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# LAWS AND REGULATIONS GUIDING THE OPERATION OF TELECOMMUNICATIONS INDUSTRY



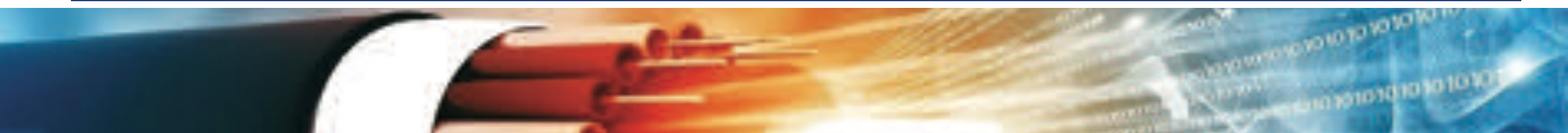
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In this article, we shall be examining the legislative framework available in the telecommunications industry in Nigeria.

## **BACKGROUND**

The Nigerian Communications Commission Act No. 19 of July, 2003 (2003 Act) is the primary legislation regulating the telecommunications industry in Nigeria. The Act repealed the Nigerian Communications Commission Act No. 75, 1992; the Nigerian Communications Commissions (Amendment) Act No. 30, 1998 and the Nigerian Telecommunications and Postal Offences Act No. 21 of 1995 as amended.

As at 1992, Wireless Telegraphy Act 1990 was the principal legislation for the operation of telecommunications services in Nigeria which was then only available from the monopoly operator, NITEL. However, the 2003 Act created competition in the telecommunications industry nationwide and mandated changes on the rights and responsibilities in all aspects of the industry, from licensing, spectrum, interconnection, assignment and usage of frequencies, to tariffs, access to facilities and consumer issues. The government bodies recognised by the 2003 Act are the Ministry of Information & Communications and the National Frequency Management Council charged with the management of frequency spectrum allocation.



## BACKGROUND

Indeed, the 2003 Act re-affirmed the Commission's status as an independent regulatory body for the telecommunications sector.

The Nigeria Communications Commission (NCC), established under Section 3 of the Nigerian Communications Commission Act 2003, is an independent national regulatory authority that regulates the telecommunications industry. The main functions of the NCC include:

- issuing licences to telecommunications operators;
- assigning frequencies, facilitating private sector participation and investment in the telecommunications sector;
- establishing and enforcing technical and operational standards and practices;
- ensuring that the interest of consumers are protected through enforcing service standards and pricing regulations;
- designing and maintaining a national numbering plan;
- arbitrating between operators, carriers and consumers; and,
- generally regulating all telecommunications licensees and service providers.



## REGULATORY REGIME

Importantly, the 2003 Act also provides for the establishment of a consumer affairs bureau/parliament to deal with consumers' complaints, as well as the use of alternative dispute resolution processes for the resolution of complaints or disputes brought to the attention of the NCC.

Exclusive jurisdiction over all matters, suits and cases arising out of, pursuant to or consequent upon, the 2003 Act is vested in Federal High Court. Under the 2003 Act, the Minister of Communication Technology is responsible for making policies and issuing policy directions to the NCC and for making key regulatory decisions regarding licensing and spectrum. The NCC also provides detailed guidelines on how to control and encourage the use of spectrum, promote competition in the assignment of frequency, achieve optimum pricing of spectrum, generate moderate revenue for the government, and ensure equitable and fair allocation of spectrum to benefit the maximum

The Act also makes provision for establishment of the Universal Service Provision Fund (USPF) to provide telecommunication, information, communication and technology (ICT) services to unserved, underserved and deprived groups and communities in the country. In this respect, about 474 schools spread across the six geopolitical zones of the country, have so far benefitted from schools and facilities provided by the USPF.

The reality of convergence, as in the broadcasting industry, has driven fundamental changes in telecommunication regulation. To the extent that the term 'telecommunications' is gradually being replaced by 'communications' which is considered wide enough to cover telecommunication, broadcasting and information technology. For instance, the Ministry of Communications was last year changed to the Federal Ministry of Communications and Digital Economy. In fact, under European Union (EU) law, telecommunications as a legal and regulatory term has disappeared, to be replaced by 'communications', embracing all forms of infrastructure, services, and equipment supplied for the transmission of data and information, whether traditionally viewed as broadcasting or voice telephony.

License(s) are required to install or operate telecommunication networks as well as provide telecommunication services in Nigeria. Section 31 of the 2003 Act requires any application for licence(s) to provide and operate telecommunication services to be addressed to the NCC. Thus, all existing or prospective telecommunications service operators are required to apply to the NCC for licences or the renewal of their licences not later than 6 months before their expiry date accompanied with payment of the renewal fee. When submitting an application for a licence, the applicant must produce relevant evidence or information showing its capacity to operate the service so as to enable the Commission take a decision on the application within 90 days of receiving the application pursuant to Section 41(1).. Individual and class licences are subject to payment of processing fee and registration fees respectively to the Nigerian Communications Commission (Sections. 39(4); 50(2).



The NCC also has broad discretionary powers to impose any kind of limitation on any licence granted on the occurrence of any public emergency or in the interest of public safety. In addition to NCC's approval, Section 135 of the 2003 Act requires licensees to seek approvals of the relevant State Government, Local Government or other relevant authority for installation, placing, laying or maintenance of network facilities in any part of the country. Licences or other authorisations may be transferred but with the prior written approval of the Commission. The Commission issues licences for periods ranging from five (5) years to 120 days. Licences are issued on a 'first come first served' basis and administered through a transparent and fair process.

## CONCLUSION

The telecommunication regulatory regime in Nigeria has come a long way and seen significant changes. While the NCC has taken that other regulations and regulators may be necessitated premised on the type of telecommunication services contemplated and area of coverage.

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