

**NIGERIAN COMMUNICATIONS ACT
(2003 No. 19)**

Telecommunications Networks Interconnection Regulations 2007

ARRANGEMENT OF REGULATIONS

Regulation

PART I - RIGHTS AND OBLIGATIONS FOR INTERCONNECTION	11. The principles for interconnection charges and costing to be applied by dominant telecommunications operators.
1. A licensed telecommunications operator's rights and obligations for interconnection.	
2. Powers and functions of the Commission with regard to interconnection.	12. Accounting separation and financial information.
3. Agreements on interconnection.	PART IV - INTERCONNECTION PRINCIPLES APPLICABLE TO ALL LICENSED TELECOMMUNICATIONS OPERATORS
4. Amendment and termination of interconnection agreements.	13. Essential requirements for interconnection.
PART II - INTERCONNECTION PROCEDURES	14. Collocation and facility sharing.
5. Interconnection requests.	15. Technical standards.
6. Interconnection charges and costs.	16. Publication of and access to information.
7. Points of interconnection and interconnection links.	PART V - INTERCONNECTION DISPUTES RESOLUTION
8. Telecommunications network specifications.	17. Interconnection dispute resolution.
9. Requests for new services and system change.	PART VI - MISCELLANEOUS PROVISIONS
PART III - INTERCONNECTION OBLIGATIONS IMPOSED ON DOMINANT TELECOMMUNICATIONS OPERATORS	18. Penalties.
10. Interconnection agreement with dominant operators.	19. Interpretation.
	20. Repeal.
	21. Citation
	SCHEDULE
	LIST OF ISSUES TO BE COVERED IN TELECOMMUNICATIONS INTERCONNECTION AGREEMENTS.

S. I. 33 of 2007

**NIGERIAN COMMUNICATIONS ACT
(2003 No. 19)**

**Telecommunications Networks Interconnection
Regulations 2007**

Commencement: [1st August, 2007]

In exercise of the powers conferred upon it by section 99 of the Nigerian Communications Act 2003, THE NIGERIAN COMMUNICATIONS COMMISSION hereby makes the following Regulations:

**PART I - RIGHTS AND OBLIGATIONS FOR
INTERCONNECTION**

1.-(1) A licensed telecommunications operator shall on receipt of a request for interconnection from another licensed telecommunications operator have an obligation to interconnect its telecommunications network with that licensed telecommunications operator's network in accordance with the principles of section 97 of the Act, these Regulations and any guidelines on interconnection adopted by the Commission.

A licensed telecommu-
nications
operator's rights
and obligations for
interconnection.

(2) A licensed telecommunications operator shall, for each number area for which it has been allocated numbers by the Commission within the range ascribed for fixed services in the national numbering plan, designate a minimum of one point of interconnection located in the geographic location of that number area in accordance with paragraphs 1(3) and (4).

(3) A point of interconnection shall be designated by notice in writing to the Commission setting out the location of that point of interconnection and details of the number area that it serves.

(4) Where a licensed telecommunications operator cannot, within [three months] from the date these Regulations take effect, designate a point of interconnection in a number area for which it has been allocated numbers, the licensed telecommunications operator shall designate on an interim basis for a limited period of no more than [three months] an existing point of interconnection located as close as possible to the geographic location of that number area as the designated point of interconnection for that number area and other areas, such interim designation to be made only with the prior approval of the Commission.

(5) The Commission may agree to limit the obligation required under paragraph (1) of this regulation, if, as determined by the Commission in its reasonable discretion:

- (a) an interconnection agreement is prohibited by law; or

- (b) the licence issued to an operator does not authorise the services for which interconnection is requested; or
- (c) the requested interconnection is rendered impossible as a result of technical specifications; or
- (d) such interconnection would endanger life or safety or result in injury or harm to the licensed telecommunications operator's property or hinder the quality of the services provided by the licensed telecommunications operator.

(6) Any limitation imposed by the Commission pursuant to paragraph (5) of this regulation shall be published in accordance with paragraph (1) of regulation 16 of these Regulations.

2.-(1) The Commission shall -

- (a) encourage and secure adequate interconnection and interoperability of services;
- (b) carry out its functions in a way that promotes efficiency, sustainable competition and gives the maximum benefit to users;
- (c) take all necessary measures to remove any restrictions which may prevent licensed telecommunications operators from effectively negotiating interconnection agreements between themselves; and
- (d) take all necessary measures to ensure that licensed telecommunications operators who receive information during the course of negotiations following a request for interconnection shall only use that information for the purpose for which it is given and that such information is not passed to any person to whom it may provide a competitive advantage.

Powers and functions of the commission with regards to interconnection.

(2) The Commission may -

- (a) on its own initiative, intervene in negotiations on agreements for interconnection where no agreement is brought about between the negotiating parties within six weeks of the commencement of the negotiations;
- (b) where the requested party is required to have in place a Reference Interconnection Offer on its own initiative or at the request of the party requesting interconnection, intervene in negotiations on agreements for interconnection after the expiry of a period of seven days from the date on which the requesting party has confirmed in writing to the requested party that it accepts the terms and conditions set out in that Offer and where the requested party has not executed an interconnection agreement on expiry of that seven day period;

- (c) on its own initiative and at any time or if requested by either party, set time limits within which negotiations on interconnection are to be completed which time limits shall be no more than [six weeks] unless the Commission in its reasonable discretion considers that a longer period is justified;
- (d) also intervene if so requested by either party, in order to specify issues that shall be covered in the interconnection agreement, which at a minimum may include the descriptions, terms and conditions included in the model interconnection offer as amended from time to time in accordance with regulation 2(3) and require changes to be made to interconnection agreements already concluded.

(3) The Commission shall -

- (a) following consultation with licensed telecommunications operators develop a set of service descriptions, terms and conditions for interconnection which shall be published as a Model Interconnection Offer and kept up to date by the Commission;
- (b) amend the Model Interconnection Offer from time to time, following publication of a notice stating that the Commission intends to amend the Model Interconnection Offer, setting out the amendments and inviting comments on the amendments. Licensed telecommunications operators may establish a group to consider the Model Interconnection Offer and to propose to the Commission amendments to the Model Interconnection Offer. Where the Commission considers that as a result of any proposals made by the group, the Model Interconnection Offer should be amended, the Commission shall initiate the procedure described in this regulation 2(3);
- (c) consider, when intervening on its own initiative or at the request of one or both parties to a negotiation for interconnection, that, except where one of the parties is required to have in place a Reference Interconnection Offer, the Model Interconnection Offer forms the minimum set of service descriptions, terms and conditions that must be offered by the parties for the provision of interconnection to each other under an interconnection agreement; and
- (d) when determining a dispute concerning the terms and conditions that should apply to interconnection arrangements between licensed telecommunications operators under these Regulations, consider the Model Interconnection Offer as forming the minimum set of service descriptions and terms and conditions that must be offered by the parties for the provision of interconnection to each other under an interconnection agreement, unless, at the Commission's reasonable discretion, it considers that other service

descriptions, terms or conditions should be imposed upon the parties.

(4) Where the agreement is not reached within the time allowed, the Commission shall in accordance with regulation 2(2) above take steps to facilitate the conclusion of the interconnection agreement.

(5) Where a licensed telecommunications operator –

- (a) enters into an interconnection agreement with another licensed telecommunications operator, the Commission has the right to review such interconnection agreement to ensure conformity with the provisions of the Act, these Regulations and any guidelines on interconnection adopted by the Commission;
- (b) has not interconnected its facilities, the Commission has the right to require the operator concerned to interconnect its facilities in order to protect essential public interests and, where appropriate, may set the terms and conditions of interconnection.

(6) Licensed telecommunications operators shall ensure that-

- (a) where information is acquired from another licensed telecommunications operator during the process of negotiating interconnection agreements, the information shall be used solely for the purpose for which it was supplied and that at all times the confidentiality of the information transmitted or stored is respected; and
- (b) the information shall not be passed to any other party, in particular, other departments, subsidiaries or partners for which such information may provide competitive advantage.

3.-(1) Interconnection agreements shall be negotiated freely and in good faith between the parties involved and each negotiating party shall not -

Agreements on interconnection.

- (a) intentionally mislead the other party; or
- (b) coerce the other party into making an agreement that it would not otherwise have made; or
- (c) intentionally obstruct negotiations.

(2) The terms and conditions for interconnection of telecommunications networks shall be set on the basis of the agreement reached between the interconnecting licensed telecommunications operators and taking into account regulation 2(3) and regulation 3(10), may include at a minimum the service descriptions, terms and conditions included in the Model Interconnection Offer published by the Commission under regulation 2(3).

(3) The interconnection agreement shall be in writing and comply with -

- (a) the provisions of the Act, these Regulations and any guidelines on interconnection adopted by the Commission; and
- (b) the principles of neutrality, transparency, non-discrimination, fair competition, cost orientation, universal coverage, access to information, equality of access and equal terms and conditions.

(4) An interconnection agreement shall cover all the issues set out in the Schedule to these Regulations and in particular, each interconnection agreement shall contain mutual obligations and responsibilities of the interconnecting licensed telecommunications operators to protect the interests of the users as well as the interconnecting operators.

(5) All interconnection agreements entered into by a licensed telecommunications operator shall be registered with the Commission not later than thirty days from the date of the execution of the interconnection agreement or such other period as may be specified in the licence granted to that operator and in any event before any interconnection links are brought into service.

(6) Copies of interconnection agreements shall be made available by the Commission on request to interested parties in accordance with regulation 16 of these Regulations.

(7) Any party to an interconnection agreement may, upon the registering of such agreement with the Commission, mark provisions containing trade or operating secrets, in which case, such party shall additionally submit to the Commission for review a modified version of the agreement which does not, in that party's view, disclose the said trade or operating secrets.

(8) Where the Commission considers the marking unjustified, it shall consult with the relevant licensed telecommunications operator prior to taking a decision on allowing third parties to inspect such agreements in whole or in part and it may subsequently restrict inspection to the modified version of the interconnection agreement.

(9) The parties to an interconnection agreement shall furnish to the Commission any additional information that the Commission requires in respect of an interconnection agreement.

(10) The Commission may evaluate the terms and conditions and the charges set out in the interconnection agreement where in its reasonable view, the agreement does not include all or any of the service descriptions, terms and conditions included in the Model Interconnection Offer published by the Commission under regulation 2(3).

(11) Where the Commission considers that an interconnection agreement registered with it should be evaluated, it shall notify the parties to that agreement within ten days of the registration of the agreement.

(12) The Commission shall complete its evaluation of an interconnection agreement within six weeks of the date of notification to the parties that an evaluation is to take place. The parties shall be given the opportunity to provide comments on any terms and conditions and charges that the Commission considers may be inconsistent with the provisions of the Act, these Regulations and any guidelines on interconnection adopted by the Commission and which should be revised.

(13) An interconnection agreement shall be approved or deemed to be approved as the case may be where -

- (a) the Commission has not notified the parties within ten days of the registration of the interconnection agreement, that an evaluation of the terms and conditions and the charges will occur;
- (b) following completion of an evaluation by the Commission, the Commission has notified the parties that the interconnection agreement has been approved; or
- (c) following completion of an evaluation by the Commission, the Commission has required the parties to revise the agreement and the revisions have been registered with the Commission, in which case, the evaluation and approval process set out in regulation 3(10), (11) and (12) and regulation 3(13) (a) or (b) will apply as if the revisions were an interconnection agreement.

4.-(1) The parties to an interconnection agreement already approved by the Commission may amend or modify such agreement by giving the Commission thirty days prior written notice, together with a copy of the proposed amendment or modification, before that amendment or modification takes effect.

Amendment and
termination of
interconnection
agreements

(2) Where the Commission does not request additional information on the modification or does not rule on the amendment or modification of the interconnection agreement within thirty days of the receipt of the notice, then the amendment or notification shall be deemed to be approved by the Commission.

(3) Where modifications to the interconnection agreement are requested, the parties shall negotiate and make the necessary amendments to the agreement in order to comply with the Commission's decision.

(4) Where the terms and conditions of any agreement or amendment made cease to be reasonable, the requested party shall, within thirty days, offer to the requesting party or agree with the requesting party, as the case

may be, to amend the interconnection agreement, so that its terms and conditions are reasonable.

(5) The termination of interconnection agreements shall be strictly in line with the terms and conditions of the interconnection agreement between the parties.

(6) The licensed telecommunications operator providing interconnection shall give the other party a six months written notice of its intention to terminate the agreement specifying the grounds of termination.

(7) In the case of breach, the operator providing interconnection shall give the other party a 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.

(8) A licensed telecommunications operator shall not terminate an interconnection agreement without the prior written consent of the Commission and, where requested by the operator seeking prior consent, the Commission shall notify the operator of its decision no more than thirty five days after receipt by the Commission of the request for termination.

PART II - INTERCONNECTION PROCEDURES

5.-(1) Where the requesting party desires to interconnect its telecommunications network with that of the requested party, a request shall be made to the requested party.

Interconnection requests.

(2) All requests made pursuant to paragraph (1) of this regulation shall –

- (a) be made in writing to the requested party;
- (b) contain sufficient information in relation to the form of interconnection, the suggested date for the commencement of negotiations, the date from which the interconnection is required and an estimate of the interconnection capacity required; and
- (c) be brought to the notice of the Commission by the requesting party.

(3) The requested party shall inform the requesting party in writing within fourteen days of the receipt of a request for interconnection, if:

- (a) supply the form of interconnection requested; and
- (b) it shall be able to do so within the time frame requested by the requesting party.

(4) The request for interconnection may be refused only on reasonable grounds and shall be justified in writing by the party requested to

provide the interconnection and the Commission shall be notified of the reason for the refusal.

(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 agreement on the terms and conditions set out in the Reference Interconnection Offer must be executed within a period of no more than seven days from the expiry of the fourteen 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.

(6) Where the requested party is not 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 agreement must be executed within a period of no more than forty two days from the expiry of the fourteen day period specified in regulation 5(3), unless the requesting party considers that the terms and conditions being offered by the requested party are not acceptable and has notified the requested operator accordingly.

(7) Where the parties cannot agree within twenty eight days from the date of first request on the date upon which to commence negotiations, the Commission has the power to compel both parties to commence negotiations on an interconnection agreement on a date prescribed by the Commission.

6.-(1) Subject to any default interconnection charges that may be approved by the Commission and to any interconnection charges determined by the Commission, the charges set by operators, with special focus put on the dominant operators providing interconnection to their telecommunications network, shall -

Interconnection charges and cost.

- (a) be set on objective criteria, the principles of transparency and cost orientation;
- (b) be sufficiently unbundled to ensure that an operator requesting interconnection is not required to pay for network elements or facilities not strictly required for the service to be provided;
- (c) not include hidden cross-subsidies, particularly of an anti-competitive nature;
- (d) reflect underlying cost categories;
- (e) include a fair share, according to the principle of proportionality, of joint and common costs and the costs incurred in providing equal access and number portability and the costs of ensuring essential requirements; and
- (f) be approved (or, if needed, set) by the Commission.

(2) Interconnection charges that do not conform to the provisions of these Regulations may be varied by a determination of the Commission.

(3) In determining or setting interconnection charges, the Commission may provide for service descriptions and types for each of which determined charges apply. The service descriptions and types can include, but are not limited to, the following:

- (a) fixed call termination using near-end hand-over;
- (b) fixed call termination using far-end hand-over.

7.-(1) Points of interconnection and interconnection links shall –

Point of
Interconnection
and
interconnection
links

- (a) only be requested after the execution of an interconnection agreement and approval or deemed approval of the agreement by the Commission; and
- (b) where agreement on the number and location of interconnection links cannot be reached, be provisioned by each interconnecting licensed telecommunications operator according to their own requirements.

(2) A licensed telecommunications operator seeking interconnection has the right to request from another licensed telecommunications operator that interconnection be provisioned and maintained at any technically feasible and economically reasonable point in that licensed telecommunications operator's telecommunications network.

(3) The requesting party shall provide sufficient details to the requested party in relation to a point of interconnection in order to enable the requested party to assess what system conditioning may be required and to estimate the costs of provisioning the point of interconnection.

(4) The costs of interconnection incurred by both interconnecting operators may vary depending on the points of interconnection.

(5) Licensed telecommunications operators shall provide to any requesting operator and to any interconnected licensed telecommunications operator details of the standard points of interconnection of their telecommunications networks at which the networks of other operators can interconnect with them.

(6) The information specified in paragraph (5) shall also be provided to the Commission and may be published by the Commission in accordance with regulation 16 of these Regulations in a form that disguises the exact physical location of the point of interconnection and meets any other reasonable concerns about security of such points of interconnection specified by the operator.

(7) Where a licensed telecommunications operator desires to interconnect at points other than the standard points of interconnection, such interconnection shall be made available upon request and the requesting

party may be required to pay charges that reflect the cost of the construction of the necessary additional facilities.

(8) Where the requested party has not notified the requesting party in writing that a point of interconnection requested has insufficient capacity, points of interconnection shall be provisioned and ready for use within such period as may be agreed by the parties or, in the absence of agreement, not later than forty-five days from the date of the request.

(9) Where the requested party has notified the requesting party that a requested point of interconnection has insufficient capacity, it shall provide to the requesting party a date by which the requested point of interconnection shall be ready for use.

(10) The requested party shall, at the same time as it notifies the requesting party, notify the Commission that a requested point of interconnection has insufficient capacity, providing to the Commission an explanation for the determination that insufficient capacity is available at the time of the request together with an explanation of the steps it plans to take in order to provision the point of interconnection so that it is ready for use by the requesting party by the date provided to that party.

(11) The Commission, following a review of such information, may determine that the timeframe provided by the notifying party or other relevant information concerning the steps to be taken is not appropriate and may impose on the notifying operator, by notice in writing, requirements for such other steps to be taken, including in relation to the timeframe for provision of capacity as may in the Commission's reasonable discretion be necessary.

(12) Calling Line Identification and all necessary signalling data shall be passed between the interconnecting parties in accordance with accepted international standards, the provisions of these Regulations and any guidelines on interconnection adopted by the Commission and any Industry Code of Practice on Calling Line Identification.

(13) Licensed telecommunications operators shall establish a technical committee to develop a Code of Practice comprising specifications, protocols and procedures to be recommended to the Commission relating to Calling Line Identification.

8.-(1) Interconnected telecommunications networks shall be technically compatible and parties to an interconnection agreement shall ensure that -

Telecommunications
network specifications.

- (a) they provide to each other sufficient technical information to enable each party to plan its interconnection arrangements, including information on the technical characteristics of its telecommunications network;
- (b) they do not, on the grounds that the standards and specifications are proprietary, withhold information necessary to ensure efficient interconnection arrangements for both sides; and

- (c) they take full account of the standards defined as being suitable for the purpose of interconnection, including the international standards and specifications adopted by the International Telecommunications Union.

9.-(1) Where the requesting party requests a new form of interconnection, it shall do so in writing and provide the requested party with reasonable information in relation to the following matters:

Request for new services and system change.

- (a) the form of interconnection;
- (b) the approximate date the interconnection is required; and
- (c) an estimate of the capacity required.

(2) All requests for new interconnection services, including new points of interconnection and capacity at those points of interconnection, shall be filed with the Commission at the time the request is made to the requested operator.

(3) The requested party shall inform the requesting party in writing within twenty eight days of the provision of the information above if:

- (a) it is able to supply the form of interconnection requested; or
- (b) it shall be able to do so within the time frame requested by the requesting party.

(4) Where the requested party has informed the requesting party that it is able to provide the interconnection, it shall ensure that the system conditioning and the provisional procedures required to provide that interconnection are undertaken within the time frame required by the requested party.

(5) Where the requested party rejects the interconnection request of the requesting party as unreasonable, the requesting party may appeal to the Commission in accordance with regulation 17 of these Regulations.

(6) An interconnected licensed telecommunications operator shall provide six months written notice to an interconnected operator of planned changes to its telecommunications network that may materially impact the telecommunications services of the interconnected operator.

PART III - INTERCONNECTION OBLIGATIONS IMPOSED ON DOMINANT TELECOMMUNICATIONS OPERATORS

10.-(1) A telecommunications operator that has been determined by the Commission as being a dominant operator shall:

Interconnection agreement with dominant operators.

- (a) meet all reasonable requests for access to its telecommunications network, in particular access at any technically feasible point on its telecommunications network;
- (b) adhere to the principle of non-discrimination with regard to interconnection offered to other licensed telecommunications operators, in particular, it shall apply similar conditions in similar circumstances to interconnected licensed telecommunications operators providing similar services and provide interconnection facilities and information to other licensed telecommunications operators under the same conditions and of the same quality as it provides for its own services or those of the group of companies or partners;
- (c) make available on request to other licensed telecommunications operators considering interconnection with its telecommunications network, all information and specifications reasonably necessary in order to facilitate conclusion of an agreement for interconnection, including information on changes planned for implementation within the next six months, unless agreed otherwise by the Commission;
- (d) submit to the Commission for approval and publish a Reference Interconnection Offer, sufficiently unbundled, giving description of the interconnection offerings broken down into components according to market needs and the associated terms and conditions including tariffs; and
- (e) provide access to the technical standards and specifications of its telecommunications network with which another operator shall be interconnected.

(2) The Commission may impose or prohibit conduct by a dominant telecommunications operator, if the operator is violating the obligations imposed on it, and declare interconnection agreements wholly or partially invalid to the extent that such dominant telecommunications operator abuses its dominant position in the market.

(3) The Commission shall, before taking the action in paragraph (2) of this regulation, first of all request the dominant telecommunications operator to refrain from the abuse to which the objection has been made.

11.-(1) A dominant telecommunications operator shall, except where the Commission has determined interconnection rates, set charges for interconnection on objective criteria and observe the principles of transparency and cost orientation and the burden of proof that charges are derived from actual costs lies with the licensed telecommunications operator providing the interconnection service to its facilities.

The principles for interconnection charges and costing to be applied by dominant telecommunications operators.

(2) The Commission has the right to request that the dominant telecommunications operator justify fully its interconnection charges and where appropriate may request for the adjustment of the charges.

(3) The burden of proof that charges are derived from relevant costs, including a reasonable rate of return on investment, shall lie on the dominant operator providing interconnection to its facilities.

(4) The Commission has the right to request dominant operators to provide full justification for their interconnection charges and the dominant operators shall comply with any adjustment required by the Commission.

(5) The dominant operators may set different tariffs, terms and conditions for interconnection of different categories of telecommunications services where such differences can be objectively justified on the basis of the type of interconnection provided.

(6) The Commission shall ensure that the differences mentioned in paragraph (5) of this regulation, do not result in the distortion of competition and in particular that the dominant operators apply the appropriate interconnection tariffs, terms and conditions when providing telecommunications for its own services or those of its subsidiaries or affiliates in accordance with the principle of non-discrimination.

(7) A dominant telecommunications operator shall -

- (a) give written notice of any proposal to change any charges for interconnection services in accordance with the procedure set out in the guidelines on interconnection adopted by the Commission and the provisions of the operating licence;
- (b) offer sufficiently unbundled charges for interconnection, so that the licensed telecommunications operator requesting the interconnection is not required to pay for any item not strictly related to the service requested;
- (c) maintain a cost accounting system which:
 - (i) in the opinion of the Commission is suitable to demonstrate that its charges for interconnection have been fairly and properly calculated, and
 - (ii) provides any information requested by the Commission;
- (d) make available to any person with a legitimate interest, on request, a description of its cost accounting system showing the main categories under which costs are grouped and the rules for the allocation of costs to interconnection and the Commission or any other competent body independent of the dominant telecommunications operator and approved by the Commission, shall verify compliance of the dominant telecommunications operator with the cost accounting system

and the statement concerning compliance shall be published by the Commission annually.

12.-(1) If interconnection services are not provided through a structurally separated subsidiary, a dominant operator shall keep separate accounts as if the telecommunications activities in question were in fact carried out by legally independent companies, so as to identify all elements of cost and revenue with the basis of their calculation and the detailed attribution methods used.

Accounting separation and financial information.

(2) A dominant operator shall maintain separate accounts in respect of interconnection services and its core telecommunications services and the accounts shall be submitted for independent audit and thereafter published.

(3) A dominant operator shall supply financial information to the Commission promptly on request and to the level of detail required by the Commission.

(4) The Commission may publish such information in order to contribute to an open and competitive telecommunications market, while taking account of considerations of commercial confidentiality.

PART IV - INTERCONNECTION PRINCIPLES APPLICABLE TO ALL LICENSED TELECOMMUNICATIONS OPERATORS

13.-(1) All licensed telecommunications operators shall maintain the highest level of service and meet any priorities set by the Commission and shall take full account of the obligations on emergency situations under their operating licences when requesting and providing interconnection and when designing, implementing and operating their interconnection arrangements.

Essential requirements for interconnection.

(2) The Commission shall take all necessary steps to -

- (a) impose, where appropriate, conditions on interconnection, to ensure that the availability of the public telecommunications network is maintained in the event of catastrophic network breakdown or in exceptional cases of force majeure, such as extreme weather condition, earthquakes, flood, lightning or fire;
- (b) ensure that the integrity of the public telecommunications network is maintained and the need to maintain network integrity does not however, constitute a valid reason for refusal to negotiate terms of interconnection.

(3) The Commission shall ensure that all the conditions for interconnection relating to the protection of telecommunications network integrity are proportionate and non-discriminatory in nature and are based on objective criteria identified in advance.

(4) The Commission may impose conditions in interconnection agreements in order to ensure:

- (a) interoperability of services, including conditions designed to ensure satisfactory quality for the end-to-end services provided to users and such conditions may include implementation of specific technical standards, specifications or codes of conduct and any quality of service standards specified by the Commission;
- (b) the protection of data, to the extent necessary to ensure compliance with relevant legal and regulatory provisions on the protection of data, including protection of personal data, the confidentiality of information processed, transmitted or stored and the protection of privacy.

(5) Where the Commission imposes conditions in an interconnection agreement based on the essential requirements set out in this Regulation, these conditions shall be published in accordance with paragraph (1) of regulation 16 of these Regulations.

14.(1) Where a licensed telecommunications operator has the right to install facilities on, over or under a private land or take advantage of a procedure for the expropriation or use of property, the Commission shall encourage the sharing of such facilities and property with other licensed telecommunications operators, in particular, where other licensed telecommunications operators do not have access to viable alternatives.

Collocation and facility sharing

(2) The terms and conditions for collocation or sharing of facilities shall be subject to a commercial and technical agreement between the parties concerned and the Commission nevertheless may intervene to resolve disputes arising thereof.

15. Licensed telecommunications operators shall publish details of and provide technical interfaces for interconnection according to the relevant Nigerian legislation and take full account of the administrative documents of the telecommunications sector and the standards currently in force in the Federal Republic of Nigeria which are elaborated on the basis of international standards or recommendations adopted by International Telecommunications Union

Technical standards.

16.(1) The Commission shall, from time to time, publish or ensure that there is published up-to-date information on interconnection agreements and the information shall be published in such a way as to provide easy access for users of that information and be made available on request to interested parties during normal working hours.

Publication of and access to information.

(2) All licensed telecommunications operators shall provide the Commission with all such technical, operational and accounting information as the Commission may reasonably require.

(3) The Commission shall ensure that any information provided to it which is expressed to be confidential is maintained as such in accordance with the provisions of paragraphs (7) and (8) of regulation 3 of these Regulations.

PART V - INTERCONNECTION DISPUTES RESOLUTION

17.-(1) Where in negotiations for the conclusion of an interconnection agreement or where an interconnection agreement exists between the parties and negotiations concern a change to that agreement, no agreement is reached between the negotiating licensed telecommunications operators within the time periods applicable to such circumstances as specified in these Regulations, either party may appeal to the Commission and the Commission shall, except where the Commission considers that regulation 17(4) applies, decide on the case, taking into due consideration the interests of both parties.

(2) An appeal shall be made in writing, setting out the reasons on which it is based, in particular the areas of agreement and dispute, including but not limited to when interconnection was requested, what telecommunications network or service offerings were requested and on what issues agreement failed to be reached.

(3) An appeal may be withdrawn.

(4) The Commission may only refuse to resolve a dispute where in its reasonable opinion, the matter in dispute is frivolous or trivial.

(5) Upon any of the interconnecting parties filing an appeal:

- (a) the Commission shall give the parties concerned the opportunity to state their case;
- (b) a preliminary enquiry phase shall be introduced when initial consideration is given, so that the Commission can decide if there is a case to answer or to proceed to a detailed investigation;
- (c) the Commission shall inform the complainant of the outcome of the preliminary enquiry phase within three weeks;
- (d) the preliminary enquiry phase shall be followed by an investigation phase involving the gathering of analysis and assessment of more detailed information;
- (e) the Commission may require written argument with supporting facts and research, if necessary, to assist in clarifying the issues in dispute;

- (f) where appropriate, the Commission may give representatives of business circles affected by the dispute the opportunity to state their case; and
- (g) the Commission may also consider inviting other interested parties to comment on the issues.

(6) The Commission shall decide on the dispute based on oral or written submissions and public proceedings and subject to the agreement of the parties concerned, a decision can be reached without oral submission.

(7) Where the presence of the public may pose a threat to public order, specifically to national security or to an important business or operating secret, the public may, at the request of one of the parties concerned or by a determination of the Commission be excluded from the proceedings or from any part thereof.

(8) The Commission shall take into due consideration the interests of the users and the entrepreneurial freedom of each licensed telecommunications operator in its decision.

(9) The Commission:

- (a) may, given the urgency of the case, issue an interim order before arriving at a decision;
- (b) shall decide the case within four months, beginning from the date of the appeal

(10) The parties to the dispute shall be:

- (a) notified of the Commission's decision and the decision shall be published;
- (b) given the statement of the reasons on which the decision is based.

(11) The Commission shall have the power to set the effective date of any determination retroactively to the date at which the dispute was referred to the Commission.

(12) The Commission is without prejudice to the rights of the parties to appeal on its decision to the Federal High Court, provided that the Commission's decision shall remain binding until the final determination of the appeal.

(13) A copy of the notice of appeal shall be lodged with the Commission within thirty days from the date of the decision.

PART VI - MISCELLANEOUS PROVISIONS

18. A licensed telecommunications operator who contravenes any of the provisions of these Regulations is in breach of these Regulations and is liable to such fines, sanctions or penalties as may be determined by the Commission, from time to time.

Penalties.

19. In these Regulations, terms shall have the same meaning as in the Act unless the context requires otherwise and the following terms shall have the meanings set out below:

Interpretation.

"Act" means the Nigerian Communications Act 2003 and any succeeding legislation thereto;

"Commission" means the Nigerian Communications Commission;

"Dominant operator" means a licensed telecommunications operator determined by the Commission under the Act and the [Competition Practices Regulations 2006] to have a dominant position in one or more communications markets relating to interconnection;

"Far-end hand-over" is effected where a call intended for fixed call termination is delivered to the terminating operator at a point of interconnection which has been designated by that operator as serving the number range including the called number at the interconnection rate for far-end hand-over;

"Fixed call termination" means termination by the receiving operator of a call intended for a number within a range ascribed to fixed services in the national numbering plan and allocated to the receiving operator which call has been delivered to that operator by an interconnected operator (which operator may be the originating operator or another operator, including an operator providing transit of the call through its telecommunications network) at a point of interconnection and routed by the terminating operator through its telecommunications network;

"Industry Code of Practice on Calling Line Identification" means any rules and procedures formulated by an industry group set up to develop a code of practice for Calling Line Identification which has been notified to and approved by the Commission.

"Licence" means a licence granted or having effect as if granted under section 32 of the Act;

"Licensed telecommunications operator" means a network services provider or a network facilities provider licensed under section 32 of the Act and for the avoidance of doubt, "licensed telecommunications operator" shall include interconnect exchange operators;

"Near-end hand-over" is effected where a call intended for fixed call termination is delivered to the terminating operator at a point of interconnection not designated by that operator as serving the number range including the called number at the interconnection rate for far-end hand-over.

"Public telecommunications network" means a telecommunications network used in whole or in part for the provision of publicly available telecommunications services provided either by the operator of that telecommunications network or a third party;

"Requested party" means a licensed telecommunications operator who has been asked by another licensed telecommunications operator to provide interconnection to the telecommunications network of the other licensed telecommunications operator;

"Requesting party" means a licensed telecommunications operator who desires to interconnect its telecommunications network with the telecommunications network of another licensed telecommunications operator;

"Telecommunications network" means any form of installation or group of installations which ensure either the transmission or the transmission and routing of telecommunications signals and the associated exchange of the control and operational information between network termination points;

"Telecommunications services" means services whose provision consists wholly or partly in the transmission and routing of signs, signals, texts, images, sounds or data or a combination of these functions on telecommunications networks using telecommunications process;

"Users" means a person, (including but not limited to an operator, reseller or value-added service provider) who has entered into a contract with an operator for the provision of telecommunications services on the operator's terms and conditions approved in accordance with relevant conditions of the operator's licence.

20. The Telecommunications Networks Interconnection Regulations of 2003 and the Guidelines on Interconnection of Telecommunications Networks, 2003 are hereby repealed.

Repeal.

21. These Regulations may be cited as the Telecommunications Networks Interconnection Regulations 2007.

Citation.

SCHEDULE

regulation 3(4)

LIST OF ISSUES TO BE COVERED IN TELECOMMUNICATIONS INTERCONNECTION AGREEMENTS

1. Description of interconnection services to be provided.
2. Terms of payment, including billing procedures.
3. Points of interconnection and interconnection facilities.
4. Technical standards for interconnection.
5. Tests on interoperability.
6. Measures to comply with essential requirements.
7. Intellectual property rights.
8. Interconnection charges and their evolution over time.
9. Dispute resolution procedure between parties before requesting for the intervention of the Commission.
10. Procedures for alterations being proposed to the telecommunications network or service offerings of one of the parties.
11. Achievement of equal access.
12. Provision of facility sharing, including collocation.
13. Access to ancillary, supplementary and advanced services.
14. Traffic and network management.
15. Operational and maintenance procedures.
16. Maintenance of end-to-end quality of interconnection services.
17. Confidentiality of non-public parts of the agreements.
18. Publication and access to interconnection agreements and other periodic publication duties.
19. Duration and renegotiation of agreements.
20. Termination procedures.
21. Definition and limitation of liability and indemnity.
22. Force majeure situation.
23. Assignment of agreement.

24. Training of staff.
25. Any other general contract terms and conditions, (applicable laws, regulatory approvals, legal interpretation).
26. Any other terms and conditions as may be agreed upon.

DATED at Abuja this 3rd day of July 2007.

ENGR. ERNEST NDUKWE (OFR)
Executive Vice Chairman

EXPLANATORY NOTE

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

The Regulations provide for, among other things, a licensed telecommunications operator's rights and obligations for interconnection, including the powers and functions of the Commission with regard to interconnection.