



**GUIDELINES ON PROCEDURE FOR
GRANTING APPROVAL TO
DISCONNECT
TELECOMMUNICATIONS OPERATORS**

Issued 30th day of November 2012

TABLE OF CONTENTS

Part I: General	2
1. Introduction	2
2. Guiding Principles	2
3. Request for Approval to Disconnect.....	3
4. Additional Information from the Applicant	5
5. Conditions for the Grant of Approval to Disconnect for Indebtedness	5
Part II: Decisions of the Commission	6
6. Preliminaries and Time for Taking Decisions	6
7. Pre-Disconnection Notice.....	6
8. Notice to Parties	7
9. Partial Disconnection.....	7
10. Other Remedial Steps for Non-Payment of Interconnect Debts	8
11. Application of Guidelines to Interconnect Exchange Licensees	8
13. Reconnection	9
15. Miscellaneous	10
16. Definition	10
Schedule.....	11
NCC Disconnection Form 1	11
NCC Disconnection Form 2	13

Nigerian Communications Commission
Guidelines on Procedure for Granting Approval to Disconnect
Telecommunications Operators

Part I: General

1. Introduction

- (1) The Nigerian Communications Commission (the Commission) has been given powers under the Nigerian Communications Act 2003 (the Act) to, inter-alia
 - (a) Grant approvals for applications made under any circumstance to disconnect a licensee
 - (b) Make and publish guidelines on any matter for the due administration of provisions of the Act.
- (2) These Guidelines are developed to ensure that the procedure for granting approval by the Commission for the disconnection of a licensee is founded on a predetermined framework to engender transparency, certainty and fairness.
- (3) Tariffs paid by consumers to operators are inclusive of the interconnection charge, and an operator shall upon receipt of such tariffs ensure that it deducts and sets aside the interconnection fees payable to its interconnect partners, and effect payment thereof in accordance with the terms of duly executed interconnection agreements.

2. Guiding Principles

- (1) The Commission shall not consider any disconnection request except:
 - (a) There is a subsisting interconnect agreement between both parties duly filed with the Commission

- (b) The interconnected operators must have accurate billing systems consistent with the standard and specifications determined by the Commission. No operator is permitted to have a billing system that is not type-approved to ensure compliance with the standards and specifications as determined by the Commission.
 - (c) Parties must have fully exhausted all the options contained in their interconnection agreements for resolving the dispute, billing or other interconnect debt issues in question.
- (2) The Commission shall in granting approval for the disconnection of an operator be guided by the need to ensure that the interest of subscribers of the affected network is protected.
 - (3) The Commission would at all times only allow the disconnection of out-bound calls from a respondent's network, provided howsoever that in the case of disconnection on grounds of indebtedness that any revenue generated from the termination of calls on a debtor operators network will be specifically used to set off the level of indebtedness of the debtor operator.
 - (4) Other relevant issues to guide the decision of the Commission shall include the public interest in observing the rule of law and the need to entrench good corporate governance practices among operators.

3. Request for Approval to Disconnect

- (1) Every operator (hereinafter referred to as "Applicant") has a right to apply to the Commission for approval to disconnect an interconnected operator (hereinafter referred to as "Respondent") for any of the following reasons. Where:
 - (a) The respondent fails to settle its interconnect indebtedness after it becomes due;
 - (b) An interconnection agreement has been terminated in accordance with the terms thereof;
 - (c) There is a fundamental breach of interconnection agreement;
 - (d) The respondent is engaged in acts contrary to the terms of its licence with regards to interconnection;

- (e) For any other reasons established under the Act or any subsidiary legislation made by the Commission.
- (2) Applications for approval to disconnect an operator on the grounds of failure or refusal to settle interconnect indebtedness should at all times be made on NCC Disconnection Form 1, completed in triplicate and forwarded under a covering letter to the Commission while an electronic copy of the duly completed NCC Disconnection Form 1 (available on the Commission's website) is sent via email to legal@ncc.gov.ng
- (3) The information to be provided to the Commission under paragraph (2) above would however not be required where the request for disconnection is made for reasons other than failure or refusal to settle interconnect indebtedness.
- (4) In every request for approval to disconnect made under Paragraph 3 (1) (a – e) above, the Commission shall within three (3) working days of receipt of the request, forward the request to the respondent requiring its comments and/or reasons within five (5) working days why approval should not be granted for the disconnection.
- (5) The comments and/or reasons which the Commission shall take into consideration in determining whether or not approval should be granted shall be forwarded under a covering letter to the Commission on duly completed NCC Disconnection Form 2, completed in triplicate.
- (6) Failure of the respondent to make a written response to the request for disconnection in line with Paragraph 3(4), shall be taken as an indication that it has no response and the Commission may take a decision based on the submissions of the applicant.
- (7) A respondent upon request may at the discretion of the Commission be granted an extension period of no longer than three (3) days within which to make its written response.

4. Additional Information from the Applicant

- (1) Notwithstanding the specific provisions of Paragraph 3 hereof, nothing in these guidelines shall preclude the Commission from requesting for any additional information which it may require in considering an application for consent to disconnect an operator.

5. Conditions for the Grant of Approval to Disconnect for Indebtedness

- (1) In considering a request for approval to disconnect an operator, the Commission will take into account the following:
 - (a) That the applicant has paid all its regulatory fees to the Commission;
 - (b) That the applicant had prior to the request for approval to disconnect exchanged Call Data Records (CDRs) with the respondent on demand; and
 - (c) That such CDRs had been reconciled and the outstanding amount agreed by both operators.
- (2) The debt must have been outstanding for sixty (60) calendar days inclusive of the period agreed between the parties in their interconnection agreement.
- (3) In the event that the respondent has a previous record of not meeting debt obligations the duration allowed for indebtedness may be reduced to forty-five (45) calendar days inclusive of the period agreed by the parties in their interconnection agreement.
- (4) In addition, the decision of the Commission on a request for approval shall be guided by the following considerations:
 - (a) Previous payment record of the respondent with the applicant;
 - (b) The antecedents of the respondent vis-à-vis payment of interconnection indebtedness to its interconnecting parties.
- (5) For purposes connected with the determination of the total amount of indebtedness owed by parties, where an operator fails to exchange reliable CDRs after fifteen (15) calendar days of the demand thereof, the CDRs of the other

interconnecting party shall be deemed as the proper and correct records of indebtedness of the parties.

- (6) The determination in sub-paragraph (5) above deeming the CDRs of one interconnecting party as the correct record of indebtedness between two parties shall be communicated to the parties by the Commission within a period of three (3) working days.

Part II: Decisions of the Commission

6. Preliminaries and Time for Taking Decisions

- (1) Without prejudice to provisions of any paragraph of these Guidelines, the Commission may at any time before rendering its decision on the request for approval to disconnect, opt to invite the parties to a hearing meeting on the application.
- (2) Where at such a meeting a respondent shows demonstrable efforts by the payment of at least 50% of the indebtedness, the respondent would be required to sign an undertaking on terms acceptable to the applicant.
- (3) Refusal to execute an undertaking or non-compliance with the terms of an undertaking will result in the grant of approval to disconnect the respondent.
- (4) The decision by the Commission either granting or refusing a request for approval to disconnect shall be taken and communicated to the parties within fifteen (15) working days of the receipt of all requested comments or conclusion of hearing as required under Paragraph 6(1) hereof.
- (5) In the event that the Commission is unable to give its decision within the timeframe stated in Paragraph 6(3), the reasons shall be communicated to both parties.

7. Pre-Disconnection Notice

- (1) If the indebtedness or a part thereof remains unpaid as at the date agreed for payment in the undertaking, the Commission shall publish a notice to the subscribers of the debtor operator informing them that the operator is unable to

pay its indebtedness and is likely to be disconnected from the network of the applicant.

- (2) The Pre-Disconnection Notice to subscribers in paragraph 8(1) shall be published by the Commission in two national newspapers and by SMS to all subscribers of the debtor operator.
- (3) The Pre-Disconnection Notice to subscribers required under the subparagraph (1) hereof shall also be issued in all circumstances where the Commission has made a decision to grant approval to disconnect any debtor operator or any other case other non-settlement of interconnection indebtedness.
- (4) Upon the issuance of such notification, the Commission shall at its discretion allow a grace period not exceeding ten (10) working days within which desiring subscribers would be at liberty to make arrangements to migrate or port from the Respondent's network to another network.

8. Notice to Parties

- (1) The Commission shall not publish any notice to subscribers pursuant to paragraph 8 above, unless prior notice of the approval to disconnect has been given to both the applicant and the respondent to be disconnected.
- (2) In every case where notice is given to a respondent, such notice shall include a directive to settle any indebtedness within three (3) working days from the date of receipt thereof, failing which notice of the disconnection shall be published to subscribers of the respondent.

9. Partial Disconnection

- (1) Where a determination is made on the merits that a request for approval to disconnect should be granted, the Commission reserves the right to authorize an applicant to partially disconnect the respondent on terms to be decided by the Commission. For purpose of these Guidelines, Partial Disconnection shall be limited to the disconnection of only outbound calls from the respondent's network to the applicant's network.

10. Other Remedial Steps for Non-Payment of Interconnect Debts

- (1) In any event where approval for partial disconnection is granted, if the Commission is not satisfied with the remedial efforts made by the respondent subsequent to the approval, the Commission may take any or all of the underlisted steps:
 - (a) Direct the migration of such operators to interconnect through a licensed Interconnect Exchange;
 - (b) Decline any request for regulatory services or assistance and upon such terms and conditions as the Commission may specify;
 - (c) Publish names of operators with records of indebtedness in the newspapers;
 - (d) Direct interconnect exchange licensee to disconnect the operator.
- (2) Without prejudice to any other provisions of these Guidelines, the Commission may take any or all of the remedial steps in Paragraph 12(1)(a)-(d) in relation to any operator or respondent with a record of not meeting debt obligation(s).

11. Application of Guidelines to Interconnect Exchange Licensees

- (1) As a general principle due to the role played by Interconnect Exchanges, it is not permissible for them to be indebted to operators.
- (2) These Guidelines shall apply to applications brought by Interconnect Exchanges for the disconnection of operators passing traffic through them.

12. Disconnection of Interconnect Exchange Licensees

- (1) These Guidelines shall apply to the disconnection of interconnect exchanges by operators.
- (2) If an Interconnect Exchange Operator is indebted to an operator in whole or in part at the date agreed for payment in an undertaking, the Commission shall publish a notice in two (2) national newspapers to all operators connected to

the interconnect exchange informing them that the respondent is unable to pay its debt and is likely to be disconnected from the network of the applicant.

- (3) Upon the issuance of such notification, the Commission shall at its discretion allow a grace period not exceeding twenty one (21) days within which desiring operators would be at liberty to make arrangements to interconnect through other interconnect exchange operators or directly with the operators.
- (4) All other provisions of these Guidelines shall apply mutatis mutandis to applications for disconnection involving an interconnect exchange.

13. Reconnection

- (1) Where an operator has been disconnected for reason of indebtedness, the interconnect agreement between both parties shall automatically terminate, and such operator shall only be reconnected to the applicant upon the execution of a new interconnect agreement between both parties and total liquidation of all outstanding debts.
- (2) Where a disconnection has been granted either in accordance with paragraph 10(1) or 11(2), the respondent shall not be permitted to reconnect to the applicant indirectly through any other licensee or interconnect exchange unless it has liquidated all its outstanding debts to the applicant.
- (3) In order for a reconnection to be made to the applicant, the respondent shall be required to provide a Bank Guarantee to the applicant to ensure prompt payment of interconnection fees.

14. Registration of Payment Plan Agreements

- (1) Operators may at any time negotiate and agree upon terms for repayment of outstanding debts.
- (2) Any payment plan executed in accordance with Paragraph 15(1) must be signed by both parties and registered with the Commission; and such agreement shall be deemed by the Commission to be an undertaking in the context of Paragraph 7 of these Guidelines.

15. Miscellaneous

(1) Use of Bank Guarantees

Parties to an interconnection agreement may request and agree on the provision of bank guarantees to their interconnecting partners to ensure prompt payment of interconnection fees.

16. Definition

(1) In these Guidelines, unless the context otherwise requires, all terms shall have the same meaning as under the Nigerian Communications Act 2003.

(2) For specific purposes of these Guidelines;

“Act” means the Nigerian Communications Act 2003

“Applicant” means a licensee bringing an application for disconnection

“Application” means the documentation of a request for approval for disconnection.

“CDR” means Call Data Record

“Disconnection” means not only the mere absence of physical connection between operators previously interconnected, but also the reduction of bandwidth in both directions; parity bit marking to deny access or flow; allowing only uni-directional flow as against bi-directional flow and the general restriction of traffic however called.

“Licensee” means anyone who holds an individual licence under the Act

“Previous record” means documents with the Commission filed after each default establishing that a licensee has failed to meet its interconnect obligations three times in a twelve (12) month period;

“SMS” means Short Message Service;

“Undertaking” means a signed commitment by the respondent to settle its interconnect obligations by a definite date and according to a specified schedule;

“Respondent” means a licensee against whom an application for disconnection is made.

SCHEDULE

NCC DISCONNECTION FORM 1
APPLICATION FOR APPROVAL TO DISCONNECT TELECOMS
OPERATORS FOR REASON OF INDEBTEDNESS

1. APPLICANT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

2. RESPONDENT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

3. DEBT PROFILE/ INFORMATION

- A. Amount Outstanding:
- B. Due Date for payment of Debt:
- C. Has a previous application for disconnection been made in respect of the Respondent?

(*If Yes insert details)

.....

.....

.....

.....

.....

4. PARTICULARS OF CALL DATA RECORD (CDR) EXCHANGE

A. Date of Exchange of CDR

B. Is Reconciliation Complete?

C. Amount Undisputed:

D. Amount Disputed:

E. Reason(s) for Disputed Amount:.....

.....
.....
.....
.....

5. DETAILS OF COMPLIANCE WITH DISPUTE RESOLUTION MECHANISM CONTAINED IN INTERCONNECT AGREEMENT

.....
.....
.....
.....
.....

NAME	SIGNATURE	DESIGNATION	DATE
------	-----------	-------------	------

**Forms are to be completed in triplicate. Original copy to NCC; Duplicate copy to Respondent; Triplicate copy for Applicant's records.*

NCC DISCONNECTION FORM 2

**RESPONSE TO APPLICATION FOR APPROVAL TO DISCONNECT
TELECOMS OPERATORS FOR REASON OF INDEBTEDNESS**

1. RESPONDENT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

2. APPLICANT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

3. RECONCILIATIONS:

- A. Is Reconciliation Complete?
- B. Amount owed:
- C. Amount Undisputed:
- D. Amount disputed:
- E. Particulars of Disputed Amount:.....
.....
.....
.....
- F. Payment Proposal for Amount Undisputed:.....

.....
.....
.....
.....

**4. DETAILS OF COMPLIANCE WITH DISPUTE RESOLUTION
MECHANISM CONTAINED IN INTERCONNECT AGREEMENT**

.....
.....
.....
.....
.....
.....

5. COUNTERCLAIM (IF ANY):.....

.....
.....
.....

_____	_____	_____	_____
NAME	SIGNATURE	DESIGNATION	DATE

**Forms are to be completed in triplicate. Original copy to NCC; Duplicate copy to Applicant; Triplicate copy for Respondent's records.*