



REPORT OF THE PUBLIC INQUIRY ON THE DRAFT COMMUNICATIONS NETWORK INTERCONNECTION REGULATIONS (AS AMENDED)

1.0 INTRODUCTION

The Nigerian Communications Commission (the Commission) pursuant to its powers under *Section 72 of the Nigerian Communications Act, 2003 (the Act)* amended the Communications Network Interconnection Regulations (draft Regulations).

Based on the Commission's participatory rule-making procedure, the draft Regulations was published on its website for comments from the general public, especially communications operators and other stakeholders.

Further to this, the Commission received Two (2) submissions from MTN Nigeria Communications Plc. (MTN) and Emerging Markets Telecommunication Services Limited (Trading as 9Mobile).

A Public Inquiry was scheduled to hold on May 21, 2024, and all stakeholders were duly notified. A Notice of the Public Inquiry on the draft Regulations was published in the Daily Trust and Guardian Newspapers of Tuesday, April 16, 2024.

2.0 THE PUBLIC INQUIRY

The Public Inquiry held as scheduled at the Conference Room of the Commission, from 11:00 am, on May 21, 2024. Staff of the Commission, operators, interested stakeholders and the media attended both physically and virtually.

The Acting Head, Legal and Regulatory Services (LRS) Department, Mrs. Chizua Whyte gave an Opening Remark explaining that the Public Inquiry is a vital part of the Commission's mandate and rule-making process, which is aimed at developing and refining regulatory instruments, to address the evolving Sector challenges. She noted that the objective of the Regulations is to foster service delivery and market cohesion, while ensuring that operators have fair and non-discriminatory access to communications networks. She further stated that the proposed amendments to the

Regulations will enhance compliance, provide a comprehensive interconnection framework and improve monitoring systems.

The Executive Vice Chairman/CEO (EVC), Dr. Aminu Maida welcomed everyone to the Forum. He noted that a review of the Regulations is crucial to keep pace with technological advancement, foster competition, protect consumer interest, align with international standards and improve regulatory efficiency in the Industry. The EVC enjoined all participants to freely make contributions and send in feedbacks that will assist the Commission in refining the Regulations.

Engr. Auwalu Abdullahi (Principal Manager, Technical Standards and Network Integrity (TSNI) Department), gave an overview of the draft Regulations highlighting the proposed introductions and amendments. This was followed by a presentation by Mr. Tewi Maiyaki Tanko (Manager, LRS Department), on issues raised in the various submissions made by stakeholders on the draft Regulations.

A. GENERAL OVERVIEW OF THE COMMUNICATIONS NETWORK INTERCONNECTION REGULATIONS

The Regulations has been in force since 2007, and has helped the Commission regulate the networks interconnection in the Industry, promoting efficient, reliable, and cost-effective interconnection and an innovative communications market.

The primary objective of the draft Regulations is to ensure seamless connectivity and interoperability between different communication networks operating within Nigeria. Furthermore, the Regulations aims to protect the interest of communication subscribers, through improved Quality of Service (QoS) for consumers.

The Regulations applies to all licensed Communications Service Providers operating in Nigeria, including Telecommunications operators, Internet Service Providers (ISPs), and Value Added Service Providers (VASPs). It covers both voice and data services, as well as any future technologies and services that may emerge within the Communications Sector.

The key change in the draft Regulations is the Replacement of “*Telecommunications*” with “*Communications*” throughout the instrument to broaden the scope and inclusivity, recognizing the evolving nature of Communications technologies and services, pursuant to *Section 1 of the Act*.

A few provisions of the Regulations were also merged to simplify the instrument, eliminate duplication, and facilitate easier navigation.

B. REVIEW OF SUBMISSIONS RECEIVED PRIOR TO THE PUBLIC INQUIRY

The Commission reviewed submissions received from different stakeholders prior to the Public Inquiry. The responses to these submissions are set out below:

MTN

1. Regulation 1 - Right of Interconnection

Comments:

- A review of *Regulation 1 (1)* is recommended to recognize two levels of interconnection (direct and indirect) reflecting the evolving/diverse nature of the Industry.
- The review should recognize the role of Interconnect Exchange Licensees (IELs) in the interconnection ecosystem and ensure that the interconnection of Private Network Links (PNL) Operators and other non-major licence categories should be through IELs and based on standards to be identified by the Commission.
- The amendment aims to promote the efficient use of network resources and to concretize this proposition, *Regulation 1(1)* could be revised to include a proviso empowering the Commission to designate, through a regulatory instrument, the appropriate interconnection model (direct or indirect) for certain categories of licensees.

Commission's Response:

The comments are well noted and will be considered by the Commission.

2. Regulation 5(2) & (4) - Reasonable Grounds for Denial of Interconnection

Comments:

- The provision fails to define 'reasonable grounds' for denying interconnection.
- To ensure regulatory clarity and certainty, MTN recommends that the Commission amends *Regulation 5 (2) & (4)*, by adding a provision that explicitly defines what constitutes reasonable grounds for denial.
- Reasonable grounds could include insufficient capacity, a licensee's regulatory standing, indebtedness, and preparation of bypass traffic fraud.

Commission's Response:

The issues relating to determination of 'reasonable grounds' are based on regulatory discretion as outlined in *Section 97 of the Act*. The Commission reviews the grounds on a case by case basis.

3. Regulation 3(4) - Fair Credit Management Practices

Comment:

In line with *Regulation 3(4)* which outlines aspects of mutual obligations and responsibilities between interconnecting operators, ensuring the protection of both users and interconnecting operators, and considering the protracted interconnection debt issues in the Industry, it is recommended that the Commission withdraws the existing regulatory Direction on Bank Guarantees of 2018, that prohibits operators from incorporating credit management practices into their interconnection agreements. This is in order to safeguard operators from debt issues and discourage market players from engaging in bad conduct.

Commission's Response:

The comment is well noted and will be considered by the Commission.

4. Regulation 3(4) - Interconnection Relationship on Commercial Terms

Comments:

- It is recommended that the Commission allows licensees such as Interconnect Exchange and International Data Access Licensees agree on commercial terms, provided these are in line with the extant regulatory framework and the principles of interconnection stipulated in *Regulation 3(4)*. This is because they do not have any subscribers that will be directly affected in the event of a termination.
- Additionally, this approach avoids overwhelming the Commission with issues that can be resolved through contractual agreements between parties.
- To prevent abuse, the Commission may reserve the right to intervene in cases where one party is being unfairly discriminated against or treated inequitably.

Commission's Response:

Section 100 of the Act is clear on this and provides no such exception as recommended in the comments. Hence, the comments are not accepted.

5. Regulation 7(12) - Bypass Traffic

Comments:

MTN recommends that the Commission include a sanction provision to tackle bypass traffic fraud which contravenes the standards defined in *Regulation 7(12)*. The penalties for bypass fraud can be included in the Regulations. Additionally, a provision for restitution should be included to compensate operators who have been defrauded.

Commission's Response:

While the Commission notes these comments, it wishes to highlight that these matters are being handled through relevant regulatory processes and instruments.

6. Regulation 12(1) - Account Separation Framework

Comment:

Regulation 12(1) came into force in 2007, when the Industry lacked an Accounting Separation Framework (ASF). However, since the Commission's introduction of a framework for Accounting Separation, which clearly outlines expectations for all licensees, MTN recommends the amendment of *Regulation 12(1)* to focus solely on ensuring conformity to the framework by all licensees and not only a section of ASF.

Commission's Response:

The comment is well noted and will be considered by the Commission.

7. Comment:

Timelines for Interconnection should be increased from Forty Five (45) days to Ninety (90) days for closure, due to the large number of requests, limited resources and the rapid evolution of the Industry.

Commission's Response:

This comment is well noted and will be considered by the Commission.

9MOBILE

1. Regulation 4(6) – *The licenced Communication Operator providing interconnection shall give the other party a Six (6) Months' written Notice of its intention to terminate the agreement specifying the grounds for termination.*

Comment:

The Six (6) months' termination notice for interconnection service is excessive. Three (3) months' should be the standard.

Commission's Response:

This comment is well noted and will be considered by the Commission.

2. Regulation 4(7) – *In the case of breach, the Operator providing interconnection shall give the other party three months written notice to remedy the breach and if the party in breach fails to remedy the breach within the period, it may then terminate the agreement without giving further notice.*

Comment:

In the case of breach of agreement such as fraud, Customer Line Identifier (CLI) Masking/Bypass traffic, the Operator should be allowed to block the suspected party pending when further investigation is conducted, as opposed to waiting for NCC's decision on the result of the investigation before acting.

Commission's Response:

Section 100 of the Act is clear on this and provides no such exception as recommended in this comment. Hence, this comment is not accepted.

3. Regulation 5(5) – *Where the requested party is required to have in place a Reference Interconnection Offer and unless that party notifies the requesting party of a refusal under Regulation 5(4), an interconnection offer must be executed within a period of no more than Seven (7) days from the expiry of the Fourteen (14) day period specified in Regulation 5(3), unless the requesting party considers that the terms and conditions set out in the Reference Interconnection Offer are not acceptable and has notified the requested operator accordingly.*

Comment:

The Regulations needs to specify the party that provides the Reference Interconnection Offer and the purpose of the offer. Generally, more clarification is required regarding the RIO.

Commission's Response:

This comment is well noted and will be considered by the Commission.

C. COMMENTS RECEIVED AT THE PUBLIC INQUIRY

The Commission did not receive any comment or submission from stakeholders during the Public Inquiry.

D. GENERAL COMMENTS

Mr. Ayiabari A. Kigbara (Manager, Public Affairs Department), appreciated everyone for attending an informative session and adjourned the forum to the following day, May 22, 2024, for continuation of the Public Inquiry.

The Public Enquiry ended at 12:30pm

Dated this day of June, 2024.

**Dr. Aminu Maida
Executive Vice-Chairman/CEO
NIGERIAN COMMUNICATIONS COMMISSION**