



**CODE OF CORPORATE GOVERNANCE  
FOR THE TELECOMMUNICATIONS INDUSTRY**

**2016**

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## **FOREWORD**

The entrenchment of good corporate governance standards and practices has continued to gain global recognition and acceptance as the bedrock for corporate success and business sustainability. The adoption of the concept and principles are intended to present a win-win model of inter-relations predicated on openness, accountability, transparency and integrity. Governance practices have evolved over time to stem the tide of emerging risks in managing businesses and to safeguard investor capital and enhance stakeholder values.

It is this scenario that gave rise to the Code of Corporate Governance for the Telecommunications sector and its formal launching in July 2014. As it will be recalled, the Telecoms Code of Corporate Governance is a product of wide consultations and participation of key telecoms industry players. Indeed as part of its process of wide consultation in reaching vital decisions, the Nigerian Communications Commission instituted a Corporate Governance Working Group (CGWG) in 2012 comprising membership drawn across the Nigerian telecoms sector, which produced the Code now reviewed after two years of implementation.

Since its inception in 2014, compliance with the provisions of the Code has been voluntary, aimed at availing sector operators' adoption and adaptation over time. However, after two years of adoption of the Code, it became imperative to carry out a study to ascertain the level of adoption and compliance with the provisions of the Code, and to have key elements of the Code reviewed in the light of observed peculiarities and current international best practices.

The outcome of the survey revealed that there were significant deviations from the key principles contained in the Code. There was therefore the urgent need for all operators to fully align with these principles in order to ensure that the industry moves on the same trajectory. It is against this background that it became imperative to move from a voluntary to a mandatory regime.

In the light of the above, the Commission considered the transition from a voluntary to mandatory regime a significant milestone requiring consultations with a wide spectrum of our stakeholders for support, contribution and critique in order to produce a final document with industry ownership. In this regard, a stakeholders' forum was held in June, 2016 to galvanize the views of key stakeholders for the enrichment of the code. With this development, the Commission is emboldened to develop and strengthen the mechanism for encouraging and rewarding corporate ethical behaviours, while setting out to monitor overall compliance with the key provisions of the Code.

While this renewed approach is aimed at driving down overall corporate management

risks, it is my hope that the revised Code of Corporate Governance would not only assist in enhancing business prosperity and corporate accountability, but help in consolidating on the gains of the telecoms sector to the nation's economy and gain stronger stakeholders' support.

Permit me to use this opportunity to thank the NCC Corporate Governance Committee for its relentless and painstaking efforts in reviewing the Code. I also wish to extend my gratitude to our numerous stakeholders for their contributions in achieving these desired results. This Code is therefore recommended to the Telecommunications Operators and takes effect from 1<sup>st</sup> November 2016.

**Professor Umar Garba Dambatta OFR, FNSE**  
Executive Vice Chairman/CEO  
Nigerian Communications Commission

## **1.0 INTRODUCTION**

Corporate Governance in our emerging economy is driven by the need to develop a system of control which is aimed at increasing shareholder value and surpassing the expectations of other stakeholders. This is more so in recognition of the fact that the corporate governance culture adopted by companies has a positive or negative impact on their respective growth and development. It is also a critical deciding factor in the success or failure of companies.

This Code of Corporate Governance for the Telecommunications Industry seeks to foster good corporate governance practices by Telecommunications entities (Licensees) operating in Nigeria. The provisions of the Code are based on international best practices.

As the Organization for Economic Cooperation and Development (OECD) acknowledges, "Good corporate governance provides proper incentives for the board and management to pursue objectives that are in the interests of the Company and its shareholders and should facilitate effective monitoring." It is believed that this Code of Corporate Governance will facilitate pursuit of objectives that are in the interest of the licensee, shareholders and other stakeholders in the industry. The consultative approach adopted in developing this Code is unique and offers opportunity for acceptability of the Code by the Board and Management of various telecommunication companies. It is our sincere hope that this Code will achieve the desired objectives and bring about positive changes in the corporate governance practices of the telecommunications industry. This Code may be reviewed on a yearly basis to allow for continuous improvements, where applicable.

This Code of Corporate Governance will ensure that the highest standards of industry transparency, due process, data integrity, disclosure requirements, accountability, and ethics are maintained without impeding enterprise and innovation.

### **1.1 Compliance with the Law**

This Code adopts the principles, standards and laws laid down in existing statutes in Nigeria particularly the Companies and Allied Matters Act (CAMA), the Nigerian Communications Act, etc. This Code adopts the provisions of CAMA as it relates to directors and officers responsibilities in the licensee as baseline where the stipulations of the statute are not declaratory.

In the event of conflicts between provisions of this Code and provisions of other Regulations, the stricter provisions should be applied.

## **1.2 Application of the Code**

Compliance with this Code is mandatory for all licensees that meet one or more of the following criteria:

- a. spread of operations of the licensee covers a minimum of 3 geo-political zones.
- b. turnover of the licensee is in excess of one (1) billion naira.
- c. the number of staff employed is in excess of 200.
- d. where the licensee has a subscriber base of 500,000 or more.

## **1.3 Sanctions for Non-Compliance**

The Principles of Good Corporate Governance as contained in this Code are enforceable and shall be complied with by the relevant licensees.

- a. The Commission shall monitor the level of compliance of licensees and where necessary, will enforce compliance.
- b. Whenever the Commission determines that a Licensee required to comply with or observe the principles of this Code is in breach, the Commission shall notify the Licensee concerned specifying the areas of non-compliance or non-observance and the specific action(s) needed to remedy the non-compliance or non-observance.
- c. A licensee shall indicate its level of compliance with the Code in its Annual Compliance Report submitted to the Commission. This is also in accordance with Principle 14.0 of the Code.
- d. Non-compliance with this Code shall attract appropriate sanctions in accordance with the Enforcement Processes Regulations, and/or as may be specified in any applicable legislation or regulation.

## **1.4 Reward Scheme**

In pursuit of the same objective and to encourage sector compliance, the Commission has instituted an annual reward scheme which is an Award of Good Corporate Governance to the most compliant licensee.



## **2.0 BOARD AND DIRECTORS**

### **2.1 The Board of Directors**

**Principle 2.1:** The Board of Directors is responsible for the governance of the licensee. The Board should ensure that a culture of ethical behaviour and right doing permeates the licensee.

- a. Every licensee in the Nigerian telecommunications sector should have a Board of Directors appointed by its Shareholders through a transparent process, to be collectively responsible for the management of the business of the company.
- b. The primary responsibility for governance of a licensee lies with the Board of Directors. The Board of Directors sets the tone and determines the core values of the licensee. Each licensee in the telecommunications sector is to be headed by an effective Board made up of persons who uphold the principles of accountability, transparency, responsibility, ethical conduct, integrity, independence and fairness.
- c. Apart from the shareholders in general meeting, the Board is the highest decision-making body in the licensee. Board members are collectively responsible for direction and management of the affairs of the licensee. In order to properly discharge its governance role, the Board should be independent of Management or any other influence.

### **2.2 Responsibilities of the Board of Directors**

The responsibilities of the Board shall include:

- a. CEO, Executive Directors and other key level Appointments
- b. Guiding Management, Succession Planning
- c. Setting the Vision, Mission and Strategy of the Licensee
- d. Approving Management Policies
- e. Oversight and Supervision of Management
- f. Risk Management
- g. Sustainability of the enterprise
- h. Performance Evaluation

In carrying out these roles and responsibilities, the Board should be mindful of, and consciously apply the Principles set out in this Code.

## **2.3 Board Leadership and Ethics**

**Principle 2.3a:** The Board should provide exemplary leadership for the Licensee based on ethical principles.

- a. Leadership is a critical responsibility of the board of directors. The Board should provide responsible, ethical, accountable value-based leadership, and be a model for the rest of the company.

**Principle 2.3b:** The Board should provide effective leadership based on an ethical foundation and should ensure that the company adopts and acculturates a value-based approach to corporate governance

- b. The Board shall ensure that all its deliberations, decisions and actions are founded on the value-based principles of corporate governance and in particular on the following principles:
  - i. Accountability
  - ii. Transparency/Openness/Honesty-
  - iii. Responsibility
  - iv. Independence-
  - v. Integrity
  - vi. Justice, equity and
  - vii. Fairness

(see more details on the principles in Appendix I)

### **2.3.1 Board Responsibility for Code Implementation**

- a. The Board should take responsibility for implementation of this Code and ensure the adoption of its provisions across the company.
- b. The Board should ensure that a Code of Conduct with provisions which align with this Code as a minimum standard of ethics is developed within the company.

### **2.3.2 Directors' Individual Responsibility in Corporate Governance**

- a. While the role and responsibility of the Board in corporate governance is collective, director's liability and obligation is personal. Thus, each director has a responsibility to act independently and in the best interest of the licensee and its stakeholders at all times.
- b. Every Director should demonstrate a clear understanding of the licensee's business, including its peculiarities, the industry and the stakeholders.

- c. Each Director should:
  - i. Avoid conflict of interest whether directly or indirectly through other relationships.
  - ii. Continually develop requisite skills and competences that will ensure his or her effectiveness as a Director.
  - iii. Devote the required time and attention to the licensee and its affairs, create time to read and review management proposals and participate effectively at Board, Committee and other company meetings.

### **2.3.3 Director's Right to Seek Independent Advice**

- a. Every Director is entitled to request explanations from officers of the licensee on any matter falling within his scope or duty as a Director.
- b. Where he is dissatisfied with the explanations, he may subject to the consent of the Board seek independent advice on the subject. The Company shall be responsible for the cost of the consultation.

## **3.0 ROLE AND FUNCTIONS OF THE BOARD**

### **3.1 Functions of the Board**

***Principle 3.1:*** The Board is responsible for the direction and management of the Company and should ensure the acculturation of good corporate governance as a strategy for ensuring success and sustainability of the business.

### **3.2 Board Size, Composition and Structure**

***Principle 3.2:*** Given the strategic significance of the telecommunications sector in Nigeria, it is important that Boards of Directors are constituted in order to efficiently discharge their respective governance roles and responsibilities.

- a. The Board should ensure that it is so composed as to assure a mix of skills, diversity of experience, and gender.
- b. In constituting the Board, it is important to take into account and reflect the size, scale, complexity and reach of the business of the licensee. The Board should take into consideration the skills and resource requirements for the licensee's business in deciding the number of directors to be appointed.
- c. Membership of the Board should not be less than five ( 5) for large telecommunication companies as defined by Principle 1.3, while the board size for smaller telecommunication companies shall be subject to the provisions of CAMA.
- d. Boards should be made up of independent-minded individuals who are diligent in discharging their governance duties.
- e. A majority of the Board should be NEDs whose role should be to bring independent external perspective to the governance of the licensee.
- f. The Board should have a minimum of two (2) Executive Directors of which one should be the CEO while the other should hold another strategic position based on the organization's core structure.
- g. Every board should have at least 1 Independent Director (ID) defined as one holding not more than 0.1% shareholding directly or indirectly in the licensee.
- h. For larger companies in the sector, the presence of two or more Independent Directors is desirable.

- i. Subject to the provisions of CAMA, one third of NEDs should retire periodically by rotation at the licensee's annual general meeting but retiring directors may re-present themselves for re-election provided that in the case of large companies, NEDs should not remain on the Board for a continuous period in excess of fifteen (15) years.
- j. The Board should be independent of Management to enable it carry out its oversight functions in an objective and effective manner.

### **3.3 Board Committees**

**Principle 3.3:** The Board should establish appropriate Committees to assist in its governance functions, duties and responsibilities, and to help improve the efficiency of its work as it deems appropriate.

- a. The Board shall inter alia set up the following Committees;
  - i. Audit and Risk Management Committee
  - ii. Governance Committee
  - iii. Nomination and Remunerations Committee
- b. The Board Chairman, and the CEO shall neither Chair nor be a member of any Committee.
- c. No Member of the Board should sit in more than two Committees.
- d. Each Committee must have a Committee Charter, which shall be approved by the Board.
- e. The responsibilities delegated to each Committee of the Board shall be articulated in its TOR.

Each Board Committee should meet as frequently as the assignment(s) committed to it by the Board of Directors necessitates.

### **3.4 Board Appointment Processes**

**Principle 3.4:** Directors should be appointed through a written, formal, and transparent process.

- a. The Board shall set up a Nomination Committee, with responsibility to assist the Board in the process of identifying suitable persons to be appointed as directors in the Company.
- b. The Nomination Committee shall carry out a background and reference check before

nominating any individual for the position of a Director.

- c. The report of each background and reference check shall be made available to all members of the Board and shareholders prior to the election of the Director onto the Board. This is to enable them to make their own assessment of the Director (s).
- d. The appointment of a Director should be formalized by a letter or a legal document disclosing the terms and conditions of the appointment and setting out responsibilities of such Director to the Board.
- e. The Board should ascertain that nominees for the positions of Directors are fit and proper persons; and are not disqualified under CAMA from being Directors.
- f. The Board must ensure that none of the directors appointed have any real or potential conflict of interest that could affect his duties to the company.

### **3.5 Board Meetings**

***Principle 3.5:*** In order to carry out its functions effectively, the Board should meet regularly.

- 3.5.1 The actual frequency of board meetings should be determined by each board, having regard to the peculiar needs of the licensee and its circumstances. However, board meetings should be held at least once in each quarter of the year.
- 3.5.2 All written notices, including the agenda of meetings shall be circulated at least fourteen (14) days prior to the meetings, except in the case of extraordinary meetings, where the notice period may be reduced or waived.
- 3.5.3 Every Director is expected to attend all Board meetings and committee meetings.
- 3.5.4 To qualify for re-election, Directors shall be required to attend at least two third of all Board and Committee meetings.

### **3.6 Board Charter**

Each Board should have a Board charter which specifies amongst others:

- a. The roles and responsibilities of the Board and its members,
- b. Size and composition,
- c. Appointment and tenure (the guideline for the appointment of new directors, as specified by this Code),
- d. Board Committees, meetings, appraisals, evaluations, remunerations, etc.

## **4.0 REMUNERATION**

### **4.1 Remuneration for Executive Directors and Senior Executives**

***Principle 4.1:*** Companies should develop and implement remuneration policies and ensure levels of remuneration are sufficient to attract, retain, and motivate executives of the quality required to run the company successfully.

- a. The Board should develop a formal remuneration policy for Executive Directors (ED) and senior executives, and a transparent procedure for implementing the policy. This should be without prejudice to the provisions of CAMA as well as other leading practices and standards on directors' remuneration.
- b. The remuneration policy of the licensee should align with its strategy and take into consideration the performance of the licensee.
- c. The terms and basis on which any Executive Director is to be engaged should be approved by the Board directly or through the Board Remuneration Committee or its equivalent.

### **4.2 Link with Performance**

As much as possible, executive remuneration and rewards should be linked to individual as well as corporate performance beyond the short term, and should give executives' incentives to perform at the highest levels towards the licensee's strategic objectives. In similar vein, care should be taken to ensure that severance packages, where they apply, do not reward poor performance.

### **4.3 Remuneration for Non-Executive Directors**

***Principle 4.3:*** Companies should develop and implement remuneration policies for Non-Executive Directors (NED). Remuneration structure should reflect the differing roles of executives and non-executives.

Levels of remuneration for NEDs should reflect the expectations of time, commitment, and responsibilities of the role. Higher remuneration for greater time commitment may also be incorporated, e.g. arising from participation on board committees.

#### **4.4 Avoiding Conflict of Interest**

- a. Save for the EDs, no one should be involved in deciding on his own remuneration.
- b. The Board may establish a Remuneration Committee charged with responsibility of assisting the Board, in developing procedures, processes, policies and practices to be adopted by the Board for determining Executive Management remunerations in the licensee.
- c. The Board remuneration committee should be made up of NEDs.

#### **4.5 Benchmarking**

Boards may use peer or other benchmarks as comparisons for developing remuneration packages for their Directors; however, such comparisons should be used with caution to ensure that it suits the particular needs of the licensee.



## **5.0 PERFORMANCE EVALUATION**

### **5.1 Board Evaluation**

*Principle 5.1:* The Board should periodically evaluate its performance and develop Performance Improvement Plans aimed at achieving behavioral change leading to a more effective Board. This exercise should be regarded as an opportunity for the Board to improve and strengthen performance of the licensee.

- a. The Board should establish a system for the periodic evaluation of its own performance, that of its Committees, Chairman, Chairmen of its committees, as well as individual directors.
- b. The performance of each director in the evaluation report should be a criteria for his re-appointment into the Board, hence the performance evaluation shall be conducted prior to the Board election.
- c. The Board should ensure that the periodic evaluation of the Board is carried out at least once annually.
- d. A return confirming that Board Evaluation has been instituted shall be made to the Commission.
- e. This should be an objective and independent process; while the CEO's appraisal should be done by the Board or such committee of the Board made up of NEDs.

### **5.2 Improving Board Performance**

- a. Every licensee should have Board Development Programmes for its Directors.
- b. The evaluation should form the basis for the Board Performance Improvement Plans and should be used to assist the development of training for the Board and individual Directors as well as in determining the additional skills required, or to be sought or targeted in future appointments to the Board.

### **5.3 Statement of Evaluation**

Companies should include a statement in their annual report on whether Board and Director evaluation have been conducted during the period under review.

## **5.4 Performance Evaluation of Executive Directors**

- a. The Board should by itself or through the Remuneration/Nomination or equivalent Committee evaluate the performance of the Executives periodically and at such intervals as the Board may determine.
  
- b. Where the Board delegates the evaluation of executives to the Remuneration/Nomination or equivalent Committee, the Board shall include the intervals for carrying out the assignment in the TOR for the Committee.

## **6.0 THE BOARD VALUE SYSTEM**

*Principle 6.0:* The Board should establish the value system that will drive the Company towards its overall direction.

### **6.1 Vision, Mission and Strategy**

The Board should be responsible for the strategic direction of the Licensee in line with corporate objectives and for setting its vision and mission.

### **6.2 Core Values**

The Board should determine the set of principles to which the licensee shall align its Core Values. The Board should ensure that at all levels of the Licensee, the business aligns with and adheres to the core values; and that a stakeholder-inclusive approach is encouraged and promoted.

### **6.3 Loyalty to the Company**

Members of the Board must uphold their fiduciary relationship with the Licensee at all times. Not only should directors always act in the Licensee's best interest, the Board should ensure that Management is encouraged to act in the best interest of the Licensee.

### **6.4 Directors' Disclosures**

Every director should disclose to the Board any real or perceived conflict of interest on any matter pertaining to the business of the licensee or matter coming before the Board for consideration, to the Board.

### **6.5 Corporate Reputation**

*Principle 6.5:* The Board should ensure that the licensee is law-abiding, driven by a culture of compliance and ethics; and pays attention to issues of reputational risk.

- a. The Board should appreciate that stakeholders' perception affects the licensee's reputation and ensure that not only is the licensee a responsible corporate citizen, but is also seen to be one.
- b. The Board should ensure that the licensee complies with applicable laws and considers adherence to non-binding rules, codes and standards. The licensee's

performance and interaction with its stakeholders should be guided by extant laws and regulations, policies and standards as determined from time to time by the NCC and/or other appropriate regulatory bodies.

- c. The Board should be mindful of the impact of the licensee's operations on the society and environment and should protect, enhance and invest in the well-being of the economy, society and the environment.
- d. The Board should actively develop appropriate Corporate Social Responsibility (CSR) policies and strategies that demonstrate an understanding of the importance of CSR.

## **6.6 Stakeholders' Consideration**

**Principle 6.6:** The Board should ensure that appropriate consideration of all stakeholders is a norm in the organization and that the significance of stakeholders in the management of the corporate reputation and reputational risk is appreciated.

The Board should take account of the licensee's impact on internal and external stakeholders and ensure that the licensee's business is conducted in an ethical manner.

## **6.7 Stakeholders' Engagement**

The gap between stakeholder perceptions and the performance of the licensee should be managed towards protecting the licensee's reputation.

This is paramount and should constantly be on the agenda of the Board; as the stakeholders' perception of the licensee affects its reputation. As such the Board should delegate management in a bid to ensure a balance between the stakeholders' perception and the licensee's performance.

## **7.0 OFFICERS OF THE BOARD AND THEIR RESPECTIVE DUTIES**

### **7.1 The Chairman**

**Principle 7.1:** The primary responsibility of the Chairman is to ensure effective operation of the Board and that it works towards achieving the Licensee’s strategic objectives. He should not be involved in the day-to-day operations of the Licensee. This should be the primary responsibility of the CEO and the Management team. The Chairman of the Board should be a NED.

The functions of the Chairman shall include the following:

- a. Providing overall leadership and direction for the Board and the company;
- b. Setting the annual board plan;
- c. Setting the agenda for Board Meetings in consultation with the CEO; and the Company Secretary;
- d. Playing a leading role in ensuring that Board and its Committees are composed of the relevant skills, competencies and desired experience;
- e. Ensuring that Board meetings are properly conducted and that the Board is effective and functions in a cohesive manner;
- f. Ensuring that board members receive accurate and clear information in a timely manner, about the affairs of the licensee to enable Directors take sound decisions;
- g. Acting as the main link between the Board and the CEO as well as advising the CEO in the effective discharge of his duties;
- h. Ensuring that all Directors focus on their key responsibilities and play constructive role in the affairs of the licensee;
- i. Ensuring that induction programmes are conducted for new Directors and that continuing education programme is in place for all Directors;
- j. Ensuring effective communication and relations with the licensee’s institutional shareholders and strategic stakeholders;
- k. Taking a leading role in the assessment, improvement and development of the Board; and
- l. Presiding over Board and General Meetings of shareholders.

### **7.2 The Chief Executive Officer/ Managing Director**

7.2.1 The Chief Executive Officer (CEO) or Managing Director (MD) should be the Head of the Management team and is answerable to the Board.

- 7.2.2 The CEO/MD should be knowledgeable in relevant areas of the licensee's business. He should demonstrate industry, credibility, competencies and integrity; and should at all times win the confidence of the Board and the Management.
- 7.2.3 The CEO/MD and the Senior Management should demonstrate and establish a culture of integrity and legal compliance which should be imbibed by personnel at all levels of the licensee.
- 7.2.4 The functions and responsibilities of the CEO/MD shall inter alia include the following:
- a. Day-to-day running of the licensee;
  - b. Guiding the development and growth of the licensee;
  - c. Acting as the licensee's leading representative in its dealings with its stakeholders;
  - d. The authority of the CEO/MD and the relationship between the office and the Board should be clearly and adequately described in a letter of appointment.
  - e. The Board may delegate such of its powers to the CEO/MD as it may deem appropriate or necessary to ensure smooth operation of the licensee.

### **7.3 Executive Directors**

- a. An ED shall be a person knowledgeable in relevant areas of the licensee's business in addition to possessing such other qualifications, competences needed for their specific assignments or responsibilities.
- b. EDs shall be involved in the day-to-day operations and management of the licensee. In particular, they shall be responsible for the Departments they head and shall be answerable to the Board through the CEO/MD.

### **7.4 Non-Executive Directors**

- a. Non- Executive Directors (NEDs) shall be key members of the Board. They shall bring independent judgment as well as necessary scrutiny to the proposals and actions of the Management and Executive Directors especially on issues of strategy, performance evaluation and key appointments.
- b. Non- Executive Directors should accordingly be persons of high caliber, with broad experience, integrity and credibility.

### **7.5 Independent Directors**

**Principle 7.5** An Independent Director is a NED who is free of any relationship with the

licensee or its management that may impair, or appear to impair the director's ability to make independent judgments. It is desirable that the board of every licensee shall have at least one Independent Director who shall bring sound independent perspective to issues of policy or business coming before the Board

An Independent Director should generally monitor corporate affairs and policies, and act as a check; and present a balance on the acts of the Board and Management of the licensee.

## **7.6 Chairman/CEO Duality**

**Principle 7.6:** In order to institute and maintain independence and proper checks and balances, and prevent incidences of overbearing influence, the positions of Chairman of the Board of Directors and that of CEO shall be occupied by two separate persons.

## **7.7 Election of Chairman**

- a. The Board Chairman who should be a NED shall be elected by the Directors from among themselves.
- b. The performance of the Chairman and his ability to continue to add value to the Board should be evaluated annually.

## **7.8 Appointment of the CEO**

The CEO should be appointed by the Board of Directors in accordance with CAMA.

## **7.9 Multiple Directorships**

**Principle 7.9:** No individual shall serve simultaneously as a Director of more than three (3) companies in the communications sector. Concurrent service on too many boards may interfere with an individual's ability to discharge his responsibilities evenly and fairly; and may present a challenge of conflict of interest. The Board and the shareholders should therefore give careful consideration to other obligations and commitments of nominees in assessing their suitability for appointment into the Board.

- a. A prospective nominee to the Board of a licensee should disclose memberships on other Boards prior to his election;
- b. The Board should consider the other directorships held by such a prospective nominee

and determine whether the prospective nominee can contribute effectively to the performance of the Board and the discharge of its responsibilities before recommending such a person for appointment;

- c. Serving Directors should notify the Board through the Chairman of prospective appointments on other Boards.



## **8.0 THE COMPANY SECRETARY**

*Principle 8.0:* The Board should ensure that the Company Secretary is a person possessing the knowledge, competence and qualification necessary to discharge the duties of the office.

### **8.1 Responsibilities of the Company Secretary**

- a. The Company Secretary in addition to his statutory duties should be responsible for bringing the licensee's corporate governance responsibilities, especially those imposed by this Code, to the attention of the Board of Directors for implementation. The Company Secretary should also be responsible for drawing the attention of the Board to the non-implementation by the licensee of its obligations and/or responsibilities under this Code.
- b. The Board should be cognizant of the duties imposed upon the Company Secretary and repose such person with the requisite authority and support to effectively discharge those duties.

### **8.2 Reporting Line of the Company Secretary**

The Secretary shall report to the Board of Directors through the Chairman on Board matters and shall report to the CEO on administrative matters.

### **8.3 Appointment and Removal of the Company Secretary**

The Company Secretary shall be appointed by the Board of Directors and may be removed by the Board in accordance with CAMA.

## **9.0 BOARD AND MANAGEMENT**

### **9.1 Matters for the Board**

**Principle 9.1:** The Board is the highest decision-making body charged by the shareholders in general meeting with responsibility for direction, control and management of the affairs of the licensee, and is the body with primary responsibility for Corporate Governance in the licensee. While the Board may delegate some of its powers, it remains responsible for the governance of the organization.

- a. The Board should state which matters are reserved for the Board and those that it may delegate to Committees, the CEO and/or the Management.
- b. In the event of delegation of powers, the Board should maintain oversight over Committees, the CEO and/or the Management in respect of such delegated powers.
- c. When delegating its powers, the Board should articulate and document the scope, duration and mode of exercise of such powers.
- d. The Board may delegate such powers to Committees, the CEO or the Management as it deems fit, provided that the Board shall remain responsible for decisions it reaches in such respect and shall not thereby abdicate its responsibility.

### **9.2 Composition of Board Committees**

**Principle 9.2:** The Board should take responsibility for ensuring that the Committees to which it delegates its powers are so constituted as to assure its observance of corporate governance principles and the Board's directives.

- a. The Board should determine the composition, quorum and TOR for each of its Committees.
- b. With the exception of Executive Management Committees, Board Committees should be chaired by NEDs.
- c. Notwithstanding the provisions for the time being of the TOR of any other committee of the Board, the Board may vary such TOR from time to time as it deems fit.

### **9.3 Information Flow**

**Principle 9.4:** The Board and Individual Directors should have adequate information which is clear and accurate, provided in a timely manner to support effective governance.

- a. The Board should provide clear guidelines as to timelines for, and the format of information to be provided to members to enable them participate effectively at meetings of the Board and its Committees.
- b. The Board should empower the Company Secretary, who should collate information/documents and make them available to Board members in accordance with the Board's directives and stipulations.
- c. Where the information required for making decisions on an issue is not provided to Board members within the Board's stipulated timelines or in good time to ensure effective decision-making, the Board is at liberty to defer consideration of the issue(s) in respect of which timely and/or adequate information has not been provided until a future date as determined by the Board.

## **10.0 SHAREHOLDERS AND STAKEHOLDERS**

### **10.1 Shareholders**

*Principle 10.1:* The business of the licensee should be run in such a way as to balance the interests of the shareholders and other stakeholders.

- a. The Board should ensure the equitable treatment of all shareholders and that the interests of minority shareholders are protected. There should be a dialogue and engagement between the Board and the shareholders to align appreciation of and attain the mutual understanding of corporate objectives.
- b. In balancing the interests of stakeholders, the focus should be on the establishment of leading practices that enhance public perception, reputation and sustainability of the licensee.
- c. The going concern principle deals with the desirability that organizations will grow and outlive their founders.

### **10.2 Stakeholders**

*Principle 10.2:* The Board should demonstrate clear and balanced understanding of the company's external stakeholders as well as their importance to the business of the licensee. The responsibility for stakeholders' management and engagement lies with the Board of Directors.

- a. The Board should ensure that a balanced and effective mapping and assessment of the licensee's external stakeholders as well as the licensee's position and prospects in relation to them is carried out by the licensee.
- b. The Board should establish a suitable programme of stakeholders' engagement to be properly supervised by the Board or such Committee or person(s) as the Board may assign the responsibility for the same with appropriate feedback mechanisms duly documented.
- c. The Board should put in place:
  - i. A framework that recognizes the importance of the sector to society and the economy; and ensures a commitment to providing good quality services to their customers.
  - ii. An effective and efficient process for dealing with incidences and/or cases of service failure.

## **11.0 RISK MANAGEMENT AND INTERNAL CONTROL**

**Principle 11.0:** Companies should establish effective systems and structures for the governance of risk and for a robust system of internal controls to safeguard the licensee’s assets and shareholders’ investment.

### **11.1 Risk Management**

- a. The Board has primary responsibility for the risk management process and the governance of risk; and should put in place risk management systems that include identification, assessment, evaluation, mitigation and monitoring of risk.
- b. The Board responsibility should begin with deciding the licensee’s risk appetite or risk tolerance i.e. those risks it will take and those it will not take in the pursuit of its business objectives.
- c. Boards should ensure that there is an ongoing process for identifying, evaluating and managing the significant risks faced by the licensee, for the year under review and up to the date of approval of the annual report and financial statements.
- d. While management is accountable to the Board for designing, implementing and monitoring the risk management process, the Board has a responsibility to form its own opinion on the effectiveness of the process and should periodically identify, assess key risks and satisfy itself as to the effectiveness of the risk management system.
- e. The Board should assess the need to establish a formal risk management function.

### **11.2 Risk Management Committee**

#### **11.2.1 Establishment**

The Board should establish a Committee to assist it with the review of the risk management process and the significant risks facing the licensee. This Committee may be a dedicated Committee or another committee with other responsibilities (e.g. Audit Committee). The need for a dedicated Committee increases with the size and complexity of the business.

#### **11.2.2 Membership**

- a. Membership of the Risk Management Committee should include EDs and NEDs. Where the licensee decides to assign this function to the Audit Committee, careful consideration should be given to the resources available to the Audit Committee to adequately deal with governance of risk in addition to its audit responsibilities.
- b. Where the responsibilities for Audit and Risk Management are vested in the same Committee, then the membership of the Committee should exclude EDs.
- c. In addition to financial risks, the risk management systems should also take into account operational and strategic risks and the Risk Management Committee (or other equivalent Committee) should be responsible for overseeing the Enterprise Risk Management (ERM) of the licensee.

### **11.3 Internal Control**

**Principle 11.3:** The Board should establish an Internal Control System that incorporates a transparent system for financial reporting and compliance and ensure periodic checks on the effectiveness of these systems.

- a. The internal control system should be a combined assurance model that incorporates internal assurance such as an Internal Audit function with external assurance (e.g. External Audit).
- b. The internal control system should provide reasonable assurance regarding the achievement of organizational objectives including:
  - i. Efficiency of operations
  - ii. Safeguarding of the licensee's assets;
  - iii. Compliance with applicable laws, regulations and supervisory requirements;
  - iv. Supporting business sustainability under normal as well as adverse operating conditions;
  - v. Reliability of reporting.
- c. Directors, particularly of smaller companies, should seek professional advice on how to establish effective internal control processes.

### **11.4 Whistle Blowing Mechanisms**

- a. The Board should set in place mechanisms (e.g. hotlines, emails) to aid easy reporting of unethical or illegal practices.

- b. The Whistle-Blowing mechanisms should be reviewed by the Audit Committee.
- c. The Board should encourage the reporting of unethical/unlawful behavior (s) by employees in fulfilling its control and oversight responsibilities; approaches may include Code of Ethics and Whistle Blowing Policy.
  - i. Code of Ethics: The existence of a company code of ethics which is required under this Code, should aid the process of building an ethical culture.
  - ii. Whistle Blowing: the Board should encourage a confidential reporting process covering fraud and other risks.

## **11.5 The Governance Committee**

**Principle 11.5:** The Board may establish a Governance Committee which should comprise solely of NEDs.

The functions of the Governance Committee should be guided by a written TOR or charter and should include the following:-

- a. Establish the criteria for membership of Board and Board Committee, review candidates qualifications and any potential conflict of interest, assess the contribution of current Directors in connection with their re-nomination and make recommendations to the Board;
- b. Prepare a job specification for the Chairman's position, including an assessment of time commitment required of the candidate;
- c. Periodically evaluate the skills, knowledge and experience required on the Board;
- d. Make recommendations on experience required by Board Committee members, Committee appointments and removal, operating structure, reporting and other Committees' operational matters;
- e. Provide input to the annual report of the licensee in respect of Directors' compensation;
- f. Ensure that a succession policy and plan exists for the positions of Chairman, CEO/MD, Executive Directors and a subsidiary's Managing Directors for Group companies;

- g. Ensure that the Board conducts Board evaluation on an annual basis; and
- h. Review and make recommendations

## **11.6 Audit Committee**

- a. The Board should ensure the appointment of an Audit Committee in line with Companies and Allied Matters Act.
- b. Members of the Audit Committee should have good understanding of financial statements.
- c. The Chairman of the Board and the CEO should not serve on the Audit Committee, but could attend its meeting(s) by invitation.
- d. Membership of the Audit Committee should be disclosed in the Annual Report.
- e. The Chairman of the Audit Committee should be available at the Annual General Meeting (AGM) to answer questions about the work of the Committee particularly since the last AGM.
- d. The Audit Committee shall nominate the External Auditor for appointment; approve the terms of engagement and remuneration for the External Audit engagement; shall monitor and report on the independence of the External Auditor.
- e. The Audit Committee should meet at least two times a year.
- f. The Audit Committee is required to meet with the External and Internal Auditors of the licensee, at least once in a year.
- g. All members of the Audit Committee must be members of a recognized body of professional accountants in Nigeria.

## **11.7 Internal Audit**

**Principle 11.7:** Companies should adopt a risk-based approach to Internal Audit.

- a. The Board should determine the need to establish a dedicated Internal Audit to strengthen the system of internal controls and internal assurance model.



- b. Where the Board in its discretion decides to establish an Internal Audit Unit, this should have the respect and co-operation of both the Board and management; and directly support the attainment of strategic goals. As such, leadership of the Internal Audit Unit should be positioned at a sufficiently senior level within the company to understand the strategic direction and goals of the licensee.
- c. No person shall be appointed as the Head of Internal Audit of a licensee unless such person has three (3) years of relevant experience in Audit or Finance or Compliance function, and is a member of a recognized body of professional Accountants in Nigeria; or a Certified Internal Auditor
- d. The Head of Internal Audit should report administratively to the CEO and should have open and regular access to the Chairman of the licensee and the Chairman of the Audit Committee.
- e. The appointment or dismissal of the Head of the Internal Audit should be with the concurrence of the Audit Committee.
- f. The Internal Audit function may be outsourced to an Accounting Firm. However, the external and internal audit functions must not be carried out by the same accounting firm in order to ensure that their independence is not impaired.

## **11.8 Orientation and Training of Directors**

**Principle 11.8:** The Board should establish a formal orientation programme to familiarize new directors with the licensee's operations, strategic plan, senior management and its business environment, and to induct them in their fiduciary duties and responsibilities.

It is also mandatory for all Directors to participate in periodic, relevant, professional continuing education programmes in order to update their knowledge and skills and keep them informed of new developments in the licensee's business and operating environment. The objective of the training is to assist the Directors to fully and effectively discharge their duties to the licensee.

## **11.9 Tenure and Re-election of Directors**

**Principle 11.9:** To ensure continuity and injection of fresh ideas, a Director may serve on a board for a period of three (3) terms of five (5) years each. NO director shall serve on any board for a period exceeding a total number of fifteen (15) years.

Subject to satisfactory performance and the provisions of CAMA, all Directors shall be submitted for re-election at regular intervals of five (5) years. In order to guide decision of shareholders, names and sufficient biographical details of Directors nominated for re-election should be accompanied by performance evaluation statement and any other relevant information.

## **11.10 Terms and Conditions of Service**

***Principle 11.10: The terms and conditions of a Director's employment or service on the Board shall be in writing and issued to the Director in the form of a contract.***

The Director's Letter of Appointment shall cover the following issues:

- a. Duration or term of appointment;
- b. Remuneration package and method of remuneration;
- c. Explanation of the duties of care, skill and diligence and other responsibilities of the director;
- d. Requirement to disclose any material interests in the licensee and other entities related to the licensee;
- e. Requirement to periodically disclose material interests in contracts in which the licensee is interested or involved;
- f. Specific requirements, such as Board meeting attendance
- g. Synopsis of directors rights;
- h. Formal Orientation Programme or Training required of the Director to attend;
- i. Copy of Board Charter, Code of Ethics or Code of Conduct and the Directors responsibility to observe the same;
- j. Director evaluation programme used by the licensee; and
- k. Any other contractual responsibilities
- h. Directors, particularly of smaller companies, should seek professional advice on how to establish effective internal control processes.

## **12.0 REPORTING, TRANSPARENCY & DISCLOSURE**

**Principle 12.0:** Companies should present a fair, balanced, understandable and transparent assessment of the licensee’s position and prospects to external stakeholders.

Boards should develop a corporate reporting model that is tailored to the needs of shareholders and other stakeholders. The corporate reporting model should be built upon principles of transparency that are embedded in the presentation and disclosure of information relating to the licensee’s activities as well as the Board’s stewardship of the business.

- a. The corporate reporting model should be comprised of a financial reporting model as well as non-financial reporting components.
- b. The financial reporting model should represent the core of the corporate reporting model and should consist of the Annual Report (financial statements and accompanying notes).
- c. The Annual Report should be prepared in accordance with sections 331 – 334 of CAMA and the prescribed accounting principles and standards for the sector (currently IFRS). Smaller companies should at a minimum make disclosures in line with sections 334 (2) and (3) of CAMA. Smaller companies are however encouraged to adopt and inculcate in their operational framework the principles of the Code that pertains to the promotion of business ethics.
- d. Responsibility for preparation of the Annual Report as well as for ensuring the accuracy of its contents rests with the Board of Directors. The duties of the Board should include ensuring the integrity and effective communication of financial reports. Guidelines for preparation of the financial reports should include relevance, reliability, timeliness, accuracy and materiality.
- e. To ensure transparency in the financial reporting of the licensee, the Audit Committee shall maintain and recommend to the Board a policy of non-audit services provided by the external auditor and must approve the contracts for non-audit services.

## **13.0 RELATED PARTY TRANSACTIONS**

***Principle 13.0:*** All related party transactions should be reported to the Audit Committee, which shall in turn make recommendation or report on them to the Board for formal action.

- a. Every licensee shall maintain records of related party transactions, in each financial year, along with all relevant documents and explanations.
- b. The record of related party transactions shall include the following particulars in respect of each transaction: name of related party; nature of relationship with related party; nature and amount of transaction.

## **14.0 COMPLIANCE REPORT**

A Compliance Report should be submitted annually to the Commission in the Reporting format and Form in the Appendix 4 to this Code. The reliability of this Report should be ensured by the Board.

## **APPENDIX 1: THE PRINCIPLES EXPLAINED**

- 1. Accountability and Responsibility** are critically important values in governance and are both inter-related and interwoven. Accountability connotes being answerable and responsible for one's actions while Responsibility imports - not only the ability to respond or answer, but also the willingness to be held to account or called upon to explain what has transpired. Effective boards and directors are both accountable and responsible. By being responsible, they also recognize the importance of not externalizing the licensee's costs to the society and of minimizing any negative effects and impact of the licensee's activities on its stakeholders.
- 2. Responsibility** involves being mindful of the licensee's long term goals, taking decisions aimed at maintaining the licensee's going concern status and acting in line with the fiduciary responsibility which directors owe to their company. Directors have to be mindful of the interests of the Stakeholders of the licensee and to assess these interests which may sometimes compete with those of the Shareholders, individual Directors or even the Board of directors. Sometimes, the decisions that will be in the best interest of the licensee may be the ones that apparently favour other Stakeholders over these direct interests (Shareholders, Directors and the Board). Their fiduciary responsibility to the company means that directors and the Board must put the company's interest above their own. Similarly the legitimate interests and expectations of Stakeholders of the company should be considered and addressed.
- 3. Accountability** involves taking decisions and acting in a manner that is both defensible and justifiable as well as a willingness to explain the Board's and directors' actions and convictions to the licensee's shareholders and other stakeholders.
- 4. Ethical Conduct and Integrity** import the concept of right-doing and doing things right. Ethical values and Integrity are at the root of and foundational to corporate governance. The Board's responsibility extends to establishing integrity and an ethical culture in the organization. Integrity speaks to authenticity and maintaining high ethical standards and values in the face of all odds. This goes **beyond** Compliance. While companies that enthrone good corporate governance are known to comply with laws, regulations and the like, they however, do not stop at compliance alone. Ethical companies go beyond the rules and regulations to doing what is right simply because it is right to do so.
- 5. Reputation and Reputational Risk** speak to the perception of a licensee that is held by the public as one that maintains admirable and ethical standards and values or otherwise. Risk

can be positive or negative and while an ethically inclined licensee will enjoy a positive reputation, one on the other side of the spectrum, could reach undesired notoriety.

6. **Fairness** involves equal treatment of Shareholders, large or small as well as the equitable treatment of all Stakeholders.
7. **Relationship with Stakeholders.** Each industry and organization has its peculiar set of Stakeholders. In the Nigeria telecommunications industry, key external stakeholders include customers and the regulator, (NCC). Each organization has both external and internal stakeholders. Customers and Regulators are external, while Employees and the Board are internal stakeholders.

While there are different schools of thought regarding what the attitude of boards should be to the interests and expectations of the licensee's stakeholders, this Code encourages a stakeholders' inclusive approach, recognizing that the licensee's long term interests are best served by an appropriate consideration of the legitimate expectations and interests of key stakeholders.

For instance, the continued existence of the licensee is secured through regulatory approval and its viability and sustainability by customer satisfaction. Thus the Board's and individual director's responsibility for acting in the best interest of the licensee extends to ensuring that by acting in a manner which demonstrates that the Board properly considers and weighs the interests of other stakeholders in its decision-making, the licensee secures the support and goodwill of its stakeholders.

8. **Independence** involves acting without influence and in line with one's convictions. Independence is value-based and speaks to independence of character and judgment; and not merely to the absence of a link or history, whether financial or relational between a director and the licensee or with its management.
9. **Transparency** speaks to clarity and the absence of opaqueness or vagueness. The Board should disclose information about the licensee's affairs in a clear, unambiguous and understandable manner that makes for ease of analysis by shareholders and other stakeholders to enable them take informed decisions regarding the licensee's performance, its future viability and sustainability.

## **APPENDIX 2: DEFINITIONS**

**“Code”** means this Corporate Governance Code

**“Commission”** means the Nigerian Communications Commission or NCC

**“Enforcement Regulations”** means the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005, as may be amended from time to time

**“Executive Directors” or “Executives”** for the purposes of this Code, refers to Board Directors holding Management function in the company; and except where the terms “Managing Director” and/or “CEO” have been used to separate the holder of that office, shall include the Managing Director/CEO.

**“Large Companies” and “Small Companies”** The definition of the Large Company and the Small Company for the purposes of the Code is to be determined in line with Principle 1.3 of the Code. The thresholds may from time to time be reviewed.

**“Licensee”** means an incorporated entity who holds an Individual License or undertakes activities which are subject to a Class License granted under the Nigerian Communications Act 2003 as may be amended from time to time.



## **APPENDIX 3: ABBREVIATIONS AND ACRONYMS**

AGM-	Annual General Meeting
CAMA –	Companies and Allied Matters Act 2004
CSR-	Corporate Social Responsibility
CCGC –	NCC Committee on Corporate Governance Code
CEO –	Chief Executive Officer
CGWG –	NCC Corporate Governance Working Group
ED –	Executive Director
ID –	Independent Director
IFRS-	International Financial Reporting Standards
MD-	Managing Director
NCC –	Nigerian Communications Commission
NED –	Non-Executive Director
OECD –	Organization for Economic Cooperation and Development
TOR-	Terms of Reference