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35	Nigerian Communications Commission (Registration of Telephone Subscribers) Regulations, 2011 B 1125-1134

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**NIGERIAN COMMUNICATIONS COMMISSION
(REGISTRATION OF TELEPHONE SUBSCRIBERS)
REGULATIONS, 2011**



ARRANGEMENT OF REGULATIONS

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S. I. No. 35 of 2011

NIGERIAN COMMUNICATIONS ACT
(No 19 of 2003)
REGISTRATION OF TELEPHONE SUBSCRIBERS
REGULATIONS, 2011

In exercise of the powers conferred upon it by section 70 of the Nigerian Communications Act, 2003 and all other powers enabling it in that behalf, the NIGERIAN COMMUNICATIONS COMMISSION makes the following Regulations :

[3rd day of November, 2011]

Commence-
ment.

PART I—INTERPRETATION, OBJECTIVES AND SCOPE

1.—(1) The terms and expressions used in these Regulations which are defined in the Act shall have the same meaning as in the Act unless the context otherwise requires.

Interpreta-
tions.

(2) In these Regulations, unless the context otherwise indicates—

“*Act*” means the Nigerian Communications Act, No. 19 of 2003 ;

“*activate*” means to allow full access to a Licensee’s Network Service, including the ability to make and receive calls, to send and receive short message services and other range of services usually provided by Mobile Telecommunication Service providers and the words “*activated*”, “*activation*”, “*deactivate*” and “*deactivation*” shall be read and construed accordingly ;

“*activation window*” means the period of one month from the day a subscriber acquires a new line on the network of a licensee, within which a new subscriber is required to register with the relevant licensee and during which, the new subscriber will be granted limited Access ;

“*biometric information*” refers to finger prints and facial image of a subscriber in accordance with the Registration Specifications (as may be amended from time to time) provided by the Commission for the registration of subscribers ;

“*Central Database*” means subscriber information database, containing the biometric and other registration information of all Subscribers ;

“*Commission*” shall have the same meaning as in the Act ;

“*Constitution*” means the Constitution of the Federal Republic of Nigeria, 1999 ;

“*effective date*” means the date on which these Regulations come into force ;

“*existing subscriber*” means a person who is a subscriber prior to the effective date of these Regulations ;

“*Foreign Licensee*” refers to a Network Service provider licensed by a telecommunications regulator other than the Commission, to provide telecommunication services in a country other than Nigeria ;

“*General Consumer Code of Practice for Telecommunications Services*” means the General Code (as amended from time to time) attached as Schedule 1 to the Nigerian Communications Commission Consumer Code of Practice Regulations, 2006 (as may be amended from time to time) ;

“*Independent Registration Agent*” means a company contracted by the Commission for the registration of existing subscribers on such terms as may be agreed upon between the Commission and the company ;

“*Licensee*” mean a provider of Mobile Telephone Services that utilises a subscription Medium in the Federal Republic of Nigeria ;

“*limited access*” means the limitation by a licensee of services available to a subscriber to receive calls and short message services and making of calls to emergency centre numbers and the licensee’s call centre only ;

“*National Assembly*” means the National Assembly of the Federal Republic of Nigeria ;

“*new subscriber*” means a person who becomes a subscriber after the commencement of these Regulations ;

“*Network service*” shall have the same meaning as in the Act ;

“*personal information*” refers to the full names (including mother’s maiden name), gender, date of birth, residential address, nationality, state of origin, occupation and such other personal information and contact details of subscribers specified in the Registration Specifications ;

“*Mobile Telephone Services*” mean telephone services that utilise a subscription medium ;

“*Registration Specifications*” mean the Data Dictionary, Guidelines on Fingerprint Quality, specifications for Digital Image Standards and Quality, the XML Schema, Transmission protocol and the Technical Interface specifications and such other specifications and amendments thereto that may be made or issued by the Commission, from time to time, to guide the registration of subscribers and the interaction of Licensees’ or Independent Registration Agents’ databases with the Central Database ;

“*Security Agency*” or “*Security Agencies*” refers to any or all of the following law enforcement and security agencies : (a) Nigerian Police Force (b) the Economic and Financial Crimes Commission (c) the State Security Service (d) the Federal Road Safety Corps (e) the National Intelligence Agency (f) the Office of the National Security Adviser ; and (g) any other law enforcement or Security Agency established by the Federal Government ;

“*Subscription Medium*” means a Subscriber Identity Module (SIM) smart card, a Removable User Identity Module (R-UIM) smart card, a CDMA Subscriber Identity Module (CSIM) smart card, a Universal Subscriber Identity Module (USIM) smart card or any other mobile phone subscription medium marketed from time to time by licensees, containing the telephone number of a subscriber, encoded network identification details, the personal identification number and other user data normally provided by a licensee for the provision of Network Services ;

“*Subscribers Registration Solution Provider*” refers to a company contracted by the Commission for the conceptualisation, design, development and delivery of Registration Solutions covering all Licensees and providing detailed Subscriber Information in a manner facilitating seamless integration into the Central Database ;

“*subscriber*” means a person who subscribes to Mobile Telecommunication Services by purchasing a subscription medium or entering into a subscription contract with a Licensee ;

“*subscriber information*” refers to the Biometrics and other Personal Information of a Subscriber recorded and stored by licensees or the Independent Registration Agents ; and

“*Subscriber Registration Period*” means the six months period from the effective date or such other date as the Commission may specify and any extensions thereto that may be announced by the Commission, within which existing subscribers are required to register their Subscription Mediums pursuant to these Regulations.

(3) Where in these Regulations the context so requires, words in the singular include the plural and words in the plural include the singular.

2. The objectives of these Regulations are to provide—

Objectives.

(a) a regulatory framework for the registration of subscribers to Mobile Telephone Services utilising subscription medium in the Federal Republic of Nigeria ; and

(b) for the establishment, control, administration and management of the Central Database.

3. These Regulations shall apply to all persons and licensees including—

Scope.

(a) corporate, private and commercial subscribers to Mobile Telephone Services utilising Subscription Medium in the Federal Republic of Nigeria ; and

(b) subscribers of foreign licensees who are roaming on the network of a licensee in Nigeria ;

Provided that subscribers of foreign licensees shall not be required to register where they have registered their subscriber information in the jurisdiction of the relevant foreign licensee and there exists necessary arrangements between the Commission and the relevant regulatory authority of the foreign licensee to access such subscriber information.

PART II—CENTRAL DATABASE

4.—(1) The Commission shall establish and maintain a database of all registered subscribers’ information to be known as “the Central Database”.

Establishment and maintenance of a Central Database.

(2) The Central Database shall be domiciled within the Commission and shall provide a platform for the central processing and storage of subscribers information.

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(3) The Central Database shall be segregated across Network Services in such a manner as to ensure easy access to data by authorised persons in respect of subscribers' information of the different licensees.

Ownership and management of the Central Database.

5.—(1) The Central Database shall be the property of the Government of the Federal Republic of Nigeria.

(2) The management, care and control of the Central Database shall be vested in the Commission subject to the provisions of these Regulations.

Operations of the Central Database.

6.—(1) Licensees and independent registration agents shall, on a monthly basis or at such regular intervals as the Commission may from time to time specify, transmit all subscriber Information captured and registered within the preceding month or such other period as may be stipulated by the Commission, to the Central Database.

(2) The Administration of the Central Database shall be in accordance with the latest standards issued from time to time by the International Organisation for Standardization in relation to security and management of electronics and personal data.

Licensees' right to use subscriber information.

7. A licensee shall have the right to retain and use its subscribers information on its network in accordance with the provisions of Part VI of the General Consumer Code of Practice for Telecommunications Services and any other instrument issued from time to time by the Commission.

Access to subscriber information on the Central Database by Security Agencies.

8.—(1) Notwithstanding the provisions of these Regulations restricting access to Subscriber Information on the Central Database and subject to the provisions of any Act of the National Assembly, subscriber information on the Central Database shall be provided only to Security Agencies; provided that a prior written request is received by the Commission from an official of the requesting Security Agency who is not below the rank of an Assistant Commissioner of Police or a co-ordinate rank in any other Security Agency.

(2) The written notice by the Security Agency pursuant to sub-regulation (1) of this regulation shall indicate the rank of the official of the requesting Security Agency and the purpose for which the information is required.

Data protection and confidentiality.

9.—(1) In furtherance of the rights guaranteed by section 37 of the Constitution of the Federal Republic of Nigeria, 1999 and subject to any guidelines issued by the Commission including terms and conditions that may from time to time be issued either by the Commission or a licensee, any subscriber whose personal information is stored in the Central Database or a licensee's database, shall be entitled to view the said information and to request updates and amendments thereto.

(2) The subscriber information contained in the Central Database shall be held on a strictly confidential basis and no person or entity shall be allowed access to any subscriber information on the Central Database except as provided in these Regulations.

(3) Licensees, Independent Registration Agents and Subscriber Registration Solution Providers shall not under any circumstances retain, duplicate, deal in or make copies of any Subscriber Information or store in whatever form any copies of the subscriber information for any purpose other than as stipulated in these Regulations or in an Act of the National Assembly.

(4) Licensees, Independent Registration Agents, Subscriber Registration Solution Providers and the Commission shall each take all reasonable precautions in accordance with international practises to preserve the integrity and prevent any corruption, loss or unauthorised disclosure of subscriber information obtained pursuant to these Regulations and shall take steps to restrict unauthorized use of the Subscriber Information by their employees who may be involved in the capturing or processing of such subscriber information.

(5) Licensees shall utilise personal information retained pursuant to these Regulations, solely for their operations and in accordance with the provisions of Part VI of the General Consumer Code of Practice for Telecommunications Services and any other instruments of the Commission or any Act of the National Assembly regulating the specific purposes for which the personal information may be used.

(6) Licensees, Independent Registration Agents and Subscriber Registration Solution Providers shall not retain the Biometrics of any subscriber after transmission thereof to the Central Database.

10.—(1) Release of Personal Information to Security Agents shall be in accordance with the provisions of the Act, these Regulations and any guidelines or instrument issued from time to time by the Commission and in a format to be determined by the Commission.

Release of personal information of a subscriber.

(2) Subscriber information shall not be released to a licensee, Security Agency or any other person, where such release of Subscriber Information would constitute a breach of the Constitution or any other Act of the National Assembly, for the time being in force in Nigeria or where such release of subscriber information would constitute a threat to national security.

(3) Licensees shall not release personal information of a subscriber to any third party without obtaining the prior written consent of the subscriber.

(4) No subscriber information shall be transferred outside the Federal Republic of Nigeria without the prior written consent of the Commission.

(5) For the purpose of sub-regulation (3) of this regulation, the term “third party” shall exclude Security Agencies as defined in these Regulations.

PART III—REGISTRATION

11.—(1) Every Licensee shall register a subscribers’ information as specified under sub-regulation (2) of this regulation.

Registration of new subscribers.

(2) From the commencement of these Regulations, Licensees, Independent Registration Agents and Subscriber Registration Solution Providers shall in

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accordance with registration specifications and at no cost to the Commission or the subscriber capture, register and transmit to the Central Database the—

(a) biometrics and other personal information of subscribers who requests for the activation of the licensee's subscription medium ; and

(b) in the case of a corporate body or other juristic person, the biometrics and other personal information of the authorised representative of the corporate body or other juristic person and the name, address and where applicable, the registration number of the juristic person issued by the Corporate Affairs Commission.

Activation of new subscriptions.

12.—(1) Upon the commencement of these Regulations, licensees shall only provide new subscribers with subscription mediums enabled for limited access to their network services and such limited access shall last for the duration of the activation window.

(2) It shall be the responsibility of a new subscriber to, at any time within the activation window, present personal information to the licensee from whom the subscription medium is obtained for registration in accordance with the requirements of these Regulations.

(3) Upon the capturing and registration of the biometrics and the personal information of a new subscriber, the licensee shall activate the subscription medium on its network service and transmit the subscriber's information to the Central Database.

Registration of existing subscribers.

13.—(1) Subject to the terms of any contractual arrangement with the Commission, the Licensees, Independent Registration Agents and Subscriber Registration Solution Providers shall carry out the capturing and registration of the biometrics and other personal information of existing subscribers within the subscribers' registration period in accordance with the provisions of regulation 11(2) of these Regulations and the registration specifications.

(2) Where the Commission deems it necessary, it may authorise the licensees to undertake the registration of existing subscribers on their respective networks and upon the issuance of any directive authorising such registration, these Regulations shall apply with necessary modifications to such registration, as if reference to new subscriber means existing subscriber.

(3) Licensees shall support and promote the registration of existing subscribers by the Independent Registration Agents and shall promptly, upon being notified by the Commission, deactivate any subscription where the Personal Information of the Subscriber has not been entered into the Central Database by the end of the Subscriber registration period or such extensions thereof as the Commission may prescribe.

(4) A deactivated subscription shall be reactivated upon the registration of the Biometric Information and other personal information of the relevant subscriber in accordance with the relevant provisions of these Regulations and confirmation by the Commission of the entry thereof into the Central Database.

14.—(1) Subject to the provisions to Regulation 3 of these Regulations and any instrument or guidelines issued from time to time by the Commission, a licensee who is providing roaming services in Nigeria to a subscriber of a foreign licensee shall register the personal information of such subscriber in accordance with the provisions of these Regulations before providing such subscriber with roaming services.

Registration of foreign subscribers.

(2) For the purposes of sub regulation (1) of this regulation, the activation window shall be a period of 48 hours.

15.—(1) A licensee may deactivate and deregister a subscription medium upon a request by a subscriber after verification and confirmation of the subscriber information on the subscription medium.

Deactivation and deregistration of a Subscription Medium.

(2) Records on any deactivation or deregistration shall be transmitted to the Central Database by the licensee in accordance with specifications issued by the Commission.

16. There shall be no proxy registration of any subscription medium.

Prohibition of proxy registration.

17. A person may register any number of Subscription Mediums with any Licensee.

Number of Registrable Subscription Medium.

18. A subscriber shall be liable for activities carried out using a Subscription Medium registered with that subscriber’s personal information.

Liability for activities using a Subscription Medium.

PART IV—PENALTIES

19.—(1) Any licensee who fails to capture, register, deregister or transmit the details of any individual or corporate subscribers to the Central Database as specified in these Regulations or as may be stipulated from time to time by the Commission is liable to a penalty of ₦200,000.00 for each subscription medium.

Failure to capture, register, deregister or transmit subscriber information.

(2) A licensee who activates any Subscription Medium without capturing, registering and transmitting the personal information to the Central Database commits an offence and shall on conviction be liable to a fine of ₦200,000.00 for each unregistered activated Subscription Medium.

20.—(1) Any licensee who activates or fails to deactivate a subscription medium in violation of any provision of these Regulations is liable to a penalty of ₦200,000.00 for each unregistered but activated subscription medium.

Non-compliance with activation and deactivation requirements.

(2) Where the Commission is satisfied that a body corporate is culpable, the Director, Chief Executive Officer, Manager or Secretary shall also be liable to pay a fine of ₦200,000 unless, having regard to the nature of his functions in that capacity and to all the surrounding circumstances, he proves that—

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(i) the offence was committed without his knowledge, consent or connivance ; and

(ii) he took all reasonable precautions and exercised due diligence to prevent the commission of the breach.

Dealing with subscriber information in a manner inconsistent with the provisions of these Regulations.

21.—(1) Any entity including licensees, independent registration agents or subscriber registration solution providers who retains, duplicates or deals with Subscriber’s information in contravention of any of the provisions of these Regulations is liable to a penalty of ₦200,000.00 per Subscription Medium.

(2) Where an entity, including licensees, independent registration agents or subscriber registration solution providers is found to have utilised a subscriber’s information in any business, commercial or other transactions, such entity is liable to a penalty of ₦1,000,000.00 per Subscription Medium.

PART V—MISCELLANEOUS

Application of the Business Rules and Registration Specifications of the Commission.

22. The Business Rules and Registration Specifications made or issued by the Commission which may be amended from time to time, shall apply as a part and parcel of these Regulations.

Citation.

23. These Regulations may be cited as the Nigerian Communications Commission (Registration of Telephone Subscribers) Regulations, 2011.

DR EUGENE JUWAH
Executive Vice Chairman
Nigerian Communications Commission