



DRAFT REGULATIONS
FOR THE
REGISTRATION
OF ALL
USERS OF
SUBSCRIBER IDENTITY MODULE
(SIM) CARDS
IN NIGERIA

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SIM CARD REGISTRATION REGULATIONS 2010

In exercise of the powers conferred upon it by Sections 1 (i) and 70 of the Nigerian Communications Act 2003 (the "Act"), and of all other powers enabling it in that behalf, the Nigerian Communications Commission (the "Commission") hereby makes the following Regulations:

PART 1: GENERAL

1. Definitions

- (1) The terms and expressions defined in the Act shall have the same meaning in these Regulations, save that unless the context otherwise requires:

"activate" means to allow full access to the electronic communication system of the Licensee who provides a mobile cellular Electronic Communications Service, including the ability to make and receive calls, and to send and receive short message services; **"activated"**, **"activation"**, **"deactivate"** and **"deactivation"** shall be read and construed accordingly;

"Activation Window" means the period of one (1) month from the purchase of a SIM Card, within which a New Subscriber will be required to register with the relevant Licensee and within which, the Subscriber will be granted Limited Access.

"Biometric Information" refers to the finger prints and facial image of a Subscriber;

"Central Database" means the central SIM cards database, containing the specific biometric and other registration information of all SIM card-based telephone Subscribers;

"Electronic Communications Service" means any service which provides to users the ability to send or receive wire or electronic communications;

"Effective Date" means the date on which the SIM Card Registration Regulations come into force;

"Existing Subscriber" means a Subscriber on a Licensee's electronic communication services system prior to the Effective Date of this regulation;

"Foreign Licensee" refers to a telecommunication and or Electronic Communications Service provider licensed by a telecommunications regulator other than the Commission, to provide Electronic Communications Services in a country other than Nigeria;

“Licensee” mean any telecommunication and or Electronic Communications Service provider licensed by the Commission for the provision of Electronic Communications Services (including Global System for Mobile, Code Division Mobile Access and fixed line services) in the Federal Republic of Nigeria;

“Limited Access” means the limitation by a Licensee of services available to a SIM Card to receipt of calls and short message service, and making of calls to emergency centre numbers and the Licensee’s call centre only;

“New Subscriber” means a Subscriber who acquires a SIM Card or subscribes for the provision of Electronic Communications Service after the commencement of these Regulations;

“Personal Information” refers to the full names (including father’s first name), gender, date of birth, residential address, nationality, state of origin, occupation and such other personal information and contact details of Subscribers as the Commission may from time to time specify in a data dictionary for registration of SIM Card users;

“Regulations” mean these SIM Card Registration Regulations;

“Security Agency” refers to either or all of the Nigerian Police Force, the Economic and Financial Crimes Commission, the State Security Service, the Federal Road Safety Corps, the National Intelligence Agency, the Office of the National Security Adviser and any other security agency established by the Federal Government;

“SIM Card” means a Subscriber Identity Module smart card containing the telephone number of a subscriber, encoded network identification details, the personal identification number and other user data such as an address book provided by a Licensee for the provision of Electronic Communication Services;

“SIM Card Registration Solution Provider” refers to a company contracted by the Commission for the conceptualization, design, development, and delivery of SIM Card Registration Solutions covering all Licensees and providing detailed Subscriber Information in a manner facilitating seamless integration into the Central Database;

“Subscriber” means any person who subscribes for the provision of Electronic Communications Services either as a result of the purchase of a SIM Card or the conclusion of a contract for the provision of electronic communication service by a Licensee (including an employee of the Licensee or any person who receives or received such service as a gift, reward, favour, benefit or donation) and shall, where the context so admits, include both Existing Subscribers and New Subscribers.

“Subscriber Information” refers to the Biometrics and other Personal Information of a Subscriber recorded and stored by Licensees and or the SIM Card Registration Solution Providers;

“Subscriber Registration Period” means the [six (6)] month period from the Effective Date or such other date as the Commission may specify, within which Existing Subscribers will be required to register with approved SIM Card Registration Solution Providers pursuant to the Regulations.

- (2) Where in these Regulations the context so requires, words in the singular include the plural and words in the plural include the singular.

PART 2: SCOPE AND OBJECTIVES

2. Objective

These SIM Card Registration Regulations are made to provide a regulatory framework for the registration of all SIM Card users, and for the control, administration, and management of the Central Database.

3. Scope

The Regulations shall apply to all Licensees and all individual, corporate, private and commercial users of SIM Cards in Nigeria but shall not extend to users of SIM Cards issued by Foreign Licensees, notwithstanding that such latter users are roaming on the network of a Licensee.

PART 3: ESTABLISHMENT OF CENTRAL DATABASE

4. Establishment and Maintenance of the Central Database

- (1) The Commission hereby undertakes to establish, in conjunction with SIM Card Registration Solution Providers and the Licensees, a central database of all recorded Subscriber Information to be known as the Central Database.
- (2) The Central Database shall be segregated across electronic communications service systems and domiciled and housed within the Commission, providing a platform for central processing of all Subscriber Information.
- (3) The Subscriber Information acquired by the Licensees and or the SIM Card Registration Solution Providers and any databases, batching for transmittal and or storage, developed therefrom shall belong to the Government of the Federal Republic of Nigeria.

PART 4: SIM CARD REGISTRATION

5. Registration of New Subscribers

- (1) All Licensees are hereby required to register a minimum set of details as specified in paragraph (2) for New Subscribers.
- (2) Further to paragraph (1) of this Section, from the Effective Date, all Licensees are hereby required to, at their own cost, implement a process to capture and transmit to the Central Database, the Biometric and other Personal Information of New Subscribers, in accordance with specifications prescribed in the Schedule to this Regulation.
- (3) From the Effective Date, Licensees shall capture and transmit to the Central Database:
 - (a) the identification number of any SIM Card that is to be activated by a Licensee at the request of any New Subscriber contemplated in paragraphs (b) and (c) below;
 - (b) the Biometric and other Personal Information of any New Subscriber, other than a juristic person, who requests the activation of such SIM Card by the Licensee; and
 - (c) in the case of a corporate body or other juristic person, the Biometric and other Personal Information of the authorised representative of the corporate body or other juristic person; and the name and address of the juristic person and, where applicable, the registration number of the juristic person.
- (4) The failure by any Licensee to capture and register the details as specified in Paragraph 2 and 3 above or as may be stipulated from time to time by the Commission shall attract a fine of ₦200,000.00 (Two Hundred Thousand Naira) per Subscriber.
- (5) For the avoidance of doubt, there shall be no proxy registration of SIM cards and any persons registered pursuant to the foregoing paragraph (3) shall be liable for activities carried out on the SIM Card.
- (6) Licensees shall, on a monthly basis or at such regular interval as the Commission may from time to time specify, transmit all Subscriber Information captured within the preceding month or such period as stipulated by the Commission in accordance with paragraph (3) above onto the Central Database. Licensees are hereby precluded from retaining any Subscriber Information following transmission thereof to the Commission.
- (7) Any Licensee that retains any Subscriber Information in contravention of these Regulations shall be liable to a penalty of ₦200,000.00 (Two Hundred Thousand Naira) per Subscriber Information so retained. Where the Licensee is found to have utilised the Subscriber Information in any business, commercial or other transaction, the Licensee shall, in addition

to the above fine, be liable to a further fine of ₦1,000,000.00 (One Million Naira) per Subscriber and forfeiture of such commercial benefit derived from the unauthorised use of such Subscriber Information.

6. Non-activation of New SIM Cards prior to registration

- (1) Subject to paragraph (2) below, a Licensee shall not activate a SIM Card on its electronic communication system unless the Licensee has first registered the New Subscriber's details pursuant to Section 5;

Provided that the Licensee shall not be required to register the details of a New Subscriber of a Foreign Licensee, notwithstanding that such New Subscriber uses the electronic communication system of a Licensee to make, receive and send voice calls or data or access other services under a roaming or other similar arrangement between the Licensee and the Foreign Licensee.

- (2) Notwithstanding the provisions of paragraph (1), a Licensee may grant Limited Access to a New Subscriber for the Activation Window.

7. Registration of Existing Subscribers

- (1) Subject to the terms of any contractual arrangement with the Commission, the SIM Card Registration Solution Providers shall carry out the registration of the Biometrics and other Personal Information of Existing Subscribers within the Subscribers Registration Period.
- (2) Licensees shall promote and support the registration of Existing Subscribers by SIM Card Registration Solution Providers and shall promptly, upon being notified by the Commission, deactivate any SIM Card where the Subscriber of such SIM Card has not been registered with a SIM Card Registration Solution Provider by the end of the Subscriber Registration Period.

8. Non-Compliance with activation and deactivation requirements

- (1) Any Licensee who activates a SIM Card in violation of Section 6 or who fails to deactivate a SIM Card in accordance with Section 7 shall be deemed to be in material breach of these Regulations and shall be liable to pay a fine of ₦200,000 (Two Hundred Thousand Naira) per SIM Card or such other amount as may be fixed by the Commission.
- (2) Any person who at the time of the commission of a breach of these Regulations was a director, chief executive officer, manager, secretary or other similar officer of the defaulting Licensee or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the Licensee or was assisting in such management:

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) if the Commission is satisfied that the body corporate is culpable, shall also be liable to pay a fine of ₦200,000 (Two Hundred Thousand Naira) or such other amount as may be fixed by the Commission unless, having regard to the nature of his functions in that capacity and to all the surrounding circumstances, he proves –
 - (i) that the offence was committed without his knowledge, consent or connivance; and
 - (ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

PART 5: THE CENTRAL DATABASE

9. Operation of the Database

- (1) Licensees shall, on a monthly basis or at such regular interval as the Commission may from time to time specify, transmit all Subscriber Information captured within the preceding month or such period as stipulated by the Commission in accordance with Section 5, paragraph (4) of these Regulations.
- (2) Subscriber Information received from Licensees and SIM Card Registration Solution Providers shall be processed and stored in the Central Database.
- (3) Subject to provisions of this Section 9, care, control and management of the Central Database shall be vested in the Commission.
- (4) Subject to the provisions of this Section 9, the Subscriber Information contained in the Central Database shall be held on a strictly confidential basis and no persons or entities shall be allowed access to any Subscriber Information on the Central Database. The Licensees or the SIM Card Registration Solution Providers shall not under any circumstances duplicate, deal in or make copies of any Subscriber Information or store in whatever form any copies of the Subscriber Information for any purpose other than as stipulated herein or by an Act of the National Assembly of the Federal Republic of Nigeria and shall ensure that such Subscriber Information are promptly transmitted to the Central Database upon acquisition using the prescribed format and channel.
- (5) All Licensees and SIM Card Registration Solution Providers are prohibited from retaining Subscriber Information and, upon transmission of such Subscriber Information to the Central Database, every Licensee and or SIM Card Registration Solution Provider shall cause the Subscriber Information to be deleted from its database; PROVIDED that

Licensees shall be permitted to retain Subscriber Information of Subscribers who hold at least one SIM Card on their networks on the date of registration.

- (6) Any Licensees which duplicate or deal with Subscriber Information contrary to paragraphs (4) and (5) above shall be liable to the penalty provided in section 5 (4) of these Regulations.
- (7) Notwithstanding the provisions of paragraph (3) above and subject to the provisions of any Act of the National Assembly, Subscriber Information on the Central Database may be provided to a Security Agency, provided that a prior written request is received by the Commission from an official of the relevant Security Agency who is not below the rank of an Assistant Commissioner of Police or a coordinate rank in any other Security Agency.
- (8) The written notice to be issued by the Security Agency pursuant to paragraph (7) above, shall indicate the rank of the official of the Security Agency, and the purpose for which the Subscriber Information is required.
- (9) Licensees shall utilize Subscriber Information retained pursuant to paragraph (7) above, solely for their operations and shall not release such Subscriber Information to any third parties without obtaining the prior written consent of the relevant Subscriber.
- (10) Notwithstanding the foregoing provisions of this Section 9, Subscriber Information shall not be released to a Licensee, Security Agency or any other person, where such release of Subscriber Information would constitute a breach of the Constitution of the Federal Republic of Nigeria, or any other Act of the National Assembly, for the time being in force in Nigeria or where such release of Subscriber Information would constitute a threat to National Security.

10. Data Protection

- (1) Licensees shall take all reasonable precautions to preserve the integrity and prevent any corruption, loss or unauthorized disclosure of Subscriber Information retained pursuant to paragraph 9 (5) and shall take steps to restrict unauthorized use of the Subscriber Information by its employees who may be involved in capture and or processing of such Subscriber Information.
- (2) The Subscriber Information shall not be transferred outside the Federal Republic of Nigeria.

PART 6: MISCELLANEOUS

11. Amendments

The Commission may from time to time issue additional directions, decisions or orders on any aspect of these Regulations, and either of general application or specific to a Licensee. The Commission may also revise these Regulations, or part thereof, at any time.

12. Application of the Business Rules of the Commission

The provisions of the Business Rules of the Commission as amended from time to time, shall apply to these Regulations.

13. Short Title

These Regulations may be cited as the SIM Card Registration Regulations 2010.

DRAFT

SCHEDULE

MADE at Abuja this [*] day of [*] 2010

[*]

Executive Vice Chairman

EXPLANATORY NOTE

(This note does not form part of the above Regulations but is intended to explain its purport)

These SIM Card Registration Regulations are made to provide a regulatory framework for the registration of all SIM Card users, and for the control, administration, and management of the database of registered subscriber.