consumers against unfair practices in matters related to tariffs and charges, availability and quality of communications services, equipment and facilities.
- (iii) Ensuring that the licensees implement and operate their licences in the most efficient manner with accurate billing system.
- (iv) Promoting fair competition in the communication industry and protection of communication services and facilities providers from misuse of market power and anti-competitive and unfair practices by other service or facilities providers or equipment suppliers.
- (v) Granting and renewal of licenses and monitoring and enforcing compliance with the terms and conditions of the licences by the telecommunication operators.
- (vi) Improving telecommunication penetration in Nigeria.
- (vii) Establishing and supervising technical and operational standards and the practices of network operators.
- (viii) Overseeing the quality of service provided by operators.
- (ix) Setting terms for the interconnection of carrier networks; and
- (x) Ensuring that the interests of telecommunication consumers are protected by promoting competitive pricing and guarding against the abuse of market power. Management and administration of frequency spectrum for the Communications industry.⁵²

Since its establishment, and in order to perform its basic responsibilities within the regulatory framework, the Nigerian Communications Commission (NCC) has embarked on so many fundamental initiatives that give force to its oversight operations on the service providers. The Commission adopted a number of initiatives in order to carry out its mandates and to address the initial challenges encountered by the industry. Some of these are discussed below.

The NCC took key steps in encouraging network rollout by issuing Unified Licences to interested operators.⁵³ It should be noted that during the initial licensing of telecommunication operators, the NCC emphasized differing licences for each telecommunication services. In doing so, the Commission differentiated between mobile service providers and providers of fixed wire/wireless services. There was also exclusivity period to protect Digital Mobile Service (DMS) operators.⁵⁴ However, when it was clear that DMS providers were well established while exclusivity period had expired, the Commission introduced Unified Access Licence (UAL).⁵⁵

⁵² Section 4 Nigerian Communications Act, 2003

⁵³ NCC: *Unified Access Service Licence Granted by Nigerian Communications Commission under Section 32 of Nigerian Communications Act 2003*. Assessed and Retrieved Sep 1, 2017, from <https://www.google.com.ng/url?q=http://www.ncc.gov.ng/docman-main/licensing-documents/45-unified-access-service/file&sa=U&ved=0ahUKEwj2qYGW8YHWAhVOI1AKHVu0A28QFgghMAA&usg=AFQjCNFcE0HIIdshz6T2xRvH7v-Uhxe7BIQ>

⁵⁴ NCC: *Strategic Management Plan (SMP) 2014-2018: Building Sustainable Development of the Communications Market*. *Ibid*

⁵⁵ NCC: *Unified Access Service Licence Granted by Nigerian Communications Commission under Section 32 of Nigerian Communications Act 2003*. *Ibid*

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The UAL regime enabled the licence holders to provide all services as against discriminatory services which hitherto were applicable to the single service licence. This was done to deepen competition in the industry and to take advantage of the convergence in telecommunication facilities. Another major initiative taken by the Commission is the issuing of interconnectivity exchange licences to operators.⁵⁶ At the initial stage of liberalisation of the telecommunication industry, the Commission observed that the existing operators were not willing to interconnect with the new operators in order to frustrate the impending but necessary competition.⁵⁷ The practice led to development of lopsided and frustrating interconnectivity agreements in favour of the exiting service providers against the newly licenced telecommunication service providers. In the circumstances where the interconnectivity agreements were eventually signed among operators, there were deluge of cases of arbitrary disconnection stultifying the smooth operation and performance within the industry.

Thus the industry witnessed multiple interconnectivity agreements and huge interconnectivity indebtedness with humongous charges due for payments.⁵⁸ However, the Commission on realising this problem quickly intervened and formulated the policy of issuing interconnectivity licences all the operators.⁵⁹ The policy forestalled the disturbing challenges and thereby serves a connectivity hub for all operators. It also serves as interconnectivity clearing house for the purpose of settling interconnectivity charges and indebtedness among operators. In addition, interconnect price determination was also completed and instituted by NCC. The NCC initiated and implemented infrastructure sharing policy to facilitate quick deployment of telecommunication services in an efficient manner by the new entrants.⁶⁰ The policy also addressed concerns arising from multiple fees, taxation, and proliferation of communications infrastructure amongst others.

Under the new regime, operators are now able to share facilities such as base stations sites, fibre ducts, fibre swamps and power to cut overhead costs.⁶¹ The NCC introduced another regulation in May 2010 and the rules require that all mobile phone subscribers must register their SIM cards with their respective mobile network operators.⁶² The Subscriber Identity Module (SIM)

⁵⁶ NCC: *Voice Interconnection Rate Determination by the Nigerian Communications Commission*. Assessed and Retrieved Sep.1, 2017, from <http://www.ncc.gov.ng/docman-main/legal-regulatory/legal-determinations/355-determination-of-voice-interconnection-rates-2013/file>

⁵⁷NCC: *Strategic Management Plan (SMP) 2014-2018: Building Sustainable Development of the Communications Market*. Ibid

⁵⁸ NCC: *Strategic Management Plan (SMP) 2014-2018: Building Sustainable Development of the Communications Market*. Ibid

⁵⁹ NCC: *Voice Interconnection Rate Determination by the Nigerian Communications Commission*. Ibid

⁶⁰ NCC: *Infrastructure Sharing and Collocation Services Licence. Under Section 32 of the Nigerian Communications Act, 2003*. Assessed and Retrieved Sep. 1, 2017, from <http://www.ncc.gov.ng/documents/31-infrastructure-sharing-collocation-services-1/file>

⁶¹NCC: *Infrastructure Sharing and Collocation Services Licence, under Section 32 of the Nigerian Communications Act, 2003*

⁶²NCC: *Sims Registration*. Retrieved Sep. 1, 2017, from <http://www.ncc.gov.ng/stakeholder/corporate-matters/projects/72-sim-registration>

registration initiative was designed to capture the identity of mobile phone subscribers for identity and security management. The exercise involved massive campaign by the NCC across cities and rural areas of the country, and despite the challenges, it has been adjudged a huge success. The registration exercise of old SIM cards was officially concluded by the NCC on June 30, 2013 while that of new SIM continues.⁶³ The SIM Card registration has been helpful in providing adequate information about subscribers and holders of particular phone line which information have assisted security agents in tracking down criminals and other fraudulent activities prevalent in the society. In furtherance of its efforts to promote competition, improve quality of service and ensure that consumers continue to enjoy good experience on the mobile networks, the NCC launched mobile number portability (MNP) service for GSM subscribers in April 2013.⁶⁴ The MNP enables consumers to switch networks without losing their cellular phone numbers. For effective implementation of this scheme, the Commission issued a licence to a consortium of three companies (Interconnect Ltd, Saab Grinteck and Telecordia) in January 2012 to act as the Number Portability Clearing House (NPCH) for the industry.⁶⁵

In order to further deepen ICT penetration and reduce the cost of internet services, the Ministry of Communications Technology finalised and presented the draft copy of the national ICT policy document in line with National Broadband Plan (NBP) in January 2012.⁶⁶ The National Broadband Plan was submitted by the Presidential Committee on Broadband and the document was approved by the President for implementation. The Nigerian National Broadband Plan was designed to promote pervasive broadband deployment, increase broadband adoption and usage, and ensure availability of broadband services at affordable prices with the long-term objectives of maximizing the socio political and economic benefits of broadband to the people.⁶⁷

Without doubt, the implementation of the above mentioned initiatives yielded great achievements which are to the credit of the Nigerian telecommunication industry as an upward and progressive sector responsive to the needs and yearnings of the people of the country. The introduction of GSM revolution in 2001 graduated telecommunications as a system of communication of the people, by the people and for the people as against the often held notion that telecommunications is a luxury meant for only the elites and the well-to-do members of the society. The relevance and roles of telecommunication services as the driving force for the development of the Nigerian economy cannot be over-emphasized. The telecommunications industry has integrated Nigeria into the new

⁶³NCC: *Sims Registration: Ibid*

⁶⁴NCC: *Mobile Number Portability*. Retrieved Sep. 1, 2017, from <http://www.ncc.gov.ng/stakeholder/corporate-matters/projects/71-mobile-number-portability>

⁶⁵NCC: *Strategic Management Plan (SMP) 2014-2018: Building Sustainable Development of the Communications Market. Ibid*

⁶⁶NCC: *National Broadband Plan*. Assessed and retrieved on Sep. 1, 2017, from http://www.ncc.gov.ng/thecomunicator/index.php?option=com_content&view=article&id=234:ncc-unfolds-nigerias-broadband-plan&catid=32&Itemid=179

⁶⁷NCC: *Strategic Management Plan (SMP) 2014-2018: Building Sustainable Development of the Communications Market. Ibid*

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age of borderless economy and globalization.⁶⁸ There is remarkable expansion of electronic commerce through modern distribution systems using telecommunication networks and services. Telecommunication services is an inclusive vehicle that promote and enhances the development of social, cultural, and economic activities including trade and investments. The growth of electronic commerce in Nigeria and development of new sophisticated distribution systems and provision of services such as e-delivery, e-payments, and e-campaigns through service providers in financial and non-financial institutions using telecommunication networks and online digital strategies is a grand testimony.⁶⁹

It should be noted that in spite of the achievements and successes recorded by the telecommunications sector, there still are some critical problems with the telecommunication service providers. There is an obviously noticeable inadequate infrastructural capacity, including manpower and insufficient network backbone for a seamless call traffic. Also, like every other sector of the Nigerian economy there is the problem of irregular electricity supply and incessant power outages which tend to affect the optimum performance of the operators. The cost of providing alternative power supply through the use of generators is highly prohibitive and skyrockets the cost of telecommunication services. Another critical challenge to telecommunication service providers in Nigeria has been the multiple tax regimes imposed by federal, state, and local authorities.⁷⁰ All the tiers of government in Nigeria levied one tax or the other including land use charges, environment charges, among others.

International Best Practices and Nigeria Telecommunication Sector

Telecommunications generally is a venture with international flavours. The major changes witnessed in the telecommunications sector across Africa were made possible through the initiatives of international and regional organisations such as the Organisation of African Unity (OAU) now Africa Union (AU), International Telecommunications Union (ITU), the World Bank, United Nations Development Programmes (UNDP), the Economic Commission for Africa (ECA), African Development Bank (ADB) and other bodies.⁷¹ The initiatives were backed up with technical and financial assistance with the sole objective of fostering telecommunications as a tool for socio-economic development in the early years.⁷² It is thus essential to note that international co-operations in the nature of bilateral and multilateral arrangements are necessary for the purposes of keeping standards in the operation of an effective telecommunication systems. International co-operations affords countries the opportunity of peer review and the advantage of sharing

⁶⁸ Reich, N. & Halfmeier, A. (2001-2002), Consumer protection in the global village: recent developments in German and European Union Law. *Vol. 106 Dickson Law Review:111-137*

⁶⁹ *Ibid*

⁷⁰ *Ibid*

⁷¹ Aloo, C. R. S 1988: Development of telecommunications infrastructure in Africa: network evolution, present status, and future development. *African Media Review*, Vol. 2 No.3 1988, pp 19-34 African Council on Communication Education, African e-Journals Project, Michigan State University, <http://digital.lib.msu.edu/projects/africanjournals/> assessed on 22 January 2020

⁷² *Ibid*

experiences with respect to new innovations and developments as well as combating challenges that may surface in their respective jurisdictions.

The Nigerian National Policy on Telecommunications (NTP) was aware of the benefits accruable through international collaborations. The NTP stated emphatically that the government shall ensure that Nigeria meets its international obligations and participates actively in all international telecommunication activities whose objectives would promote telecommunications development in the country.⁷³ The policy highlighted key strategic areas of participation which the government shall give priority to. According to the policy framework, government shall do the following:

- a. To accord priority to the country's participation in the various projects aimed at rapid development of the African regional telecommunications network, particularly the Pan African Telecommunications networks (PANAFTEL) and the SAT3/WASC/SAFE Projects;
- b. To ensure effective participation of Nigeria in the activities of various international organisations, in particular, the ITU, Intelsat, INMARSAT, WTO and their organs.
- c. To encourage NCC and all operators to take advantage of the opportunities available at international levels to promote achievement of their set goals and objectives.
- d. To support the efforts of the Economic Community of West African States (ECOWAS) in harmonising telecommunications development in the region.
- e. To encourage and support the export of locally manufactured goods and services to other African countries.
- f. To encourage and support other West African regional integration initiatives in telecommunications development, harmonisation of regulatory policy and promotion of direct communications link.

In line with these international objectives, Nigerian Communications Commission (NCC) is playing a leading role in the international scene. The Commission has facilitated the establishment of the West African Telecommunications Regulators Assembly (WATRA)⁷⁴ which it has continued to nurture and support and is also very active within the African Telecommunications Union (ATU), The Commonwealth Telecommunications Organisation (CTO) and the International Telecommunications Union (ITU). With its subscriber growth rate and its position in Africa, Nigeria through the NCC, remained committed to facilitating the growth of the Nigeria's

⁷³ As National Policy on Telecommunications 2000

⁷⁴The Federal Government and West Africa Telecommunications Regulators Assembly (WATRA) recently signed agreement on adopting a comprehensive framework for the regulation of telecommunications activities. WATRA is an organisation that consists of Independent National Regulatory Authorities (NRAs) and departments for regulation of telecommunications services established by governments of member-states in ECOWAS and Mauritania. Its mission is to promote rapid and even development in telecommunications in West Africa toward attaining globally competitive standards while facilitating accelerated development of telecommunications infrastructure and provision of services at affordable rate in the sub region. Retrieved Sep. 02, 2017, from <http://sundiatapost.com/tag/west-africa-telecommunications-regulators-assembly-watra/amp/>

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telecommunications industry, and taking its leadership position in telecommunications development in Africa.⁷⁵

For any country to achieve best practices in its telecommunications regulations, focus must be on 7 fundamental regulatory framework, namely; licencing, competition, spectrum regulation interconnection, access, tariff, and numbering.⁷⁶ Every country aiming at achieving best practices must adhere to these basic set of regulatory principles in a manner that will remove regulatory barriers to access market and implementation of the regulations to prevent anti-competitive practices among the operators and opening up the telecommunication markets to new investors.⁷⁷ The overall principles which the countries must adhere to are summarised below:

- a. to prevent domestic telecommunication providers from engaging in anti-competitive practices,
- b. to provide interconnection upon request, under non-discriminatory terms and conditions, and at cost-oriented rates that are transparent and feasible,
- c. making licencing criteria transparent and publicly available, including the time it will take to reach a decision on licence application,
- d. to make fair and non-discriminatory use of scarce resources such as spectrum.

There is no doubt that there is an elaborate legal and institutional mechanisms put in place to ensure that the operators provide quality services to consumers or subscribers on fair terms, but there is growing anxiety of exploitation of the consumers by the service providers.⁷⁸ For the avoidance of doubt, Chapter 4 through Sections 31 to 89 of the Nigerian Communications Act, 2003 made extensive provisions for licencing regimes that covers individual licence, class licence, renewal of licence, surrender, suspension and revocation of licence, register and deregistration of licence, regulations and guidelines for the holding and assignment of licences, registration of agreements as well as dispute resolution mechanisms for settling disputes arising from issued licences and issues connected thereto.

⁷⁵ Ernest, N. *The Telecommunication Revolution in Nigeria*. (Being the text of the Convocation Lecture delivered at the Igbinedion University Okada on the 2nd December 2011 at the Annual Convocation Ceremony of the University). Retrieved Aug. 29, 2017, from <http://www.iuokada.edu.ng/files/c/The%20Telecommunication%20Revolution%20In%20Nigeria.pdf>

⁷⁶ The Public Private Infrastructure Advisory Facility, The World Bank; May 2013: International Best Practices Report on Telecommunications Regulations, Contract No. 7166250 (Presented to Ministry of Communications and Information Technology, Republic of the Union of Myanmar, p.5 assessed on 21 January 2020)

⁷⁷ These principles are in line with the resolutions adopted in 1997 as part of the World Trade Organisation (WTO) negotiations on the Agreement on Basic Telecommunications and became the reference papers on telecommunications regulatory principles. This WTO-prepared Reference Paper has become a working tool on the subject. See http://www.wto.org/english/tratope/serve/telecom.e/tel23_e.htm assessed on 21 January 2020.

⁷⁸ B. A. Agoro and L. A. Adeleke (2018): Alchemy of the legal regime of consumers protection in telecommunications industry in Nigeria. *Niger Delta University Law Journal*, Vol. 2 No. 2, December 2018, 136-159

Also, Sections 90 to 95 of the Act dealt with the economic issues of competition practices. Under the Act, the Commission is saddled with the exclusive responsibility of determining, pronouncing, administering, monitoring and enforcing compliance of all persons with competition laws and regulations, whether of a general or specific nature, as it relates to the Nigerian communication market.⁷⁹ It is however uncertain whether the exclusive competence granted the NCC under the Act can stand in view of the fact that Nigeria now has a new legislation that deals with competition and consumer protection i.e. Federal Competition and Consumer Protection Act, 2019. It should be noted that the FCCPA 2019 applies to all undertakings and all commercial activities within or having effects within Nigeria. It also applies to all bodies and agencies of the government engaging in commercial activities where the government have controlling interest and all commercial activities established for making profits with ultimate satisfaction of the public.⁸⁰ It also establishes Federal Competition and Consumer Protection Commission as well as Consumer Protection Tribunal⁸¹ to promote competition in the Nigerian markets and to eliminate monopolies, prohibit the abuse of dominant market position and penalise restrictive trade and business practices.⁸² The provision of Sections 90 to 95 of the Nigerian Communications Act cannot confer exclusive jurisdiction on anti-competition practice on the NCC in view of the fact that the FCCPA covers all undertakings and commercial activities including telecommunication services with focus of public satisfaction.

With respect to the regulation of interconnection and access, Section 96 to 100 of the Nigerian Communication Act oblige the network service and facilities providers to interconnect their communication systems with other licensees at technical feasible locations⁸³ and make provisions for interconnectivity agreements stipulating the terms and conditions in writing⁸⁴ and that such agreements must be registered with the Commission with 30 days from the date of executing the agreement and empowers the Commission to make regulations for interconnection agreements. The Act through Sections 101 to 103 also provide that a network facilities provider and network service provider shall provide access to their network facilities or network services on written request on reasonable terms and conditions while the Commission reserves the right to keep and maintain a register of network facilities, network services and other facilities and services that will facilitate supply of telecommunications networks and services.

The Act also addresses the issues of consumer protection, quality services and tariff rate regulations.⁸⁵ The Commission regulates the minimum standards of quality of service that must be provided and addresses consumers' complaints. Under and by virtue of Chapter VII, Part I (Sections 104–106) of the Act⁸⁶ which deal with consumer protection and quality of service, all

⁷⁹ See Section 90 of the Nigerian Communication Act, 2003

⁸⁰ Section 2(2) of the Federal Competition and Consumer Protection Act, 2019

⁸¹ Section 39(2) Federal Competition and Consumer Protection Act, 2019

⁸² See the explanatory note to the Federal Competition and Consumer Protection Act, 2019

⁸³ Section 96 of the Nigerian Communications Act, 2003

⁸⁴ Section 97: *ibid*

⁸⁵ See Sections 104 to 111: *ibid*

⁸⁶ Nigerian Communication Act 2003

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service providers are required to meet such minimum standards of quality of service as the Commission may from time to time specify and publish and deal reasonably with consumers, and adequately address consumer complaints. The Commission is empowered to use any of its powers under the Act in the resolution of complaints received from consumers in relation to matters of customer service and consumer protection including but not limited to quality of service or the failure by a licensee to comply with a Consumer Code.

It is further important to note that the Act makes elaborate provisions for the resolution of consumer complaints through Alternative Dispute Resolution (ADR) processes.⁸⁷ Under the Act, the Commission is conferred with powers to resolve disputes between persons who are subject to the Act regarding any matter under the Act or its subsidiary legislation. However, it is incumbent on the parties to first make an attempt first and foremost to resolve any dispute between them through internal negotiation mechanism before the involvement of the Commission.⁸⁸

The Act further mandates the Commission to publish guidelines setting out the principles and procedures that parties must follow and take into account in resolving disputes or a class of disputes.⁸⁹ The Commission has published in its website and distributed flyers and leaflets on specific subjects such as: *Procedure for Lodging a Consumer Complaint*; *The Role of NCC in Consumer Protection*; *Consumer Facts: Obligations of Service Providers to Nigerian Consumers of Telecoms Services*; *Awareness on Cybercrime*; *Understanding Broadband*; *Consumer Bill of Rights*; and host of others.⁹⁰ The Commission also established the Consumer Affairs Bureau (CAB) in September 2001 as a unit within its operation to protect, inform and educate all consumers of telecommunication services in Nigeria.⁹¹ The PIE mandate as it is technically called has the objectives of empowering the consumers through awareness creation programmes that will highlight the rights, privileges and obligations of the consumers. The Bureau is also established to ensure that consumers have adequate information and education, protect them from unfair practices, facilitate redress for dissatisfied consumer care services to consumers and organise consumer outreach forums.⁹² The CAB whose core vision is to ensure all consumers of ICT services in Nigeria are informed, protected and satisfied is also enjoined to mediate and resolve dispute between consumers and service providers and facilitate efficient consumer-operator interface for complaints management.⁹³ The Unit also monitors the activities of service and programmes of service providers and the extent to which it impact consumers.⁹⁴ It also ensures that the call/care centres established by the service providers meet acceptable standard in line with the international best practice and collaborates with consumer advocacy groups in every of its

⁸⁷ See section 73 Nigerian Communication Act 2003

⁸⁸ See section 74 Nigerian Communications Act 2003

⁸⁹ See section 75 Nigerian Communications Act 2003

⁹⁰ See consumerportal@ncc.gov.ng and Consumer Web Portal: www.ncc.gov.ng/consumer

⁹¹ *Ibid*

⁹² *Ibid*

⁹³ *Ibid*

⁹⁴ *Ibid*

dealing with its mandates.⁹⁵ The Commission is empowered to resolve the disputes in such manners including but not limited to ADR processes and upon such terms and conditions as it may deem fit.⁹⁶ In carrying out its dispute resolution functions, the Commission is to be guided by the objective of establishing a sustained dispute resolution process that is fair, just, economical and effective and shall not be bound by technicalities, legal forms or rules of evidence and shall at all times act according to the ethics of justice and the merits of each case.⁹⁷

The Commission also has mandate to establish procedures or guidelines for the making, receipt and handling of complaints of consumers regarding the conduct or operation of licensees and may, at its discretion, institute alternative dispute resolution processes for the resolution of the complaints or disputes provided that the licensee's dispute resolution procedures shall first have been exhausted by the consumer before presentation of the complaint to the Commission. Under Section 106,⁹⁸ the Commission may designate an industry body to be a consumer forum and to prepare a consumer code, and the consumer code prepared by such body shall be subject to the prior approval of and ratification by the Commission. The Commission may require licensees to prepare individual consumer code for their respective customers, and such consumer code shall be subject to the prior approval of and ratification by the Commission.

Where a Consumer Codes is prepared by a Consumer Forum, the Commission or licensees shall include model procedures for reasonably meeting consumer requirements, the handling of customer complaints and disputes including an inexpensive arbitration process other than court proceedings. It must also include procedures for the compensation of customers in case of a breach of a consumer code, and the protection of consumer information. Other matters which the consumer code is supposed to address include, but are not limited to, further recourse available to a consumer who is dissatisfied with the licensee's complaints-handling procedures together with specific details of compensation and refund schemes offered by licensee to its customers, the provision of information to customers regarding services, rates and performance, and any other matter which in the opinion of the Commission, may be of concern to consumers.⁹⁹

There is no doubt that the Nigeria Communication Commission (NCC) is living up to its expectation in its mandates particularly in the areas of licencing regulation, interconnectivity, spectrum allocation and consumer protection. However, there is still much work to be done in the area of implementation particularly on the anti-competitive practices and consumer satisfaction. The Commission will need to work other agencies like the Federal Competition and Consumer Protection Commission to achieve the goals and objective of meeting the international best practices.

Conclusion

⁹⁵ *Ibid*

⁹⁶ See section 76 Nigerian Communication Act 2003

⁹⁷ See section 76 (2) Nigerian Communication Act 2003

⁹⁸ *Ibid*

⁹⁹ Festus, O. U. 2014: op. cit.

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For the purpose of the future and to sustain the progress made in the telecommunication industry in Nigeria, it will be critical for government to continue to maintain stability in the policy and regulatory space. The high investment levels that have been attained in the sector were not because Nigeria suddenly became one of the most desired investment destinations for telecommunications and ICTs in Africa or because of its large population, but largely because of the stable policy and enduring regulatory regime that the industry has enjoyed since 2000. The tempo of this sustainability must therefore be maintained and improved upon.

It is also important to maintain the political and financial independence of the regulatory institution. Regulators need to be able to regulate the market fairly and earn the confidence of investors, consumers and other stakeholders. Nigeria must strive to maintain an operating environment that is conducive to attract investment by avoiding actions that can constitute disincentive for investment. The telecommunications sector is very capital intensive and therefore, to continue to encourage timely network expansion, improve quality of service and ensure national coverage in Nigeria and more emphasis must be placed on ensuring an attractive operating environment for the investors. The NCC must also develop the political to wield the big stick where necessary to check incessant abuses of the operators who may wish to violate the law and the regulations made for the convenience of all.