



## **REPORT OF THE PUBLIC INQUIRY ON THE REGISTRATION OF TELEPHONE SUBSCRIBERS REGULATIONS (AS AMENDED) AND BUSINESS RULES & OPERATIONAL PROCESSES FOR IMPLEMENTATION OF THE NATIONAL POLICY FOR SIM ACTIVATION**

### **1.0. INTRODUCTION**

The Nigerian Communications Commission (the Commission) pursuant to its powers under Section 72 of the Nigerian Communications Act 2003 (the Act) commenced the process of reviewing the Registration of Telephone Subscribers Regulations (Draft Regulations) and also developed the Draft Business Rules for the Implementation of the National Policy for SIM Activation (Draft Business Rules).

Based on the Commission's policy of participatory rule-making, the Draft Regulations and Business Rules were published on its website for comments from the general public, particularly its licensees and other stakeholders.

Further to this, the Commission received submissions from the following stakeholders:

1. Smile Communications Limited
2. Airtel Networks Limited
3. MTN Nigeria Communications Limited
4. Association of Telephone, Cable TV & Internet Subscribers of Nigeria
5. VDT Communications Limited

As required by Section 58 of the Act, a Public Inquiry on the Draft Regulations and Business Rules was scheduled for October 5, 2021 and a Notice of the Public Inquiry was published in Punch Newspapers and People's Daily Newspapers on Thursday, August 26, 2021.

### **2.0. THE PUBLIC INQUIRY**

The Public Inquiry held virtually as scheduled, commencing at 11:00am and was chaired by the Executive Vice Chairman, Professor Umar Garba Danbatta ***FNSE, FRAES, FAEng, FNIEEE***. Mr Adeleke Adewolu, the Executive Commissioner, Stakeholder Management, also attended the Inquiry alongside Alhaji Abdulazeez Salman, a Board Commissioner and Chairman of the Board Committee on

Licensing and Chief Uche Onuwde, a Board Commissioner and Chairman of the Board Committee on Finance and Establishment. The Virtual Public Inquiry was attended by about One Hundred and Twenty (120) participants, including Staff of the Commission, and representatives of telecommunications companies, as well as other interested stakeholders.

In his opening remarks, the EC-SM welcomed participants to the forum, and stated that the Public Inquiry is an avenue that enables the Commission develop and review its regulatory instruments by incorporating the comments and suggestions of industry stakeholders. He further added that this process ensures that the regulatory instruments issued by the Commission are in consonance with the best practices in the industry.

The Executive Vice Chairman, Professor Umar Garba Danbatta in his opening remarks stated that the Public Inquiry was consistent with the rule making process of the Commission and also in line with the Strategic Collaboration and Partnership Pillar of the 5 (Five) Point Agenda of the Commission. He also added that the Inquiry was a testament to the commitment of the Commission to keep up with the pace of the dynamic growth in the industry. Subsequently, the EVC enjoined all participants to make their contributions freely and raise issues that will assist the Commission in developing and issuing a regulatory instrument that will continually contribute to the development of the industry and sustain its positive contributions to the Nation's economy.

The Deputy Director, Legal and Regulatory Services, Ms. Helen Obi, gave an overview of the Draft Regulations and Business Rules, while Mr. Edoyemi Ogoh, Deputy Director, Technical Standards and Networks Integrity Department presented the Commission's responses to the comments received from stakeholders prior to the Public Inquiry.

#### **A. GENERAL OVERVIEW OF THE REGISTRATION OF TELEPHONE SUBSCRIBERS REGULATIONS AND THE BUSINESS RULES FOR THE IMPLEMENTATION OF THE NATIONAL POLICY FOR SIM ACTIVATION**

The Registration of Telephone Subscribers Regulations has provided a regulatory framework for the registration of subscribers to communications services utilising subscription medium in Nigeria, as well as establish, control, administer and manage the central database. The purport of the review is to comprehensively review its provisions to reflect current realities.

The Business Rules on its part is aimed at aligning existing Regulations, Guidelines, Directives and other regulatory stipulations with the revised National Identity Policy for SIM Card Registration.

## **B. REVIEW OF COMMENTS RECEIVED BEFORE THE PUBLIC INQUIRY**

### **1. Smile Communications Limited**

#### **1.1. Comment**

Smile requested for a review of the definition of “Biometric Information” to make finger prints optional as is outlined in the Business Rules.

#### **Response**

The Comment is noted and will be considered in the further review of the Regulations.

#### **1.2. Comment**

Smile requested for clarity on who the “Registration Agents” are in the course of the Registration of Subscribers and what the scope of their relationship will be with Smile and other licensees. Airtel also requested for clarification in this regard.

#### **Response**

The Registration Agent is a licensee of the Commission and its licensing conditions will outline its permitted activities and relationship with other licensees.

#### **1.3. Comment**

Smile recommended amongst other things that the definition of limited service status and limited access should be taken out of the draft Regulations and kept in the Business Rules for ease of modification and in keeping tabs with evolving technology.

#### **Response**

The Comment is noted and will be considered in the further review of the Regulations.

#### **1.4. Comment**

Smile requested that the definition of “Personal Information” should align with the National Identity Management Commission’s foundational data as outlined in the Business Rules. Airtel also offered similar comments in this regard.

#### **Response**

The provisions of the Business Rules will be made to align with the provisions in the draft Regulations for certainty.

#### **1.5. Comment**

The Commission was requested to amongst other things review the Data Dictionary and specifications for Digital Image Standards and Quality.

#### **Response**

The Comment is noted and will be considered in further review of the Regulations.

**1.6. Comment**

Smile recommended that the age limit for procuring communication services should be expanded to permit ages 15 years and above. In the alternative, Smile recommended that the Commission provide a standard process for SIM Registration of minors (persons under 18 years) in the Business Rules. Airtel and MTN also offered similar comments in this regard.

**Response**

Smile and the other operators are invited to appreciate the different thematic basis for setting the age limitations by the Labour Act and the NIMC Act. Registration of SIM has a peculiar contractual implication. The Comment is not accepted.

**1.7. Comment**

Smile suggested that the definition of “subscriber information” be amended to read “subscriber information refers to the NIMC Foundational data of subscriber recorded and stored by licensees or the Registration Agents in accordance with the Business Rules.” MTN also provided comments in this regard.

**Response**

The NIMC Foundational data is a basis for validation and verification of National Identity Number and is not part of subscribers’ information. The comment has not appreciated the purpose of the provision and is not accepted.

**1.8. Comment**

Smile opines that the Regulations should apply to persons and licensees including subscribers to communications services using subscription mediums within and outside the Federal Republic of Nigeria.

**Response**

The comment is a mischaracterization of the Policy and the scope outlined in the Draft provisions are wide enough to cover all services that will use a physical or electronic SIM in Nigeria. The comment is not accepted.

**1.9 Comment**

Smile recommends that Regulation 9(6) be amended to read thus: “*Licensees are permitted to retain the biometrics of subscribers. However, the Commission reserves the right to revoke this permission where there is a breach of the confidentiality and integrity of the biometric data and on such other grounds that the Commission may determine from time to time.*” Smile also suggested that another provision be added thus: “*Independent Registration Agents shall not be permitted to retain the biometrics of any subscriber after transmission to the Central database*”.

**Response**

Accepted.

### 1.10 Comment

Smile recommended that Regulation 12(4) be amended to read thus “*the licensee shall perform effective verification and validation of the subscriber’s data before activating the subscription medium on its network service and transmit the subscriber’s information to the Central Database.*”

#### Response

The comment did not take into cognizance the provisions of draft Regulations in relation to verification and validation. The transmission will be preceded by the verification and validation but within the timelines set by the draft Regulations. However, the comment is noted.

### 1.11 Comment

Smile recommended that Regulation 11(2) be amended to read:

*“In the case of a corporate body (IoT or Machine to Machine) or other juristic person, the biometrics and other Personal Information of the Primary Telecom Master of the Corporate (IoT or Machine to Machine) or other juristic person, and other relevant documentation outlined in the General rules on Corporate, IoT and Machine to Machine registration of SIMs in accordance with the Business Rules.”*

#### Response

The details are in the Business Rules and it will be unnecessary to repeat this process detail in the draft Regulations.

### 1.12 Comment

Smile recommended that *Limited Access* should be removed and replaced with *Limited Service Status* in Regulation 12(1).

#### Response

The comment is noted and will be considered in the further review of the draft Regulations.

### 1.13 Comment

Smile recommended that the term “*Subscriber Registration Solution Providers*” should be removed from the Regulations as it has been expunged from the Interpretation Section of the Regulations.

#### Response

The comment is accepted and will be effected.

### 1.14 Comment

Smile recommended that a new provision (Regulation 14(2)) on Registration of foreigners other than those intending to roam be introduced as follows:

*“A Licensee providing Communication Services to a Foreigner other than Roaming Services shall register such Foreigner in accordance with the outlined Business Rules.”*

**Response**

The nationality of a subscriber in Nigeria is immaterial and the differences in the registration criteria does not equate the primary registration of a Nigerian based foreigner with a roaming foreigner. Roaming features are different and cannot apply to registration of subscribers in the manner suggested. The comment is therefore rejected.

**1.15 Comment**

Smile recommended that the Commission include a provision that permits re-registration or registration of subscription mediums outside the country and in the Diaspora by Licensees and licensed registration agents in accordance with the Business Rules.

**Response**

The comment is a mischaracterization of the Policy and the suggestion to carry out SIM reactivation outside Nigeria is not the expectation of the Policy. This comment is hereby rejected.

**1.16 Comment**

Smile opined that multiple penalties and fines as stated in the Regulations appears stiff and may create more hardship to the licensees who after paying such hefty fines separately may not be able to sustain their operations financially. VDT Communications Limited also offered similar comments in this regard.

**Response**

The fines and penalties are a deterrence and it is not expected that a licensee will habitually breach them to an extent that will impact its financial strength. This comment is well noted but not accepted.

**1.17 Comment**

Smile recommended that a definition for Effective Verification be included in the Regulations as follows: “Effective Verification means the use of biometrics (Finger print or Facial image) to verify customer ownership on the SIM Registration Database”.

**Response**

The comment is noted and will be considered in the further review of the draft Regulations.

**1.18 Comment**

Smile recommended the inclusion of a provision which permits the Mobile SIM registration of Subscribers especially for C-Level (Primary Telecom Master) of Corporates, Senior/Elderly citizens, subscribers who are incapacitated by illness at the hospitals, subscribers in remote places, senior officers of Ministries, Departments and Agencies, Public service entities, very important dignitaries, ONSA, EFCC, etc.

**Response**

Mobile registration of subscribers is not in tandem with current regulatory prescriptions and is hereby rejected.

**1.19 Comment**

Smile recommended that the Business Rules once approved should be regarded as the single source of guidance on all SIM Registration and related matters which can be reviewed from time to time.

**Response**

All existing regulatory instruments will be duly considered as part of the review of this draft Regulations.

**1.20 Comment**

Smile recommended that item 46 of the General Rules- Tax Clearance Certificate or Tax Identification Number for Corporates of the Business Rules be maintained as it is.

**Response**

This issue has been duly captured in another instrument.

**1.21 Comment**

Smile notes that the Commission in a letter directed that all corporates (MSMEs and Large Companies) provide Tax Identification Number and Tax Clearance Certificate. Smile stated that it had experienced a lot of difficulties in implementing same and recommended that for ease of activations corporates should be allowed to provide their Tax Identification Number or Tax Clearance Certificate.

**Response**

The comment is noted and will be considered after the Public Inquiry.

**1.22 Comment**

Smile proposed certain amendments to the activation scenario for Foreigners with visitor's visa with less than Two years (2 years) in Paragraph 2.15 of the Business Rules.

**Response**

The proposed amendments are noted and will be considered in the further review of the draft Business Rules.

**1.23 Comment**

Smile recommended the inclusion of a new process to Paragraph 2.14 of the Business Rules for instances where there is a biometric or demographic mismatch in the SIM registration database.

**Response**

The comment is noted and will be considered in the further review of the draft Business Rules.

**1.24 Comment**

Smile recommended that Corporate SIM Registration be reviewed to limit the NIN collected per Corporate to only the Primary Telecom Master and Secondary Telecom Master (with respect to operational transactions). This is in view of the operational challenges being experienced by Smile in Corporate SIM Registrations.

**Response**

The Commission appreciates the comment but states that the provisions of the Business Rules cannot be built based on temporary operational challenges. Secondly, the Commission notes Smile's suggestion on sensitisation of consumers.

**1.25 Comment**

Smile recommended that the Business Rules should be amended to include a Rule number 71 which will stipulate the total number of SIMs a subscriber can have.

**Response**

The comment is accepted.

**1.26 Comment**

Smile recommended that the term "Limited Service Status" be included in the Business Rules and should be defined to mean limitation by an MNO of communication services available to a Customer to receive Short Message Services (SMS) or communication from the MNO only to confirm NIN verification of the subscriber.

**Response**

The comment is noted and will be considered during further review of the Draft Regulations.

**1.27 Comment**

Smile recommended that the Commission create a process for Transfer of SIMs taking a cue from the process on Harmonization of Demographics and Biometric Records of an Existing Customer in the Business Rules for SIM Registration and Activation.

**Response**

This has been captured in another regulatory instrument.

**1.28 Comment**

Smile recommended the inclusion of a new process flow to Part II: Business Rules-SIM Registration Activation of Corporates (IoT & M2M) to address the Secondary NIN validation for SIMs allocated to Functions (Bars, Hotels or Department of offices).

**Response**

The comment is noted and will be considered in the further review of the draft Business Rules.

**1.29 Comment**

Smile recommended the inclusion of a process flow for Corporate Customer (private or public sector) which require exemption from NIN-SIM harmonization rules.

**Response**

The comment is noted and will be considered in the further review of the draft Business Rules.

**2. Airtel Networks Limited.****2.1 Comment**

Airtel opined that there is a need for clarity regarding the activation window, as the 60 days' timeline indicated in this draft is at variance with the 30 days' timeline provided in the draft Business Rules.

**Response**

The comment is noted and the two provisions will be aligned.

**2.2 Comment**

Airtel recommended that the title of the draft Regulations should change from "Draft Registration of Telephone Subscribers Regulations 2021" to "Draft Registration of Communications Subscribers Regulations, 2021."

**Response**

The comment is noted and will be considered during further review of the Draft Regulations.

**2.3 Comment**

Airtel noted the deletion of "Subscriber Registration Solution Provider" from Part I of the Regulations, but observed the repeated usage of the term under S.9(3) & (4), 11(2), 13(1) and 21(1) & (2) respectively.

**Response**

The comment is noted and will be considered during further review of the Draft Regulations.

#### **2.4 Comment**

Airtel is of the view that, with respect to Regulation 3(b), the Commission should publish the names or information of the regulatory authorities of foreign licensees with which it has arrangements for the release of subscriber information. This suggestion is based on the need to guide the licensees and ensure regulatory certainty.

#### **Response**

The comment is noted and will be considered during further review of the Draft Regulations.

#### **2.5 Comment**

Airtel recommended that the word “may” in the first line of Regulation 9(6) should be replaced with “shall”. Thus removing any subjectivity and providing regulatory certainty albeit subject to the conditions provided therein.

#### **Response**

The comments are noted and will be taken into consideration in the final review of the Draft Regulations.

#### **2.6 Comment**

Airtel sought clarification on how Regulation 10(3) will impact on the outcome of the ongoing discussions between the Commission, CBN, Security Agencies, Banks and MNOs towards the development of a Memorandum of Understanding on Financial Fraud via Telecom platforms and more especially pertaining to the request or sharing of subscriber information with banks in instances of fraud.

#### **Response**

The engagements will be in line with the positions of all existing laws and regulatory instruments.

#### **2.7 Comment**

Airtel recommended, with respect to Regulation 12(4), the addition of “in accordance with the Business Rule” after the phrase “verify and validate”.

#### **Response**

The comment is noted and accepted.

#### **2.8 Comment**

Airtel stated that it is in agreement with the provisions of Regulation 15(4), but it recommended that certain critical information of the earlier subscriber should be stored by the licensee, so that it could be provided if required by any of the Law Enforcement Agencies for investigation of criminal activities.

### **Response**

Airtel is invited to note that there are rules of record keeping in statutes and regulatory instruments that have captured all the concerns raised.

### **2.9 Comment**

Airtel recommended the inclusion of Rule number 71 to the Business Rules as follows: “An individual (a non-corporate entity) subscriber is permitted to acquire and hold at every point in time a total maximum number of 100 SIMs with a single NIN irrespective of networks.”

### **Response**

The comment is noted but not acceptable, as the current limitation is based on a policy objective and any future review will consider all the factors before setting new limits.

### **2.10 Comment**

Airtel recommended the inclusion of a process for the following instances: Transfers from parents to their children, transfers between family members, transfers between individuals, etc.

### **Response**

This will be captured in another regulatory instrument.

## **3. MTN Nigeria Communications Plc.**

### **3.1 Comment**

MTN stated that the provisions of the Regulations and Business Rules seem to be divergent on the issue of activation period.

### **Response**

The comment is noted and will be resolved.

### **3.2. Comment**

MTN opined that the retention of the Subscriber Registration period is no longer practical and should be expunged.

### **Response**

The comment is accepted.

### **3.3 Comment**

MTN suggested that Regulation 15(4) be re-drafted as follows:

*“Where a SIM has been churned in accordance with the provisions of the Quality of Service (QoS) Regulations or after such other period of time as may be specified under the Business Rules, the subscriber details and biometrics of the new subscriber must be updated in*

*the Central Database overriding the previous subscribers' information.”*

**Response**

The provisions of the Business Rules cannot override the timelines set in the QoS Regulations, hence this comment is not accepted.

**3.4 Comment**

MTN recommended the inclusion of an additional scenario E for Foreigners with ECOWAS Passport (90 days free entry) in Paragraph 2.15 of the Business Rules.

**Response**

The comment is noted and will be considered in the further review of the draft Business Rules.

**4. Association of Telephone, Cable TV & Internet Subscribers of Nigeria**

**4.1. Comment**

The Association opined that Regulation 17 is an attempt to limit the number of lines a subscriber may have. They therefore suggested that the subscribers be allowed to register as many SIMs as possible provided they are registered.

**Response**

This comment is appreciated and will be taken into consideration whenever the Commission wishes to review this postulation.

**5. VDT Communications Limited**

**5.1. Comment**

VDT opined that the proposition by the Commission to extend the activation window from the period of one month to sixty days is commendable, as it will ensure that subscribers are not disenfranchised and allows for sufficient time to register their SIM

**Response**

The Comment is noted and will be considered during further review of the draft Regulations.

**5.2 Comment**

VDT recommended that the Commission extend the definition of “Registration Agent” and clearly delineate the requirements/condition precedent as regards who can be a registration agent. This they opine will bridge any gap and clear any grey area as to who can be a registration agent and what makes a company or business entity a registration agent.

**Response**

The comment is noted and will be considered during further review of the draft

Regulations.

### **5.3 Comment**

VDT stated that the proposed definition which extends the applicability of the Regulations to all communications service providers that utilise a subscription medium is commendable, as it seeks to remove grey areas and uncertainties as it were for communication service providers who utilize a subscription medium other than licensees who provide mobile telephone communication services.

#### **Response**

The comment is noted and will be considered during further review of the draft Regulations.

### **5.4 Comment**

VDT opined that the existing definition of “limited access” tends to specifically apply to licensees who provide mobile telephone communications services. In the case of other communications service providers, this definition is silent as to what amounts to limited access. They opine that the Commission should further review this and include what instances amount to limited access for other communications service providers who do not provide mobile telephone communication services.

#### **Response**

The comment is noted and will be considered during further review of the draft Regulations.

### **5.5 Comment**

VDT opined that the Commission should clearly define the process of transmitting subscribers’ data to the central database and every synchronization or integration should be clearly defined and laid out in a well detailed manner for licensees.

#### **Response**

The comment is noted and will be considered during further review of the draft Regulations.

## **6. REVIEW OF COMMENTS RECEIVED AT THE PUBLIC INQUIRY**

### **1. Airtel**

#### **1.1 Comment**

Airtel recommended that the Commission re-consider the portion of Regulation 19(1) that pertains to pre-registration as Mobile Network Operators do not pre-register, but unscrupulous agents.

#### **Response**

The Comment is noted and will be considered during further review of the draft Regulations.

## 1.2 Comment

Airtel reiterated the comment it sent prior to the Public Inquiry to the effect that the Commission should review the age limit for SIM Registration from age 18 to 16, in view of the large demography of Nigerians within that age range.

### **Response**

The Comment is noted and will be considered during further review of the draft Regulations.

## 2. National Identity Management Commission (NIMC)

### 2.1 Comment

NIMC stated that the Regulation 9(6) of the draft Regulations which permits licensees to retain the biometrics of subscribers, does not take cognizance of the mandate of NIMC as the custodian of all biometrics of Nigerian citizens.

### **Response**

The definition of biometrics, as far as the Regulations is concerned, includes the photographs of subscribers and the operators will require same to carry out their functions.

## 7. GENERAL COMMENTS

Dr. Mohammed Suleh-Yusuf, Senior Manager, Telecoms Laws and Regulations Unit thanked everyone for coming and stated that all comments submitted by stakeholders will be considered by the Commission before the draft regulatory instrument is finalised.

The Public Inquiry ended at about 3:00pm.

**Dated this 5<sup>th</sup> day of October 2021**

**Professor Umar Garba Danbatta, *FNSE, FRAES, FAEng, FNIEEE***  
**Executive Vice-Chairman/CEO**  
**NIGERIAN COMMUNICATIONS COMMISSION**