

TOWARDS THE REVIEW OF THE  
NATIONAL BROADCASTING  
COMMISSION (NBC) ACT  
**NIGERIA**

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PROPOSALS OF STAKEHOLDERS





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European Union



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By  
Institute for Media and Society (IMS)  
3, Emina Crescent, Off Toyin Street,  
Ikeja, Lagos, Nigeria.  
Email: info@imesoimeso.org  
imesoimeso@hotmail.com  
Website: www.imesoimeso.org

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## Acknowledgements

This package of proposals is a product of the ideas of various stakeholders in Nigeria.

We wish to acknowledge the rich contributions made into the conversations that generated these proposals, by representatives of the following important stakeholders.

### INDUSTRY UNIONS AND ASSOCIATIONS

- i. Broadcasting Organizations of Nigeria (BON)
- ii. Nigerian Guild of Editors (NGE)
- iii. Nigeria Union of Journalists (NUJ)
- iv. Radio, Television, Theatre and Arts Workers Union (RATTAWU)
- v. National Association of Women Journalists (NAWOJ)
- vi. Nigeria Community Radio Coalition (NCRC)

### MEDIA SUPPORT GROUPS

- i. International Press Centre (IPC)
- ii. Media Rights Agenda (MRA)
- iii. Media Law Centre (MLC)

### OTHER CIVIL SOCIETY GROUPS

- i. African Languages Technology Initiative (ALT-I)

### ACADEMICS

- i. From Journalism/Communication Research and Training Institutions

### REGULATORY BODY

- i. The National Broadcasting Commission (NBC).

We appreciate you all as participants in a historic effort. It is our hope that as the proposals get adopted in the public policy process, they will strengthen the regulator to perform its mandate and help actualize a broadcasting sector reform that will impact positively on media/expression space and democracy in Nigeria.

***Institute For Media And Society.***



## Introduction

The National Broadcasting Commission (NBC) Act is the major legislation on broadcasting in Nigeria. It is one of the key policy instruments through which the liberalization of broadcasting industry was effected in Nigeria in the 1990s.

The law was first promulgated in 1992, as NBC Act 38, but an amendment exercise, done seven years later, produced the NBC (Amendment) Act 55 of 1999. Both original and amendment are now incorporated as the NBC Act in the Laws of the Federation of Nigeria.

The law provides for the establishment and operational framework of the National Broadcasting Commission (NBC), a single-industry regulator, for broadcasting. It specifies for the organization a range of functions which include: advising the federal government on policy implementation on broadcasting; processing and recommending broadcasting licence applications; regulating and controlling the broadcasting industry; addressing public complaints; arbitrating in industry conflicts; guaranteeing and ensuring the liberty and protection of the industry with due respect to the law.

Stakeholders identified critical gaps in the law and decided to structure efforts toward its review. One of such efforts was the organization of focused meetings of key Nigerian groups by the Institute for Media and Society (IMS), within the project entitled European Union Support to Democratic Governance in Nigeria (EU-SDGN). The meetings were part of activities designed to strengthen the regulator to deliver on its mandate. The key objective was to help the media provide professional coverage of the electoral and broader governance processes. The stakeholder groups which participated in the conversations included media unions and associations, academia, support groups and civil society, the regulatory body, among others.

This document, a package of proposals, is the product of those conversations and is expected to be the kernel of our inputs into the reform of broadcasting legislation in Nigeria.

It is in two parts: Part 1 identifies the problem that this effort seeks to address, defines features of independence of a broadcast industry regulator and articulates the stakeholders' proposals on specific provisions and omissions in the existing

law.

In Part 2, the proposals of stakeholders are inserted (clearly highlighted) in specific portions of the text of the legislation. This is done to enable readers to understand how the proposals relate concretely to existing provisions and how they (proposals) should stand in the reviewed legislation envisioned by the stakeholders.



# P A R T 1

What is the problem?  
Features of Independence  
Stakeholders' Proposals for Review of the NBC Act



## What is the Problem?

Stakeholders have identified several gaps in the broadcasting law of Nigeria, the National Broadcasting Commission (NBC) Act. The most prominent gap is its failure to provide for independence of the agency. It is argued that independence is essential/critical to the functioning of a regulatory body, especially in the broadcasting sector. Lack of independence affects the regulator and its work in many ways: biases in decision-making, inconsistencies in attention to various regulatory functions, inability to protect the industry and strengthen its professionalism, inability to stand updated on international standards; failure to command trust among stakeholders, and ultimately, failure to deliver on its mandate. This is bad for the electoral process and for democracy

Significantly, these arguments are anchored on international standards created by key regional and global instruments.

The Declaration on Principles of Freedom of Expression in Africa (adopted by the African Commission on Human and Peoples Rights in 2002) provides that:

**Any public authority that exercises power in the areas of broadcast or telecommunication regulation should be independent and adequately protected against interference, particularly of a political or economic nature.**

The African Charter on Broadcasting (adopted by the African Union in 2003) provides that:

**All formal powers in the areas of broadcast and telecommunication regulation should be exercised by public authorities which are protected against interference, particularly of a political or economic**

**nature.**

Outside Africa, there are also standards on the issue of independence of broadcasting regulators. In Europe, the 2018 Revised Audio Visual Media Services (AVMS) Directive (in Article 30) makes provisions which stipulate, among others, that: **member states shall designate independent national regulatory authorities; such regulators “shall be legally distinct and functionally independent of any other public or private body”**; and **“shall not seek or take instructions from any other body in relation to the exercise of the tasks assigned to them under national law implementing Union law”** (*See European Audio Visual Observatory (2019). The Independence of Media Regulatory Authorities in Europe*)

An international study undertaken by experts (Buckley et al) under the umbrella of the World Bank in 2008 structured a checklist on regulatory independence, among which is the stipulation that:

**The regulation of broadcasting should be the responsibility of an independent regulatory body established on a statutory basis with powers and duties set out explicitly in law ... The independence and institutional autonomy of the regulatory body should be adequately and explicitly protected from interference, particularly interference of a political and economic nature.**

Over the years, the UN Special Rapporteur on Freedom of Opinion and Expression and his regional counterparts from OSCE (Organization for Security and Cooperation in Europe), OAS (Organization of American States) and the ACHPR (African Commission on Human and Peoples Rights) have issued Joint Declarations which provide guidance on standards on the independence of the broadcast regulator.

In 2001, their Joint Declaration said:

**Broadcast regulators and governing bodies should be so constituted as to protect them against political and commercial interference.**

In 2007, their Joint Declaration said:

**Regulation of the media to promote diversity, including governance of public media, is legitimate only if it is undertaken by a body which is protected against political and other forms of interference, in accordance**

**with international human rights standards.**

In their 2018 Joint Declaration, they also said:

**States also have a positive obligation to protect media freedom, including through ensuring the independence of bodies which exercise regulatory powers over the media.**

Unfortunately, the NBC Act, which gives life for the broadcasting regulatory body in Nigeria fails to live up to the requirements of the fore-going international instruments. And the regulatory body has been largely constrained from delivery on its mandate. If the broadcasting sector is to optimally contribute to strengthening democracy and national development, the existence of a truly independent regulator is crucial. The first stage in achieving the independence is a thorough review of the NBC Act.



## **Features of Independence**

From the international standards, there have emerged clear features through which the independence of a regulator can be distinguished. They include:

- a) A full legal entity: The regulator is established by law, stands as a full entity, separate from other public entities, protected from interference from political, economic and other interests
- b) Full powers: it has full regulatory powers, including the power to grant and renew licences and sanction licencees
- c) Appointments Process:
  - i. The legislation under which the regulatory body is established, identifies clear and explicit rules for the appointment of its governing board members and the terms under which they serve.

- ii. The appointment process for board members is fair, open, transparent, set out in law and structured to ensure that the board comprises persons who have relevant expertise or experience and carry along a diversity of interests and opinions representative of society as a whole.
  - iii. The board members are appointed for a fixed tenure which is protected unless they (the members) cease to meet explicit conditions of eligibility for office or fail to discharge their responsibilities as provided in law.
  - d) Funding: the body is statutorily provided with a reliable and secure funding system, sufficient to carry out its activities effectively and without interference.
- (e) Accountability Mechanisms:
- i. The body is formally accountable to the public through a multi-party body, such as the legislature.
  - ii. The exercise of the regulator's powers is subject to judicial oversight. That is, any individual or organization affected by its decisions has the right to seek judicial review of the decisions through the appropriate court.
  - iii. The regulator is required by law to publish annual reports, present to oversight public bodies and the public.



## **Stakeholders' Proposals for Review of the NBC Act**

This section articulates the stakeholders proposals on specific provisions and perceived omissions in the broadcasting law.

### **1. Powers of the Commission**

a) **Section 2 of the Act** prescribes the powers of the Commission. Sub-Section 2(1) (b) provides that the Commission shall receive, process and consider licence applications. However, sub-section 2 (1) (c) provides that the

commission shall recommend radio and television licence applications through the Information Minister to the President for approval.

The stakeholders prefer that: **The NBC should be vested with full regulatory powers, including the power to process applications, grant and renew licences, without reference to other government organs like the Ministry of Information and the Presidency.**

Hence, they proposed that Section 2(1) (b) should be amended to provide that the Commission shall have the responsibility of receiving, processing applications and granting licences, without reference to other government organs; and that Section 2(1) (c) should be removed.

b) The Stakeholders also proposed an amendment to Section 39 of the 1999 Constitution as it affects broadcasting. The section vests the President with power to approve the establishment, ownership and operation of television and wireless broadcasting. This is the constitutional provision that spawned the provision in Section 2(1)(c) of the NBC Act.

The proposed constitutional amendment is that: **The establishment and ownership and operation of television and wireless broadcasting shall be licensed by the regulatory body in charge of broadcasting in accordance with conditions laid down by an Act of the National Assembly.**

## **2. Composition of the Governing Board**

**Section 3 of the Act** states the composition of the Commission. According to Section 3 (1) the governing board (Commission) of the NBC is to consist of a Chairman and ten other members which represent the following groups: law, business, culture, education, social science, broadcasting Public affairs, engineering, State Security Service and the Federal Ministry of Information and National Orientation. The Director General is also a member. Section 3(2) specifies the eligibility criteria for board membership as: proven integrity, experience and special knowledge in the broadcasting industry or professional or business attainment, and citizenship of Nigeria. It also stipulates that the Board members shall be appointed on the recommendation of the Minister and approval of the President.

The stakeholders proposed that (a) the Board members should be properly designated as Commissioners and the Board as Board of Commissioners; (b) the representatives of the State Security Service and that of the Federal Ministry of Information should not be members of the Board:

(c) **Section 3 (2&3)** of the Act should be amended thus:

- All members of its governing body should be appointed by the President upon consultation with the groups that they represent and confirmation by the Senate of Assembly.
- The appointment dates of the Board members shall be staggered to ensure that there is at all times a duly constituted Board.
- A person may not be appointed or remain as Board member of the Commission if he or she—
  - i. is not a citizen of Nigeria;
  - ii. is not permanently resident in Nigeria;
  - iii. is a member of the National Assembly or State Assembly;
  - iv. is a member or office-bearer or employee of any political party, movement or organization of a party-political nature;
  - v. his or her family member has a direct or indirect financial interest in the broadcasting industry;
  - vi. has been declared by a court to be mentally ill or disordered;
  - vii. has at any time been convicted, whether in Nigeria or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of corruption or any other offence involving dishonesty;
  - viii. has at any time been removed from an office of trust on account of misconduct.
- (d) Clause 3(2) should be redrafted to specify the required years of professional experience for Board members of the Commission.
- (e) Membership of the regulatory authority should reflect the diversity of the nation in terms of geo-political zone, gender, and other considerations

### **3. Tenure of Office for the Board**

**Section 4** of the Act is on the **Tenure of Office**. It prescribes for the Chairman and members of the Board, a three-year term renewable for only one further term. They could leave office through resignation, death or removal by the President if he is satisfied that it is not in the interest of the Commission or the interest of the

public that the member should continue in office.

The stakeholders proposed that: The Chairman and members of the Board should have a five-year term renewable for only one further term.

On removal from office, the stakeholders proposed these provisions:

(a) a member of the Commission may be removed from office by the President (with the concurrence of the Senate) upon the resolution taken by board members of the commission on account of

- i. misconduct;
- ii. inability to perform the duties of his or her office efficiently;
- iii. absence from three consecutive meetings of the Commission without the permission of the Commission, except on good cause shown;
- iv. failure to disclose a direct or indirect financial interest in the broadcasting industry
- v. insolvency or bankruptcy
- vi. clear violation of the rules of appointment (For example by not declaring a conflict of interest)

(b) In the consideration of removal, a member shall be given fair hearing. For example the President shall inform him/her by written notice, and give him/her opportunity to make written submission within a period not less than 14 days; and the President shall consider this in taking a final decision.

#### **4. Proceedings of the Commission**

The First Schedule of the Act provides for the proceedings of the Board. It specifies that the Board shall have power to, among other things, regulate its proceedings and make standing orders for that purpose. It says in its sub-sections 3(b) and 3 (c) that the Board may function notwithstanding any defect in the appointment of a member and the participation in its proceedings, of a person not entitled to do so.

Stakeholders proposed that these two clauses should be removed.

#### **5. Appointment of Director General**

**Section 5 of the Act** states the mode of appointment, tenure and functions of the

Director General: He/she is to be appointed by the President upon recommendation by the Information Minister. Eligibility condition for the position is “wide knowledge and experience in broadcasting.” He/she is to be responsible for policy execution and day-to-day administration of the organization. The tenure is for five years and renewable for such further periods as the President may, from time to time, determine.

The stakeholders proposed that:

(a) subsection 5 (2) Of the Act be removed and replaced with this provision:

The Director General shall be appointed by the President on the recommendation by industry stakeholders and subject to the confirmation of the Senate of National Assembly.

(b) Section 5(5) be amended to provide that the DG's tenure shall be five years, renewable for only one further term.

(c) There should be a provision on ineligibility criteria for the office of Director General. These criteria should be similar to those proposed for the office of Board members (Commissioners)

(d) There should also be provision on the conditions and process for the removal of the Director General. These, too, should be similar to those proposed for the Board members

## **6. Ministerial power to give Directives to the Commission**

**Section 6** of the Act is on the Power of the Minister to give directives. It provides that the Information Minister shall have the power to give directives to the Commission and it shall be the duty of the latter to comply with such directives.

Stakeholders proposed that this provision be removed and replaced with a broad package of functions for the Information Minister, as follows:

- a) The formulation, monitoring and evaluation, through participatory process, of the general policy for the broadcasting sector in Nigeria.
- b) The negotiation and implementation of international broadcasting or broadcasting-related media/information treaties and agreements on behalf of Nigeria, with sovereign countries, international organizations and bodies.

- c) The representation of Nigeria, in conjunction with the commission, at proceedings of international organizations and fora on matters related to broadcasting.
- d) Notifying the Commission, in writing, from time to time, on the general policy direction of the Federal Government in respect of the broadcasting sector.
- e) Ensuring that the independence of the Commission is protected at all times.

## 7. **Conditions of Service**

Section 7 of the Act provides that the Commission shall develop and submit to the President appropriate conditions of service covering remunerations, fringe benefits, pension scheme and other benefits for its employees.

Stakeholders proposed that in addition, there should be a provision that the Board shall, in consultation with the appropriate public finance institutions, review from time to time the remunerations and allowances, payable to the staff of the Commission.

## 8. **Power of Commission to Grant Licences**

Section 9 of the Act specifies conditions in which the Commission should grant licences. The conditions in Section 9 include that applicants should: be corporate bodies, incorporated under the Companies and Allied Matters Act or stations owned, established and operated by Federal, State or Local Governments; demonstrate that they are not applying for licence on behalf of foreign interest; comply with the objectives of the National Mass Communication Policy; give undertaking that the licensed station shall be used to promote national interest, unity and cohesion. Section 12, The Second Schedule and the Third Schedule specify terms of licences, including the application form.

Stakeholders proposed that other provisions should be added as follows:

- a) The Commission shall from time to time, publish its licensing process, specifying persons or groups of persons who are eligible to apply for licenses, the procedures for licensing, etc.
- b) The Commission shall within 30 days of receiving an application for licence, inform the applicants by written notice on the status of the

application – the processing stage, the grant of licence, the refusal of licence, etc. In the event of refusal of application/licence, reason(s) for refusal shall be given, and there shall be space for applicants to appeal refusal.

- c) The Commission shall qualify/specify what situations will warrant a refusal to renew a licence under the ground of acts against national or public interest.
- d) Revocation of licence should be done through a transparent process with clearly stated criteria that are publicly available. This function should be exercised by the Commission without reference to or pressure from any other authority. The decisions of the Commission in this regard should be subject to judicial review.
- (e) The template of application form for a licence provided in the Second Schedule of the Act should be reviewed to appropriately cater for the various broadcasting sub-sectors-public, private/commercial, community, etc. and include provision for digital television broadcasting. With the advent of digitization, television licence applicants do not require transmitters because this is the function of signal distributors.
- (f) There shall be space for appeal of regulatory decisions: high-level committee within the regulator shall be established to consider and decide on appeals from licencees. Its decision could further be subject to judicial review.

## 9. **Financials of the Commission**

a) **Section 14 of the Act** is titled: **Fund of the Commission**. The Section provides for, among other things, the funding sources of the organisation. These are: percentage of fees and levy to be charged on the annual income of licenced broadcasting stations; government loans or grants; other funds raised by way of gifts, loans, grants-in-aid, testamentary disposition or otherwise; other assets that may, from time to time, accrue to the commission. Stakeholders proposed that Section 14(2) (b) should reflect that the Commission should be funded through direct budgetary allocation from the consolidated fund rather than from a share of the budget of the Ministry of Information. Hence, the sub-section should be amended to provide that one of the funding sources should be: such moneys as may be appropriated directly to the Commission by the National Assembly from

the consolidated fund, or granted to the Commission by the Government of the Federation or of a State.

b) **Section 15 of the Act** is on Radio and television licence fees. It provides that the commission shall collect, hold in trust for, and disburse on behalf of broadcast houses, such licence fees accruing from the ownership of radio and television sets. However, section 1 (b) of the Fourth Schedule of the Constitution also empowers local governments to collect radio and television licence fees.

### **The Stakeholders proposed these amendments:**

- i. The power of collection by the Commission may be exercised through the appointment of professional, reputable corporate revenue collection agencies.
- ii. The overall license fee revenue will go to the NBC for distribution to NBC and broadcasters in the public, commercial and community subsectors.
- iii. The Constitution of Nigeria should be amended as follows:
  - That section 1(b) of the Fourth Schedule of the Constitution which empowers local governments to collect radio and television license fees should be removed or amended to give this power to the regulatory body in charge of broadcasting
  - That the regulatory body in charge of broadcasting be recognised/listed as a federal executive body in the constitution

c) **Section 18** is on the borrowing power of the Commission. It stipulates that the Commission may borrow funds for its operations, with the consent of the Information Minister.

The Stakeholders proposed an amendment to the section: to provide that the process of borrowing shall be in accordance with guidelines and authority established by government's public finance legislations and consent of the National Assembly.

(d) **Section 19** is on the Annual estimates, accounts and audit. Section 19 (1) states that the Commission shall annually (by October 31) submit to the President its budget for the next succeeding year; Stakeholders proposed an amendment to provide that the Commission shall prepare and present to the National Assembly through the President, for approval, its statement of estimated income and

expenditure for the next succeeding financial year.

## 10. Annual Reports

Section 20 requires the Commission to prepare and submit to the Information Minister, annually, a report on the Commission's activities during the immediately preceding year.

### **Stakeholders proposed that:**

- (a) the report should be prepared and submitted to the President and through the President to the National Assembly.**
- (b) There should be another provision in this Section requiring the Commission to publish periodic reports during the year and disseminate to the public on status of licenses granted, renewed and sanctioned, the performance of licences and industry developments such as:**
  - (i) Ownership structures and patterns**
  - (ii) Quality of services**
  - (iii) Industry statistics**
  - (iv) Tariff rates and charges paid by consumers for services**
  - (v) The adequacy and availability of services in all parts of Nigeria.**

## 11. Regulations

Section 23 of the Act provides that the Commission may, with the approval of the Information Minister, make regulations for the purpose of giving effect to the provisions of the NBC Act. The Stakeholders proposed that the role of making regulation should be fully played by the Commission. Hence, **the approval role of the minister should be removed.**

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## P A R T 2

### Proposals of Stakeholders in the Text of the Legislation

# **NATIONAL BROADCASTING COMMISSION**

## **ARRANGEMENT OF SECTIONS**

*Establishment, etc., of the National Broadcasting Commission*

### **SECTION**

1. Establishment of the National Broadcasting Commission.
2. Powers of the Commission.
3. Composition of the Commission.
4. Tenure of office, etc.
5. Director-General and other staff of the Commission.
6. Power of the Minister to give directives.
7. Conditions of service.
8. Service in the Commission to be pensionable.
9. Power of the Commission to grant licences.
10. Persons disqualified from the grant of a licence.
11. Method of application for a licence.
12. Terms and conditions for a licence.
13. Power of the Commission with respect to licences.
14. Fund of the Commission.
15. Radio and television licence fees.
16. Expenditure of the Commission.
17. Power to accept gifts.
18. Borrowing power.
19. Annual estimates, accounts and audit.
20. Annual reports.
21. Liability to code of sanctions.
22. Indemnity, etc., of Commission and staff.
23. Regulations.
24. Savings.
25. Repeal of certain sections of certain enactments.
26. Interpretation.
27. Shorttitle.

### **SCHEDULES**

#### **FIRST SCHEDULE**

*Supplementary provisions relating to the Commission*

## SECOND SCHEDULE

*Form for application for a grant of licence*

## THIRD SCHEDULE

*Terms of a licence*

### **An Act to establish the National Broadcasting Commission and for matters connected therewith**

[1992 No. 38]

[24th August, 1992]

[Commencement]

*Establishment, etc., of the National Broadcasting Commission*

#### **1. Establishment of the National Broadcasting Commission**

There is hereby established a Commission to be known as the National Broadcasting

Commission (in this Act referred to as "the Commission") which shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

#### **2. Powers of the Commission**

(1) The Commission shall have responsibility of—

- (a) advising the Federal Government generally on the implementation of the National Mass Communication Policy with particular reference to broadcasting;
- (b) receiving, processing and considering applications for the establishment, ownership or operation of radio and television stations including-

[1999 No. 55.]

- (i) cable television services, direct satellite broadcast and any other medium of broadcasting;
- (ii) radio and television stations owned, established or operated by the Federal, State or local government;

**Proposal:**

***The Commission shall have the responsibility of: 2(i) (b) receiving, processing applications and granting licenses, without reference to other government organs.***

- (c) recommending applications through the Minister to the President, for the grant of radio and television licences;

**Proposal:**

***(i) Section 2 (i) (c) above should be removed.***

***(ii) Section 39 of the Constitution of Nigeria: should be re-drafted to read as follows:***

***Provided that the establishment ownership and operation of television and wireless broadcasting shall be licensed by the regulatory body in charge of broadcasting, in accordance with conditions laid down by an act of the National Assembly***

- (d) regulating and controlling the broadcasting industry;
- (e) undertaking research and development in the broadcasting industry;
- (f) receiving, considering and investigating complaints from individuals and bodies corporate or incorporate regarding the contents of a broadcast and the conduct of a broadcasting station;
- (g) upholding the principles of equity and fairness in broadcasting;
- (h) establishing and disseminating a national broadcasting code and setting standards with regard to the contents and quality of materials for broadcast;
- (i) promoting Nigerian indigenous cultures, moral and community life through broadcasting;
- (j) promoting authenticated radio and television audience measurements and penetration;
- (k) initiating and harmonising Government policies on trans-border direct transmission and reception in Nigeria;
- (l) regulating ethical standards and technical excellence in public, private and commercial broadcast stations in Nigeria;
- (m) monitoring broadcasting for harmful emission, interference and

illegal broadcasting;

- (n) determining and applying sanctions including revocation of licences of defaulting stations which do not operate in accordance with the broadcast code and in the public interest;
- (o) approving the transmitter power, the location of stations, areas of coverage as well as regulate types of broadcast equipment to be used;
- (p) ensuring qualitative manpower development in the broadcasting industry by accrediting curricula and programmes for all tertiary training institutions that offer Mass Communication in relation to broadcasting;

[1999 No. 55.]

- (q) intervening and arbitrating in conflicts in the broadcasting industry;

[1999 No. 55.]

- (r) ensuring strict adherence to the national laws, rules and regulations relating to the participation of foreign capital in relation to local capital in broadcasting;

[1999 No. 55.]

- (s) serving as national consultants on any legislative or regulatory issues on the broadcasting industry;

[1999 No. 55.]

- (t) guaranteeing and ensuring the liberty and protection of the broadcasting industry with due respect to the law; and
- (u) carrying out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under or pursuant to this Act.

(2) No person shall operate or use any apparatus or premises for the transmission of sound or vision by cable, television, radio, satellite or any other medium of broadcast from anywhere in Nigeria except under and in accordance with the provisions of this Act.

### **3. Composition of the Commission**

(1) The Commission shall consist of-

- (a) a chairman;

(b) ten other members as may be approved to represent the following interests, that is-

- (i) Law;
- (ii) Business;
- (iii) Culture;
- (iv) Education;
- (v) Social Science;
- (vi) Broadcasting;
- (vii) Public affairs;
- (viii) Engineering;
- (ix) State Security Service;
- (x) The Federal Ministry of Information and National Orientation; and

(c) The Director-General of the Commission.

#### **Proposals:**

- i. The Board members should be designated as Commissioners and the Board as Board of Commissioners*
- ii. The membership of the State Security Service (SSS) and the Federal Ministry of Information should be removed from the commission to avoid overt government influence on the commission*

[1999 No. 55.]

(2) The chairman and other members of the Commission shall be persons of proven integrity, experience and specialised knowledge in the broadcasting industry or who by reason of their professional or business attainment are on the recommendation of the Minister and with the approval of the President capable of making useful contribution to the work of the Commission.

[1999 No. 55]

**Proposal:**

*The appointment dates of the Commissioners shall be staggered in a way that ensures at all times that there is a duly constituted Board of Commissioners and that there are a minimum of six (6) serving Commissioners on the Board at all times.*

(3) The chairman and other members of the Commission shall be citizens of Nigeria who shall be appointed by the President on the recommendation of the Minister.

**Proposals:**

*(a) Clause 3(2&3) should be re-drafted to read as follows:*

*i. All members of the board should be appointed by the President upon consultation with the groups that they represent and confirmation by the Senate of the National Assembly*

*(b) The followings should be included:*

*A person shall not be appointed or remain in office as member of the Commission if he or she—*

*i. is not a citizen of Nigeria;*

*ii. is not permanently resident in Nigeria;*

*iii. is a member of the National Assembly or State Assembly;*

*iv. is a member or office-bearer or employee of any political party, movement or organization of a party political nature:*

*v. or his or her family member has a direct or indirect financial interest in the broadcasting industry;*

*vi. has been declared by a court to be mentally ill or disordered;*

*vii. has at any time been convicted, whether in Nigeria or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of corruption or any other offence involving dishonesty;*

*viii. has at any time been removed from an office of trust on account of misconduct.*

*(c) Clause 3(2) should be redrafted to specify the required years of experience for members of the Commission*

**(d) *Membership of the regulatory authority should reflect – or be representative of the diversity of the nation in terms of geo-political, gender and other considerations.***

[1999 No. 55]

(4) The chairman and other members of the Commission shall be part-time members.

(5) The supplementary provisions contained in the First Schedule to this Act shall have effect with respect to the proceedings of the Commission and the other matters contained therein.

[First Schedule.]

#### **4. Tenure of office, etc.**

(1) The chairman and other members of the Commission shall hold office for three years renewable for one further period of three years only.

##### ***Proposal:***

***The Chairman and members of the Board shall hold office for five years renewable for one further term of five years only.***

*(2) The chairman or a member of the Commission may resign his appointment at any time by notice in writing under his hand addressed to the President.*

*(3) If a member of the Commission dies or resigns or otherwise vacates his office before the expiry of the term for which he is appointed, a fit and proper person shall be appointed for the remainder of the term of office of the predecessor, so however that the successor shall represent the same interest and shall be appointed by the President.*

*(4) A member of the Commission may be removed from office by the President if he is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office.*

##### ***Proposal:***

***A member of the Board may be removed from office by the President (with the concurrence of the Senate) on the recommendation of the Board on account of:***

***i. misconduct;***

***ii. inability to perform the duties of his or her office efficiently;***

- iii. *absence from three consecutive meetings of the Commission without the permission of the Commission, except on good cause shown;*
- iv. *failure to disclose a direct or indirect financial interest in the broadcasting industry*
- v. *insolvency or bankruptcy*
- vi. *clear violation of the rules of appointment (for example by not declaring a conflict of interest*

*The consideration of a member's removal shall include fair hearing. For example, prior to the removal of a member, the president shall inform his/her by written notice, and give him/her opportunity to make written submission within a period not less than 14 days, and he shall consider the submission in taking a final decision*

## **Staff of the Commission**

### **5. Director-General and other staff of the Commission**

- (1) There shall be appointed for the Commission, a Director-General who shall be the chief executive of the Commission.
- (2) The Director-General shall be appointed by the President on the recommendation of the Minister.

#### ***Proposal:***

*The Director General shall be appointed by the President on the recommendation by Industry Stakeholders and subject to the confirmation by the Senate*

- (3) The Director-General shall be a person with wide knowledge and experience in broadcasting.
- (4) The Director-General shall be responsible for the execution of the policies of the Commission and its day-to-day administration.
- (5) The Director-General shall hold office in the first instance for a period of five years and shall be eligible for re-appointment for such further periods as the President may, from time to time, determine.

**Proposal:**

***The Director General shall be eligible for re-appointment for one further term of five years only.***

(6) *Subject to this section, the Director-General shall hold office on such terms as to emolument and otherwise as may be specified in his letter of appointment and as may, from time to time, be approved by the President.*

**Proposals:**

***(a) The proposed conditions for ineligibility for the office of Board members should also apply to the office of DG.***

***(b) The proposed conditions and process for the removal of Board members should also apply to the office of DG.***

(7) The Commission shall appoint a secretary to the Commission who shall keep records, conduct correspondence of the Commission and carry out and perform such other duties as the Commission or the Director-General may, from time to time, direct.

(8) The Commission may appoint such other employees to assist the ***Director-General in the exercise of his functions under this Act.***

## **6. Power of the Minister to give directives**

Subject to the provisions of this Act, the Minister may give the Commission directives of a general character relating generally to particular matters with regard to the exercise by the Commission of its functions under this Act and it shall be the duty of the Commission to comply with such directives.

**Proposal:**

***The foregoing function prescribed for the minister should be removed and replaced with the following:***

***a. The formulation, monitoring and evaluation, through participatory process, of the general policy for the broadcasting sector in Nigeria***

***b. The negotiation and implementation of international broadcasting or broadcasting – related media/information treaties and agreements on behalf of Nigeria, with sovereign countries,***

*international organizations and bodies*

- c. The representation of Nigeria, in conjunction with the commission at proceedings of international organizations and for matters related to broadcasting*
- d. Notifying the Commission, in writing, from time to time, on the general policy direction of the Federal Government in respect of the broadcasting sector*
- e. Ensuring that the independence of the Commission is protected at all times*

## **7. Conditions of service**

The Commission shall develop and submit to the President appropriate conditions of service covering remuneration, fringe benefits, pension scheme and other benefits for its employees.

***Proposal:***

*In addition, the Board shall in consideration with the appropriate government agency responsible for fixing remunerations of public officers, review from time to time the remunerations and allowances payable to the staff of the Commission*

## **8. Service in the Commission to be pensionable**

1. Notwithstanding the provisions of the Pensions Act, service in the Commission shall be approved service for the purposes of that Act and, accordingly, officers and other persons employed in the Commission shall in respect of their service in the Commission be entitled to pensions, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grades in the civil service of the Federation, so however that nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.

[Cap. P4.]

(2) For the purposes of the application of the provisions of the Pensions Act, any power exercisable thereunder by a Minister or other authority of the Government of the Federation, other than the power to make regulations under

section 23 thereof, is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.

## **9. Power of the Commission to grant licences**

(1) The Commission shall, in the consideration of an application or a licence under this Act, be satisfied that the applicant-

(a) is a body corporate registered under the Companies and Allied Matters Act or a station owned, established or operated by the Federal, State or local government;

[Cap. C20.]

(b) can demonstrate to the satisfaction of the Commission that he is not applying on behalf of any foreign interest;

(c) can comply with the objectives of the National Mass Communication Policy as is applicable to the electronic media, that is, radio and television;

(d) can give an undertaking that the licensed station shall be used to promote national interest, unity and cohesion and that it shall not be used to offend the religious sensibilities or promote ethnicity, sectionalism, hatred and disaffection among the peoples of Nigeria.

### ***Proposal:***

- i. The Commission shall from time to time, publish its licensing process, specifying persons or groups of persons who are eligible to apply for licenses, the procedures for licensing, etc***
- ii. The Commission shall within 30 days of receiving an application for license, inform the applicant by written notice, on the status of work on the application. In the event of refusal of license, written reason shall be given, and there shall be space for applicant to appeal the refusal***

(2) The grant of a licence by the Commission under this Act shall be subject to availability of broadcast frequencies.

(3) Compliance with the requirements specified in subsection (1) of this section shall not entitle an applicant to the grant of a licence but the

grant of a licence by the Commission shall not be unreasonably withheld.

(4) In determining the grant of a licence the Commission shall consider the following, that is-

- (a) the structure of shareholding in the broadcasting organisation;

***Proposal:***

***This should be limited to commercial licence applicants. Community licence applicants (community development associations) do not allocate shares.***

- (b) the number of shareholdings in other media establishments;
- (c) the distribution of those stations and establishments as between urban, rural, commercial or another categorisation.

(5) It shall be illegal for any person to have controlling shares in more than two of each of the broadcast sectors of transmission.

[1999 No. 55.]

(6) Any broadcast station transmitting from Nigeria before the commencement of this Act shall be deemed to have been licensed under this Act and, accordingly, shall be subject to the provisions of this Act.

## **10. Persons disqualified from the grant of a licence**

The Commission shall not grant a licence to-

- (a) a religious organisation; or
- (b) a political party.

## **11. Method of application for a licence**

A request by a person for authority to own, establish or operate a radio, sound, television, cable or satellite station shall be by way of an application for a licence addressed to the Director-General of the Commission and in the form prescribed in the Second Schedule to this Act.

[Second Schedule]

## **12. Terms and conditions for a licence**

The grant of licence shall be subject to the terms and conditions set out in the Third Schedule of this Act.

[Third Schedule.]

## **13. Power of the Commission with respect to licences**

(1) The Commission shall have power with respect to any licence granted under section 9 of this Act-

- (a) to allocate to a licensed station, that is-
  - (i) in the case of a radio station, Frequency Modulation, Medium Wave and Short Wave;
  - (ii) in the case of television, Very High Frequency and Ultra High Frequency; and
  - (iii) such other broadcast frequencies as the Commission may, from time to time, determine;
- (b) to approve the location of a station;
- (c) to regulate the technical specifications of equipment and standard of transmission;
- (d) to approve the call signal of a station;
- (e) to approve the area to be served by a station;
- (f) to impose sanctions in accordance with paragraph 8 of the Third Schedule to this Act; and

[Third Schedule]

- (g) to prescribe an appropriate fee payable.
- (2) The Commission shall have the power to enter into the premises of any station and inspect or examine any apparatus of operation in the station in order to ascertain their conformity with the provisions of this Act.
- (3) The Commission may exercise its power under this section of this Act through its agents.

## *Financial provisions*

### **14. Fund of the Commission**

- (1) The Commission shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Commission.
- (2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section-
  - (a) such percentage of fees and levy to be charged by the Commission on the annual income of licensed broadcasting stations owned, established or operated by private individual(s), Federal State or local government;
  - (b) such moneys as may, from time to time, be lent or granted to the Commission by the Government of the Federation or of a State;

#### ***Proposal:***

***Such moneys as may be directly appropriated to the Commission by the National Assembly from the Consolidated Fund, or granted to the Commission by the Government of the Federation or of a State***

- (c) all moneys raised for the purposes of the Commission by way of gifts, loans, grants-in-aid, testamentary disposition or otherwise;
  - (d) all other assets that may, from time to time, accrue to the Commission.
- (3) The fund shall be managed in accordance with rules made by the Commission and without prejudice to the generality of the power to make rules under this subsection the rules shall in particular contain provisions-
    - (a) specifying the manner in which the assets or the fund of the Commission are to be held and regulating the making of payments into and out of the fund; and
    - (b) requiring the keeping of proper accounts and records for the purpose of the fund in such form as may be specified in the rules.
  - (4) No person shall offer for sale, sell or have in his possession with a view to selling in the course of his business, any installation, mechanism,

instrument, material or other apparatus-

(a) constructed for the purpose of; or

(b) intended to be used for, wireless telegraphy except under and in accordance with a licence issued by the Commission in that behalf

[1999 No. 55]

## **15. Radio and television licence fees**

The Commission shall-

(a) collect and hold in trust for;

(b) disburse on behalf of the broadcast houses such licence fees accruing from the ownership of radio and television sets, as the Commission may prescribe.

### ***Proposals:***

- i. The Commission's power of collection may be exercised through the engagement of professional, reputable revenue collection agencies and companies.***
- ii. The revenue collected shall be distributed to the regulatory body (NBC) and broadcasters in the public, private/commercial and community sub-sectors.***
- iii. Section 1(b) of the fourth schedule of the constitution which empowers local governments to collect radio and television license fees should be removed***
- iv. The regulatory body in charge of broadcasting should be recognised/listed as a federal executive body in the constitution***

## **16. Expenditure of the Commission**

(1) The Commission may, from time to time, apply the proceeds of the fund established pursuant to section 14 of this Act to-

(a) the cost of administration of the Commission;

(b) the payments of salaries, fees and other remuneration, allowances, pensions, and gratuities payable to members

or employees of the Commission.

## **17. Power to accept gifts**

(1) The Commission may accept gifts of money or other property and upon such terms and conditions, if any, as may be specified by the person or organisation making the gift provided that such gifts are not inconsistent with the objectives and functions of the Commission under this Act.

## **18. Borrowing power**

(1) The Commission may with the consent of the Minister borrow, on such terms and conditions as the Commission may determine, such sums of money as the Commission may require in the exercise of the functions conferred on it under this Act.

***Proposal: The process of borrowing shall be in accordance with guidelines and authority established by the Finance legislations and other instruments of the federal government and consent of the National Assembly***

## **19. Annual estimates, accounts and audit**

(1) The Commission shall, not later than 31 October in each year, submit to the President an estimate of its expenditure and income during the next succeeding financial year.

***Proposal: The Commission shall prepare and present to the National Assembly through the President, for approval, its Statement of estimated income and expenditure for the next succeeding financial year.***

(2) The Commission shall cause to be kept proper accounts of the Commission in respect of each year and proper records in relation thereto and shall cause its accounts to be audited not less than six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

*Miscellaneous and supplementary*

## **20. Annual reports**

The Commission shall prepare and submit to the Minister not later than 30 June in each year, a report in such form as he may direct on the activities of the

Commission during the immediately preceding year, and shall include in such report a copy of the audited accounts of the Commission for that year and Auditor-General's report thereon.

***Proposal:***

- i. The Commission shall prepare and submit the annual activities report to the President, and through the President to the National Assembly.***
- ii. The Commission shall prepare and publish periodic reports during each year and disseminate to the public on the status of licences granted, renewed and sanctioned, performances of licenses and industry developments such as: ownership structures and patterns, quality of broadcasting services, industry statistics, tariff rates and charges paid by consumers for services, adequacy and availability of services in each part of Nigeria***

## **21. Liability to code of sanctions**

Any station which contravenes the provisions of the National Broadcasting Code or any other order of the Commission shall be liable to the sanctions prescribed in the Code.

[1999 No. 55.]

## **22. Indemnity etc., of the Commission and staff**

(1) Every member of staff or other officer of the Commission shall be entitled to be indemnified by the Commission against losses or liabilities sustained or incurred in or about the execution of the duties attached to his office or otherwise in relation thereto, and no member, staff or other officer of the Commission shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Commission in the execution of the duties of his office or in relation thereto unless the same happened through his wilful neglect or default.

[1999 No. 55.J

(2) The Commission shall not be liable or responsible for any infringement by a licensee in the exercise of his licence, of a copyright in any work or any law arising out of the exercise of the licence, and

nothing in this Act shall affect the liability of the licensee in respect of any such act done by him.

[1999 No. 55.J

### **23. Regulations**

(1) The Commission may, with the approval of the Minister, make regulations generally for the purpose of giving effect to the provisions of this Act.

*Proposal: Approval of Minister should not be required. It should be removed from this provision*

### **24. Savings**

Pursuant to the provisions of section 9 of this Act, the power hitherto exercised by the Minister in so far as they relate to the grant of licences in respect of cable television services shall be deemed to have been performed by the Commission established by this Act.

### **25. Repeal of certain sections of certain enactments**

(1) Section 7 (1) of the Nigerian Television Authority Act and section 6 (1) of the Federal Radio Corporation of Nigeria Act are hereby consequentially repealed.

[Cap. N136. Cap. FI8.]

(2) The power under the Wireless Telegraph Act and regulations made there under in so far as they relate to broadcasting shall, as from the commencement of the Act, vest in the Commission without further assurance than by this Act.

[Cap. W5.]

### **26. Interpretation**

In this Act, unless the context otherwise requires-

**"chairman"** means the chairman of the Commission;

**"Commission"** means the National Broadcasting Commission established by section 1 of this Act;

**"member"** means a member of the Commission and includes the chairman;

**"Minister"** means the Minister charged with responsibility for information and

**"Ministry"** shall be construed accordingly;

**"secretary"** means the secretary to the Commission;

**"station"** means a place or organisation established for the purpose of distribution of radio or television programmes to the public through wireless or cable means.

## **27. Short title**

This Act may be cited as the National Broadcasting Commission Act.

## **SCHEDULES**

### **FIRST SCHEDULE**

[Section 3 (5).]

#### *Supplementary provisions relating to the Commission*

#### *Proceedings of the Commission*

**1.** The Commission shall meet for the conduct of its business at such times as the chairman may determine.

**2.** The principal office of the Commission shall be in the Federal Capital Territory, Abuja where its general sessions shall be held.

[1999 No. 55.]

**3.** The Commission shall have power to regulate its proceedings and may make standing orders for that purpose and subject to any such standing orders and to paragraph 4 of this Schedule, may function notwithstanding-

- (a) any vacancy in its membership or the absence of any member;
- (b) any defect in the appointment of a member; or

***Proposal: This provision should be removed***

- (c) that a person not entitled to do so took part in its proceedings.

***Proposal: This provision should be removed***

4. The quorum at any meeting of the Commission shall be a simple majority of the members.
5. Where standing orders made under paragraph 3 of this Schedule provide for the Commission to co-opt persons who are not members of the Commission, such person may attend meetings of the Commission and advise it on any matter referred to them by the Commission but shall not count towards a quorum and shall not be entitled to vote at any meeting of the Commission.

***Committees***

6. The Commission may appoint one or more committees to advise it on the exercise and performance of its functions under this Act and shall have power to regulate the proceedings of its committees.

7. The Commission shall conduct its proceedings in such a manner as shall be best conducive to the proper dispatch of its business and the ends of justice.

[1999 No. 55.]

8. Each vote and official act of the Commission shall be entered on record and its proceedings shall be made public upon request by any party interested.

[1999 No. 55.]

9. The Commission may withhold publications of records or proceedings containing secret information affecting national defence and security.

[1999 No. 55.]

***Miscellaneous***

10. (1) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be made under seal may be entered into or executed on behalf of the Commission by any person generally or specifically authorised in that behalf the Commission.

(2) Any member of the Commission or of a committee thereof, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Commission or a committee, as the case may be, shall not

vote on any question relating to such contract or arrangement.

- 11. (1) The common seal of the Commission shall not be used or affixed to any document except in pursuance of a resolution duly passed at a properly constituted meeting of the Commission and recorded in the minutes of the meeting.
- (2) The fixing of the seal of the Commission shall be authenticated by the signature of the chairman or some other members authorised generally or specifically by the Commission to act for that purpose.
- (3) Any document purporting to be a document duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

**SECOND SCHEDULE**  
[Section II.]

*Form for application for a grant of licence*

I. Name of applicant

.....

2. Address

.....

3. Names and nationalities of directors

.....

4. Names and nationalities of shareholders and shareholding

.....

5. Equity structure

.....

6. Type of broadcast licence required (radio/TV. cable TV, etc.)

.....

7. Purpose of licence

.....

8. Duration for which licence is required

.....

9. Location

.....

10. Coverage area  
.....
11. Target audience/programme profile  
.....
12. Applicant's interest in any other media organisation  
.....
13. Type and make of transmitters  
.....
14. Effective radiating power  
.....
15. Type of antenna and its characteristics  
.....
16. Distance between studio and transmitter station  
.....
17. Type of link. system to be used  
.....
18. Method of reception (scramble or open broadcast)  
.....
19. Type, range and standard of programmes  
.....
20. Proportion of Nigerian content to the foreign content  
.....
21. Proposal for increase of local content over licenced period  
.....
22. Any special effort to promote indigenous talents  
.....
23. Evidence of financial and technical capabilities of applicant  
.....

***Undertaking***

24. I/We ..... hereby give an undertaking that upon a grant of a licence I/we shall abide by the terms and conditions upon which the licence is granted.

.....  
*Signed*

25. An application shall be accompanied by the following-

(a) Certificate of Incorporation;

(b) Certified copy of Articles and Memorandum of Association;

***Proposal:***

***This should include Certified copy of Constitution of community association, in cases of community broadcasting license applicants***

(c) Project study including engineering design of system;

(d) Evidence of the undertaking required under section 9 (d) of the Act.

***Proposal:***

***The application form should be reviewed (by providing separate templates) to appropriately cater for the various broadcasting sub-sectors – public, private/commercial, community, etc, and include provision for digital television broadcasts. With the advent of digitization, applicants for television licence do not require transmitters, therefore the requirement to indicate the type and make of transmitters will not apply to them.***

THIRD SCHEDULE

[Section 12.]

*Terms of a licence*

1. A licence shall be valid for a period of five years in the first instance.

2. An application for the renewal of a licence shall be made to the Commission within a period of six months before the expiration of the licence.

3. In considering an application for the renewal of a licence the Commission shall review the conduct of the licensee.

[1999 No. 55.]

4. The Commission may not renew a licence if, having regard to the past performance of the station, it is not in the national or public interest or the interest of the broadcast industry to do so.

***Proposal:***

***The Commission should specify what situations will warrant a refusal to renew a licence under the grounds of acts against national or public interest.***

[1999 No. 55.]

5. A licence shall not be transferable and the licensed station shall not be changed without notifying the Commission of the intention and the reasons for such change.

***Proposal:***

***A license shall not be transferable; and the NAME – of the licensed station shall not be changed without notifying the Commission of the intention and reasons for such change.***

6. A licensee shall be responsible for the contents of the station's broadcast.

[1999 No. 55.]

7. A licence shall-

(a) contain a schedule of proposed programmes over a given period of time e.g. quarterly;

(b) a local programme content which shall not be less than 60 per cent local and not more than 40 per cent foreign for radio and television and not less than 20 per cent local or more than 80 per cent foreign for cable satellite retransmission;

[1999 No. 55.]

a schedule shall be accompanied by a synopsis of each of the programme plans.

8. Each station shall keep a daily log of its transmitted programmes and the station log book shall include a transmitter output power and radiating frequencies.

[1999 No. 55.]

9. Each station shall make available for inspection by the inspectorate staff of the Commission, its broadcast facilities including equipment, station transmission log, programmes and transmission recordings which must be kept at least 3 months before being discarded.

[1999 No. 55.]

**10.** A licence may be revoked by the Commission in the following cases, that is-

- (a) where the prescribed fee has not been paid on the due date;
- (b) where the licence has not been put to use within a period of one year after issuance;

[1999 No. 55.]

- (c) where it is found that the licence was obtained in breach of the provisions of section 13 of this Act or where it is found that the provisions of the said section are not being complied with;

[1999 No. 55.]

- (d) where in the opinion of the Commission the station has been used in a manner detrimental to national interest or where a complaint from the public has been upheld after a public hearing instituted by the Commission and whose decision is upheld by a majority of members of the Commission;

[1999 No. 55.]

- (e) for false statements knowingly made either in the application form or in any statement of fact which may be required pursuant to this Act;

[1999 No. 55.]

- (f) where the Commission discovers even after the issuance of a licence, authentic information or facts that would ordinarily preclude the granting of a licence to the licensee;

[1999 No. 55.1

- (g) where there is wilful or repeated failure to operate substantially as set forth in the licence;

[1999 No. 55.]

- (h) where there is wilful or repeated violation or wilful or repeated failure to observe any provision of this Act or any rule or regulation of the Commission authorised by this Act or by a treaty ratified by the Federal Republic of Nigeria;

[1999 No. 55.]

(i) where there is violation of or failure to observe any cease and desist order issued by the Commission;

[1999 No. 55.]

(j) where there is wilful or repeated failure to allow reasonable access into the premises of any station; and

[1999 No. 55.]

(k) where a provision of the National Broadcasting Code has been seriously breached.

**Proposal:**

- I. The revocation of a licence should arise where the licensee has not paid any part of the prescribed fee after six months following the grant of a licence***
- ii. It should follow a transparent process with clearly stated criteria that are publicly available***
- iii. This function should not be exercised with reference to or under the instructions of any other authority except that of the commission***
- iv. the decisions of the commission in this regard should be subject to judicial review***
- v. There should be a structure for appeal of regulatory decisions: a high-level committee shall be established within the regulator to consider and decide on appeals from licencees. Its decisions could further be subject to judicial review.***

[1999 No. 55.]

**11.** The public hearing referred to in paragraph 10 (d) may be held at such places as the Commission may determine to be appropriate, and in making such determination, the Commission shall consider whether the public interest, convenience or necessity will be served by conducting the hearing at a place in or in the vicinity of the principal area to be served by the station in question.

[1999 No. 55.]

**12.** Pursuant to paragraph 11, the Commission shall serve upon the licensee or person involved an order to show cause why an order of revocation,

suspension, or any order should not be issued against him and the order to show cause shall contain a statement of the matter with respect to which the Commission is inquiring and shall call upon the said licensee or person to appear before the Commission at such time and place as may be stated in the order outut not less than thirty days after the receipt of such order, to give evidence upon the matter specified therein.

[1999 No. 55.]

**13.** If, after the hearing, the Commission determines that an order of revocation, suspension or any such other order should be issued, it shall issue such order, which shall include a statement of the findings of the Commission, the grounds and reasons for the findings and specify the effective date of the order, and cause same to be served on the said licensee or person.

[1999 No. 55.]

**14.** The Commission may impose a lesser sanction such as a warning or the suspension of a licence as it may deem fit.

## **SUBSIDIARY LEGISLATION**

## EU-SDGN Implementors



### IMS Head Office:

No.3, Emina Crescent,  
Off Toyin Street,  
Ikeja, Lagos, Nigeria  
+234 (0) 903 294 3342  
[www.imesoimeso.org](http://www.imesoimeso.org)  
[info@imesoimeso.org](mailto:info@imesoimeso.org)  
[imesoimeso@hotmail.com](mailto:imesoimeso@hotmail.com)

### EU-SDGN Secretariat:

12 Charles de Gaulle Street,  
Asokoro, FCT 9000211,  
Abuja-Nigeria  
+234 (0) 818 932 2858  
[nigeria@eces.eu](mailto:nigeria@eces.eu)  
[www.democracy-support.eu/nigeria](http://www.democracy-support.eu/nigeria)  
[www.facebook.com/EUUSDGN](http://www.facebook.com/EUUSDGN)



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