



## **REPORT OF THE PUBLIC INQUIRY ON GUIDELINES ON TECHNICAL SPECIFICATIONS FOR THE INSTALLATION OF MAST AND TOWERS 2009**

The Nigerian Communications Commission (the Commission) pursuant to the powers conferred on it by Sections 70, 71, 72, 130, 134, 135 and 136 of the Nigerian Communications Act, 2003 (the Act) reviewed Guidelines on Technical Specifications for the Installation of Mast and Towers. The reviewed Guidelines were published on the Commission's website for comments from the general public including telecommunications operators and other stakeholders.

A Notice of Public Inquiry was published on 12<sup>th</sup> June, 2009 in Vanguard Newspaper and 15<sup>th</sup> June, 2009 in This Day Newspaper. The publication requested members of the public to review the draft regulations and submit comments before the close of business on Friday July 3, 2009.

By the close of business on the 3<sup>rd</sup> July, 2009, the Commission received submissions and comments from:

MTN Nigeria Communications Limited

CELTEL Nigeria Limited Trading as Zain

Helios Towers Nigeria

Swap technologies and Telecomms Plc

A Committee was mandated by the Commission to review the various submissions from stakeholders whose submissions were received before the expiration period as indicated above.

All comments made by the stakeholders at the Public Inquiry are covered by this Report.

## **Participation**

Attendance at the Public Inquiry was below expectations, only a few operators were represented, majority of participants were members of the press. In all there were 24 participants.

## **Opening**

The Public Inquiry which commenced at 11:05 p.m. was declared open by the Executive Vice Chairman /CEO.

## **The Inquiry**

The Public Inquiry took place on July 14, 2009 at the Conference Hall of the Commission, Abuja and it started at 11.30 am.

Executive Vice Chairman (EVC) welcomed all stakeholders present and thanked them for attending the Public Inquiry.

The EVC's welcome address described the Inquiry as one of the requirements of the rule-making process of the Commission, enabling stakeholders to meet and consult for the purpose of issuing Regulations and Guidelines in accordance with S. 71 of the Nigerian Communications Act.

The EVC further stated that the tremendous progress recorded in the telecommunications sector is not insulated from numerous challenges; however, the Commission has risen to these challenges to ensure sustained growth and development in the sector as well as protecting consumers by developing relevant regulatory instruments. He stated that the amended Guidelines provide standards to be adhered to by telecom service providers/operators, designers, fabricators and installers of telecom towers towards ensuring environmental safety and sound engineering practices.

The EVC concluded by stating that the Commission intends to work with operators and other stakeholders towards recording further positive changes and growth in quality telecom service provision.

On this note the Public Inquiry was declared opened.

## **Comments On Guidelines On Technical Specifications For The Installation Of Masts And Towers**

The Deputy Director Legal Services made a presentation on the general overview of the guidelines under review. She stated that the Guidelines are divided into seven chapters and one appendix, while the specific objectives of the Guidelines are:

1. To provide standards to be adhered to by telecommunications services providers/operators, designers, fabricators and installers of telecommunications towers;
2. To ensure adherence to environmental safety and sound engineering practices by service providers in the installation of masts and towers and to ensure compliance with applicable international best practices in the installation of masts and towers.

The DDLS briefly gave an outline of the types of towers and masts, the required minimum specifications on design and construction; safety devices, maintenance and testing, siting of masts and towers environmental requirements application procedures for permits, service life, insurance and compensation and radiation levels acceptable internationally.

The summary of comments and the responses are as follows:

**1. Comment**

There was a comment to the effect that the Guidelines should contain sections to enforce tower maintenance-

**Response**

The Commission will review the Guidelines to include sections that mandate towers and masts maintenance

**2. Comment**

Suggestion was made by an operator that all Towers should have a maintenance schedule

**Response**

A schedule for towers and masts maintenance schedule will be included in the Guidelines

**3. Comment**

The Guidelines should enable operators determine technical design issues within the parameters of the Guidelines

**Response**

The Commission has the statutory duty to prescribe minimum standards for operators to adhere to. However operators are allowed to go higher than these standards.

**4. Comment**

An operator observed that the reviewed Guidelines has onerous unenforceable conditions; e.g. NCC approval, towers of 30 meters to have prior approval from

NAMA, 30 meters tower not to be sited within 15km of an airport, 25 meter towers not to be built within urban areas.

**Response**

These provisions have existed in the Guidelines before; they are not new introductions and as such do not create new conditions for operators to comply with

**5. Comment**

It was observed by an operator that reference has been made to NAMA only in the Guidelines; and therefore sought to know whether NCAA is no longer the relevant authority as reference is made only to NAMA

**Response**

NAMA and NCAA are both aviation Ministry regulatory authorities; both are relevant and where any is referred to in the Guidelines it is used interchangeably where relevant.

**6. Comment**

Notes reference to NAMA as against NCAA, and believes the latter is better placed than former to oversee any intrusions into the Nigerian airspace

**Response**

NAMA and NCAA are both aviation Ministry regulatory authorities; both are relevant and where any is referred to in the Guidelines it is used interchangeably where relevant.

**7. Comment**

Permissive suggestions and recommendations in certain provisions in document such as clause 4(5) (b) (iii), (iv) and (vi) should be expressly excluded from the purview of mandated compliance stipulated in the Guidelines

**Response**

Operators can only employ higher standards than prescribed in the Guidelines, the recommendations are general specifications

**8. Comment**

An operator sought to know the Commencement date of the Guidelines, whether they would be applied retroactively

**Response**

The Guidelines will take effect when finalized and approved by Board of the Commission, operators will be notified and the Guidelines published on the

Commission's website. The Commission in accordance with laid down laws do not issue retroactive regulations

**9. Comment**

It was suggested by an operator that certification document be exhibited to the public on demand to show that tower/mast pose no health hazards to the public

**Response**

The Commission is not in a position to issue such certification, since its within the purview of the Federal Ministry of Health. However, the Guidelines have taken cognizance of the stipulation by ICNIRP guidelines as approved by the WHO.

**10. Comment**

There was a comment that the role of State Government agencies and Local Government authorities be specified and clearly defined to reduce meddlesomeness of some agencies in the installation of masts and towers.

**Response**

The role of various agencies is clearly stipulated in the NCA 2003 already, there is no need for duplication of provision in a subsidiary guideline.

**11. Comment**

An operator opined that the restriction to 25m towers within residential areas is not economically viable for collocation operators. Another noted that it is too low for residential areas and that the reality of usage and topology in areas designated as residential may have no bearing on the designation as traffic patterns follow demographic concentrations rather than area designations.

**Response**

There is no outright prohibition, what the section stipulates is that permission must be obtained for the installation of such masts and towers. It is important that the safety of residents be paramount.

**12. Comment**

Due cognizance should be taken of evolving demographics over the 25 year lifespan of a tower or mast. That areas initially sparsely populated could easily become populated overtime leading to violation of requirements such as setback distance.

**Response**

The reviewed setback distance of 5 meters from any demised property will operate even in densely populated areas. The Guidelines are not cast in stone and will be reviewed as and when required

**13. Comment**

An operator sought to know if there would be a requirement for fees for towers masts

**Response**

The Guidelines has no new provisions for fees

**14. Comment**

There was a comment that license conditions should not be onerous as to prevent responsible and competent partners and service providers to the industry from engaging in the provision of tower construction and support to operators.

**Response**

The conditions are not new; they have existed in the Guidelines since its publication in 2006

**15. Comment**

Structural designs in the Appendix should be stipulated to be a guide and not mandatory.

**Response**

The designs are a guide and form the minimum acceptable standards

**16. Comment**

Space requirements should be expressed to exclude roof mount towers and masts (Cap 5 Clause 2)

**Response**

The provision for space requirements cannot be restricted to only masts and towers but applies to roof mounts since roof mounts have base on the ground and not on the roof.

**17. Comment**

It is suggested by an operator that the cure period of 30 days may prove insufficient to remedy inspection defaults especially if replacement is required.

**Response**

The Commission is of the opinion that 30 days is reasonable and enough to rectify any defect.

**18. Comment**

An operator suggested that the Arbitration clause in the Guidelines should be without prejudice to the contractual rights of parties and constitutional rights to adjudicate

**Response**

The Commission has taken note of the suggestion.

**19. Comment**

It was observed by an operator that tower to tower spacing can prove difficult considering that telecom operators have coinciding coordinates

**Response**

The Commission avers that the intention of the clause is to encourage collocation among operators.

**20. Comment**

An operator suggested that a feasible timescale for approval permits be stipulated; and evidence of land ownership may prove a challenge given that space is acquired upon confirmation of grid coordinates.

**Response**

The Commission will not specify timescale for approvals; however certified true copy of certificate of occupancy will suffice for approval purposes.

**21. Comment**

It is advocated by an operator that risks for accidents may continue to devolve on the installer under civil works contract as such parties should be allowed the contractual discretion to allot the incidence of third party damages

**Response**

The Commission can only hold Licensees of the Commission liable and not third parties

**22. Comment**

An operator noted that the Guidelines touches on aspects that are statutory responsibility of other regulatory agencies such as Ministries, Departments and Agencies at Federal State and Local Government levels as well as the Council for

the Regulation of Engineering Practice in Nigeria. Guidelines need not introduce additional regulations but should reference existing ones.

**Response**

The Commission has no intention of usurping the statutory powers of other RAs and enjoins Licensees to abide by such rules. However the Commission has the statutory powers to regulate all aspects of telecommunications

**23. Comment**

That NCC should cede primary responsibility to relevant RAs responsible for design, construction, siting aesthetics, noise discharges from generators and other environmental concerns and conduct of inspections and other monitoring and enforcement endeavours relating to masts and tower and rather play a supportive role and harmonise regulatory interventions by the various RAs to stimulate a conducive regulatory environment for telecoms services.

**Response**

The Commission has the responsibility of setting standards to be adhered to by operators.

**24. Comment**

Guidelines should adopt the International Commission on Non-ionizing Radiation Protection (ICNIRP) guidelines and NCC should stipulate that where a radio communication facility meets the ICNIRP standards for public exposure it should not be necessary for planning authorities to consider same issues while processing applications

**Response**

The Guidelines has stipulated minimum exposure levels in accordance with ICNIRP standards

**25. Comment**

NCC to establish an inter-agency desk to facilitate collaboration among the responsible RAs for mast and tower regulation

**Response**

The Commission is already corroborating with other RAs.

**26. Comment**

Guidelines should be rechanneled towards collaborating with RAs involved to address subsisting deficiencies in functions relating to telecoms masts, towers and radio sites



**Response**

Noted

**27. Comment**

A regulatory regime based on general authorizations as opposed to approvals is recommended and recommends two years as timeline for the coming into effect of the Guidelines

**Response**

The Guidelines have been in effect, the consultation is only for their review.

**28. Comment**

NCC should provide the underlying considerations for the adopted prescriptions in the Guidelines

**Response**

The considerations are known and have been discussed at various fora.

**29. Comment**

An operator observed that the provision requiring certification of roof mounts by the buildings' structural engineer before installation may be unattainable as the structural engineer may be deceased. Suggests that a certified/registered structural engineer should suffice

**Response**

Noted

**30. Comment**

The provision relating to general features of towers should be flexible to accommodate the specificities of the location and installation required; the duly qualified designing engineer's expertise and competence as well as the evolution of infrastructure engineering.

**Response**

Noted, however, the Licensee would take primary responsibility for such engineer's report

**31. Comment**

It was suggested by an operator that the section on foundation in swamps be excluded from the purview of Clause 1(5) (compulsory compliance) or it should be clearly stipulated as being subject to the discretion of a competent designing engineer.

**Response**

Noted

**32. Comment**

It was suggested by an operator that any distance above ground level of a mast or tower requiring certification by NAMA should be less than 500 metres.

**Response**

The height stated in the Guidelines are as provided by NAMA/NCAAA and cannot be unilaterally increased by the Commission.

**33. Comment**

An operator opined that the provision requiring masts and towers within 15 kilometers of airports and helipads require prior approval to be 15 kilometers is faulty.

**Response**

This is the distance adopted by Civil Aviation Authority in Nigeria

**34. Comment**

An operator sought clarifications on the requirement of name plates on each leg of mast and tower, the implication being that 4 name plates are required. It also recommended the use of clamps instead of bolting as multiple bolting aggravates rusting thereby undermining the structure. It further suggests that due to the incidence of identity fraud and vandalism of sites personal data of individuals and corporate should not be kept on masts and towers or at unmanned sites.

**Response**

Four are necessary so that the structure can be identified from any angle. Whether bolting or clamping, provided it is done in such a way that it is not easily removable

**35. Comment**

An operator enquired as to the feasibility of an antenna high on a 60 foot mast/tower containing a whole log book showing inspection dates and types of inspections performed as well as particulars of the inspector

**Response**

The log information is not to be held at the 60ft height but a normal human height level to enable easy reading

**36. Comment**

Requirements for permits and registration should be separated as their functions differ. This is in reference to the provision on permits from NCC for masts/towers above 20 meters. It further suggests permits for masts with a minimum of 55meters and registration for record purposes for heights in excess of 20 meters but less than 55 meters.

**Response**

The height stated in the Guidelines are adopted

**37. Comment**

An operator recommended the due accommodation and inclusion of equivalent grades of steel such as 355B, in reference to tower components classification

**Response**

Noted

**38. Comment**

An operator sought to know what would amount to minor and major maintenance, what activity each would entail and a clear distinction between the two

**Response**

This would be provided in the guidelines

**39. Comment**

There was a comment on the geographical coordinates of a structure or NAMA permit, that where the geographical coordinates of the location do not apply, a NAMA permit may not exist for structures in unregulated airspace or outside designated aerodrome traffic zones, that NAMA permits should only apply where it exist

**Response**

Noted

**40. Comment**

There was a comment that due care should be taken to distinguish between the construction of towers and masts and the installation of equipment at tower sites. That due cognizance should be taken of the feasibility of capital equipment for constructing towers and masts where the size, cost of construction and sheer logistics do not permit such use.

**Response**

Noted

**41. Comment**

There was a comment that the stipulated minimum qualifications should apply to only employees engaged in supervising the stipulated job functions

**Response**

Noted

**42. Comment**

There was a comment on the workmen's compensation policy, that in view of the stringent provisions of the Workmen's Compensations Act, full compliance and due alignment with the provision of the Act should be made mandatory for all the Commission's licensees and permits holders as a basic minimum requirement.

**Response**

Noted

The EVC thereafter thanked all participants and noted that comments and accepted observations will be included in the reviewed Guidelines. The public inquiry came to close by 12:58 pm.

**Legal Services Directorate  
Nigerian Communications Commission**