



Report of Public Inquiry on Consumer Protection Regulations

INTRODUCTION

The Nigerian Communications Commission published a notice in accordance with Sections 70 and 120 of the Nigerian Communications Act, 2003 (The Act) that it shall hold a public inquiry on Universal Access and Universal Service Regulations. The draft Regulations were published on the Commission's website for comments from the general public especially, operators and stakeholders.

The notice of public inquiry was also advertised on the 29th June, 2006 in two National Newspapers. The notice required members of the public to submit their comments and observations on the draft Regulations to the Commission before the close of business on 25th July, 2006.

By the close of the business on the 25th of July 2005, the Commission received submissions and comments from:

- Medallion Communication Limited
- Vee Networks Limited
- Intercellular Nigeria Plc and MTN Nigeria Communications Limited submitted their comments on the day of the inquiry.
- Nitel's submission was received after the day of the inquiry.

The inquiry took place on July 27, 2006 and all comments received were duly considered.

THE INQUIRY

The Inquiry was held at the Conference Hall, Nigerian Communications Commission, Abuja and it commenced at 10.30 am.

The Executive Vice Chairman (EVC) welcomed the operators and stakeholders and thanked them for attending the Public Inquiry which he said was aimed at providing clear rules and ensuring a level playing field in the industry as enshrined in the Act.

The EVC said the process culminating in the Public Inquiry began in July 2005 when the firm of McCarthy Tetrault of Canada won the bid in a World Bank sponsored project to develop regulations for the telecommunications industry including regulations on Competition, Numbering, Type Approval, Internet Service, Quality of Service and Consumer Protection.

A Project Monitoring Committee was set up by the Commission and this Committee with representatives of McCarthy Tetrault met with industry stakeholders in September 2005 to canvass their views on the issues that should be addressed in the Regulations. The views expressed by stakeholders such as GSM Consultative Forum, Consumer Protection Council (CPC), Ministry of Communications, Association of Licensed Telecommunications Operators of Nigeria (ALTON), Internet Service Providers Association of Nigeria (ISPAN) and some operators were considered and incorporated into the Draft Regulations.

The process of consultations in respect of the regulations is still on-going hence any additional comments received at the Public Inquiry will be considered before the finalization as the Commission's processes are open, transparent and participatory

The Assistant Director Legal Services, Telecom Law and Regulations Unit made the presentations on the submissions on the Consumer protection Regulations. She explained the strategic objective for consumer protection as a means of creating a balance between the rights of the consumer and the licensees.

CONSIDERATION OF COMMENTS FROM STAKEHOLDERS

1. Comment

Code of practice submitted by some operators have not been approved

Response

Commission was unable to approve the code of practice because they were not in the required format and did not meet minimum standards in some cases. The Commission therefore decided to defer approval until this regulation is published.

2. Comment

No provision or guideline for the constitution and regulation of the activities of the Consumer Forum.

Response

These guidelines will be provided upon constitution of the Consumer forum and will be developed in conjunction with consumers and other interested stakeholders.

3. Comment

There is a need for the Commission to complete rule making process guidelines

Response

This issue is already being addressed by the Commission. In any event the process being conducted now is a rule making process.

4. Comment

Regulation 6(a) is compared to condition 4(6) of the Digital Mobile License (DML) and that the DML is silent on whether licensees can charge for this service, therefore licensees should be able to charge especially for customer care line.

Response

The argument here is not clear. All licenses are subject to the Act, Regulations and any order or direction issued by the Commission. Where a provision of any license is contrary to the Act or any Regulation, the provisions of the act or Regulations prevail. In this and other instances of claim of contradiction with licenses or "violation of" licenses, the code provisions represent an overlay of consumer oriented practices that are within the Commission's authority under the Act.

5. Comment

Regulation 6(d) provides that Consumers should be given an opportunity to comment on rate changes before approval by the Commission. The comment is to the effect that this is not provided for in the license

Response

Same response as above. One of the purposes of a regulation is to provide details of implementation.

6. Comment

Contracts document specified in regulation 7 should only be available to post paid subscribers.

Response

Documents accompanying prepaid packages must conform to this regulation. There should be no difficulty in abiding by this condition since even prepaid subscribers have service conditions.

7. Comment

Regulation 8(a) provides that licensees provide a complete description of the service in clear and plain language. There is a comment to the effect that this cannot be guaranteed especially with regards to prepaid customers whose purchases are done informally.

Response

We do not see the difficulty in abiding by this provision for prepaid consumers. In any event operators describe their services in advertisements, promotions etc.

8. Comment

Quality of service thresholds have not been agreed and set by the Commission with respect to fulfilling the provisions of regulations 8(b)

Response

The comment is noted. Several meetings have been held with operators in this regard and the quality of service regulations have been published on the Commission's web site for comments

9. Comment

Regulation 8(c) provides that licensee should provide specific information on compensation payable to consumers for significant outages. There is a comment that this is not provided for in the license

Response

The issue of compensation for significant outages is very relevant and operators must address this in the individual code. It is international best practice that consumers are compensated when such outages occur. We are aware that some networks reward customers with free SMS or longer validity period depending on the circumstances. This regulation only seeks to formalize this practice

10. Comment

Licensees should not be held responsible for third parties where bundled services are offered to consumer

Response

Licensees who provide bundled service offerings should remain responsible for the overall service performance and consumer experience. In most cases consumers are not aware of these third party relationships. The contractual terms between licensees and 3rd party providers should give licensees the leverage to take effective action in response to service failures or consumer complaints.

11. Comment

Regulation 9 dealing with information to customers on rate should only apply to post paid customer

Response

No reason is given for this position and we do not think the position is justifiable

12. Comment

Customer access to operator assistance services and directory enquiry for prepaid subscribers is not feasible

Response

We understand that at this time, information on prepaid subscribers is not readily available; however a prepaid subscriber should be able to access directory inquiry and get information

13. Comment

Regulation 14(b) and (e) are contradictory

Response

These provisions are not contradictory as regulation 14(b) refers to the directory booklet and 14(e) refers to using the service. The charges referred in regulation 14(e) are for additional directories.

14. Comment

Regulation 20 deals with unsolicited telemarketing and there is a comment that the Commission is usurping the function of APCON.

Response

The Commission has an on-going working relationship with APCON for such situations.

15. Comment

Regulation 22 dealing with itemized billing should not apply to prepaid consumers

Response

Bills are not usually issued for prepaid, but where they are issued it must contain this minimum information

16. Comment

Regulation 37 is on the implementation of policy regarding proper collection, use and protection of customer's information. Comment that Licensees should not be held responsible for usage by 3rd party.

Response

The Commission is of the view that if this customer information were transmitted by the licensee to the third party then the licensee must be held responsible

17. Comment

Code does not distinguish between complaints and enquiries, each should be handled separately (regulation 43)

Response

Regulation 43 is specific to complaints and not enquiries

18. Comment

It is not necessary to describe details of tracking system as done in regulation 46.

Response

We believe that the one of the purposes of the regulation is to provide details as done here.

19. Comment

There should be mandatory one week notice to consumers for planned disruptions (regulation 13(c))

Response

Comment accepted

20. Comment

Complaints process envisaged in regulation 42 should be reduced to 2 months rather than 3 months

Response

The 3 months given in this regulation is the maximum period.

21. Comment

There was a comment on Section 34 of the Consumer Code Regulations and Section 54(a) which deals with the Industry Complaints between Licensees and that there is no need for the provision of Dispute Resolution between Licensees

Response

Regulation 55(a) (b) as contained in the guide provides for a dispute resolution.

22. Comment

There should be a process in the regulations guiding the operator in the disconnection of dishonest subscribers. Further to this, an operator suggested that operators should maintain a centralized database that will assist in detecting bad debtors.

Response

It is expected that consumers' exhibit good behaviour and the essence of this provision is to ensure that subscribers get the best and also to protect both the subscribers and operators.

Since migration of debtor subscribers is a criminal issue, the operators can decide how to handle such issues.

23. Comment

There should be a local directory for inquiries and information about subscribers' numbers

Response

Noted. The Commission will look into it.

24. Comment

In the protection consumers what is the relationship between Consumer Protection Council (CPC) and NCC with regards to the regulations

Response

CPC handles consumer protection issues in all sectors but this regulation is sector specific. However, there is an MOU between the two organizations to avoid regulatory overlaps and create regulatory certainty for the benefit of all stakeholders in the telecommunications sector. The parties recognize a need for collaboration in the discharge of their functions as it relates to consumer protection in the telecommunications sector.

GENERAL COMMENTS

The Commission has taken note of the all submissions and has carefully considered the view made by stakeholders and necessary amendments will be included in the final regulations.

Dated this 14th day of September, 2006

Engr. E. A. Ndukwe (OFR)

Executive Vice-Chairman/CEO