

NIGERIAN COMMUNICATIONS ACT 2003

TYPE APPROVAL REGULATIONS 2007

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TYPE APPROVAL REGULATIONS 2007

Commencement: *[insert date for the regulations taking effect]*

In exercise of the powers conferred upon it by Sections 70 and 134 of the Nigerian Communications Act 2003 (the “Act”), and of all other powers enabling it in that behalf, the Nigerian Communications Commission (the “Commission”) hereby makes the following Regulations:

Part I – Scope and Operation

1. These Regulations provide a framework for the approval of communications equipment for connection to communications networks in Nigeria, pursuant to Sections 130 to 134 of the Act. In particular they describe rules and processes for the exercise of functions of the Commission identified in Sections 4(1)(l), 4(1)(m), and 4(1)(n) of the Act.

Scope of the
Regulations

These Regulations are accompanied by initial versions of the Type Approval Guidelines and the Type Approval Standards, which provide further definition of applicable processes and equipment standards.

These Regulations apply to every person that provides communications services or supplies communications equipment. Such a person is hereinafter called an “Equipment Holder”.

For the avoidance of doubt, and in addition to the requirements of these Regulations, every Equipment Holder that is a Licensee remains subject to all conditions regarding equipment standards and radio spectrum interference set out in its Licence(s). Equipment Holders also remain subject to any other product standards applicable in Nigeria.

2. These Regulations are intended to:
 - (a) Promote interoperability between communications networks;
 - (b) Ensure that communications equipment used in communications networks is safe;
 - (c) Ensure that communications equipment used in communications networks is subject to limits on causing or being affected by electromagnetic radiation;
 - (d) Promote the development of communications networks, including the supply of communications equipment by qualified suppliers;
 - (e) Define processes for the Type Approval of communications equipment; and

Objectives of
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Regulations

- (f) Identify applicable technical standards, including those promulgated by international bodies.

Part II – Guidelines, Standards and Lists of Approved Equipment

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| 3. | The Commission shall maintain and publish in the Type Approval Guidelines up-to-date versions of the Type Approval processes. The initial version of the Type Approval Guidelines is being published by the Commission with these Regulations. | Publication of the Type Approval Guidelines |
| 4. | The Commission shall maintain and publish in the Type Approval Standards up-to-date versions of the technical standards and specifications applicable to identified Equipment Types. The initial version of the Type Approval Standards is set out in Schedule 1 to the Type Approval Guidelines. | Publication of the Type Approval Standards |
| 5. | The Commission shall maintain and publish an up-to-date list of approved Equipment Types. | Publication of approved Equipment Types |
| 6. | The Commission shall convene a Working Group on Equipment Standards, comprising knowledgeable industry representatives and other stakeholders to ensure that timely recommendations are made to the Commission regarding the list of Equipment Types, applicable Type Approval Standards and processes, and other implementation of these Regulations. | Working Group on Equipment Standards |
| 7. | The Commission shall maintain and publish an up-to-date list of test laboratories that are regarded by the Commission as suitable for performing tests required by a Declaration of Conformity. The list of test laboratories may include, but may not be limited to, those accredited by international accreditation mechanisms, including under the International Laboratory Accreditation Cooperation Mutual Recognition Agreement. | Identification of test laboratories |

Part III – Modifications to the Guidelines and Standards

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| 8. | The Commission shall from time to time review and if necessary modify the Type Approval Guidelines and the Type Approval Standards. In undertaking any such review, the Commission shall consult with relevant stakeholders. The Commission may also request and receive advice from the Working Group on Equipment Standards or other advisory groups, but shall not be bound by any such advice. | Modifications to the Type Approval Guidelines and Type Approval Standards |
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Part IV – Type Approval Obligations

9. An Equipment Holder may use or supply communications equipment for a communications network in Nigeria if and only if:
- Conditions for using or supplying communications equipment
- (a) The Commission has approved the Equipment Type of the equipment; or
 - (b) The Equipment Type is exempted from Type Approval pursuant to Regulation 19 or Regulation 20.

For the avoidance of doubt, the Equipment Holder does not need to have been the applicant for the Type Approval of the Equipment Type.

10. An Equipment Holder shall not claim or suggest that communications equipment is approved for use in Nigeria unless the Commission has either approved the Equipment Type or the Equipment Type is exempted from Type Approval pursuant to Regulation 19 or Regulation 20.
- Limitations on claims about Type Approvals
11. Every Equipment Holder shall be prepared to supply supporting documentation, assembled under these Regulations and the Type Approval Guidelines, to the Commission on request for at least five (5) years after the Equipment Holder last used or supplied the communications equipment to which the documentation refers.
- Retention and supply of supporting documentation
12. Every Equipment Holder shall ensure that each item of communications equipment sold and having an approved Equipment Type has a label in one or more of the following places:
- Labelling for approved Equipment Types
- (a) On the equipment itself; or
 - (b) In the accompanying documentation.

Labels shall comply with the format and other requirements identified in the Type Approval Guidelines.

Part V – Approving Equipment

13. An Equipment Holder may apply to the Commission for Type Approval. In doing so the Equipment Holder shall assemble an application in accordance with the Type Approval Guidelines, including:
- Content of applications for Type Approvals
- (a) The name and contact details of the applicant;
 - (b) The Equipment Type requested for Type Approval, with its manufacturing brand name, product name, model number, version

number and function;

- (c) A Declaration of Conformity, for which there is valid test and other supporting documentation that the Equipment Holder can supply to the Commission on request;
 - (d) An indication of which, if any, portions of the application are confidential to the Commission;
 - (e) Any other information that the applicant considers necessary or appropriate to support the application; and
 - (f) Any other information that the Commission may from time to time require to assess the application.
14. The Commission shall refuse or grant an application for Type Approval.
- Decisions on applications for Type Approvals
- In making a decision on an application for Type Approval, the Commission shall accept a Declaration of Conformity supported by equipment tests performed by laboratories included in the list maintained and published by the Commission pursuant to Regulation 7.
- In making a decision on an application for Type Approval, the Commission may request the supply of test and other supporting documentation assembled by an Equipment Holder under these Regulations and the Type Approval Guidelines. For communications equipment that the Commission identifies as being particularly important to the functioning of communications networks, the Commission may also require verification of test results and test documentation by factory visit or other identified process.
15. The Commission shall review and make decisions regarding applications for Type Approvals in the order in which the applications are received by the Commission.
- Timing of decisions about applications for Type Approvals
- The Commission shall communicate its decision on an application to the applicant, including reasons for any refusal of an application, within one (1) month of receiving the application.
16. If the Commission grants an application for a Type Approval it shall place the Equipment Type on the list of approved Equipment Types maintained pursuant to Regulation 5.
- Updating the list of approved Equipment Types

Part VI – Revoking Type Approvals

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| 17. The Commission may revoke a Type Approval or annul an exemption from Type Approval if and only if there is significant evidence that equipment of the Equipment Type: | Conditions for revoking Type Approvals |
| (a) Does not comply with the applicable Type Approval Standards; | |
| (b) Interferes with the operation of a communications network or other communications equipment; or | |
| (c) Constitutes a public hazard. | |
| 18. The Commission shall publish a notice to inform Equipment Holders about the revocation of a Type Approval or the annulment of an exemption from Type Approval. | Notices about revoking Type Approvals |

Part VII – Exemptions from Type Approval

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| 19. Communications equipment shall not require any other Type Approval if, for an Equipment Type that has already been approved by the Commission, the equipment: | Exemption of equipment that complies with Standards |
| (a) Complies with the Type Approval Standards applicable to the approved Equipment Type, according to valid test documentation that the Equipment Holder can supply to the Commission on request; | |
| (b) Has the same manufacturing brand name, product name, model number and function as the approved Equipment Type; | |
| (c) Uses no radio frequencies besides those used by the approved Equipment Type; and | |
| (d) Requires no kinds of physical network interface besides those required by the approved Equipment Type. | |
| 20. Communications equipment shall be exempted from Type Approval for twelve (12) months after the Commencement Date of these Regulations if the equipment: | Exemption of existing equipment from Type Approvals |
| (a) Was installed in or otherwise connected to a communications network in the Federal Republic of Nigeria at least six (6) months before the Commencement Date of these Regulations; | |
| (b) Does not interfere with the operation of that or any other | |

communications network; and

- (c) Does not constitute any public hazard.

Part VIII – Investigation

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| 21. The Commission may at any time perform tests on communications equipment or request the supply of test and other supporting documentation assembled by an Equipment Holder under these Regulations and the Type Approval Guidelines. | Validation of tests on communications equipment |
| 22. If test results obtained under Regulation 21 are unsatisfactory or inconclusive the Commission may require that further tests be performed at the cost of the Equipment Holder. | Performance of further tests on equipment |
| 23. The Commission may investigate the use or supply of communications equipment by an Equipment Holder pursuant to Section 61 of the Act. In so doing the Commission may exercise its powers of information gathering pursuant to Section 64 of the Act. | Investigation of equipment use and supply practices |

Part IX – Fees for Type Approvals

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| 24. The Commission shall from time to time determine and publish the schedule of fees for Type Approvals. The Commission shall supply the schedule of fees for Type Approvals in response to requests for that information. | Publication of the schedule of fees for Type Approvals |
| 25. In determining the schedule of fees for Type Approvals the Commission shall consider some or all of:

(a) The administrative and operational expenses incurred in processing requests for Type Approval and maintaining and implementing the Guidelines and Standards;

(b) The number and nature of any laboratory tests, performed by or under the direction of the Commission, on the communications equipment for which type approval is requested; and

(c) Any other function of the Commission pursuant to Section 4(1) of the Act that the Commission may from time to time require be funded partly or wholly from fees for Type Approvals. | Factors in determining the schedule of fees for Type Approvals |
| 26. Type Approval fees may distinguish between fees payable on application | Payment of fees for Type |

and fees payable on approval. Every applicant for Type Approvals shall pay the fees for Type Approvals at the times specified by the Commission in the Guidelines or schedule of fees.

Approvals

Part X – Contravention and Enforcement

27. Every Equipment Holder that fails to fulfil an obligation in these Regulations, the Type Approval Guidelines or the Type Approval Standards shall have committed a Contravention. Contraventions
28. If an Equipment Holder commits a Contravention, the Commission may take one or more of the following enforcement measures, without prejudice to the application of Sections 131 and 133 of the Act: Enforcement
- (a) Imposing administrative fines pursuant to Regulations 12 and 14 of the Enforcement Processes Regulations;
 - (b) Exercising any of the testing, seizure, detention or sealing of premises powers pursuant to Regulation 5 of the Enforcement Processes Regulations; and
 - (c) Issuing one or more directions pursuant to Section 53 of the Act.
29. In considering the application of enforcement measures under Regulation 30 the Commission may take into account factors including but not limited to: Factors in applying enforcement measures
- (a) The factors and considerations set out in Regulation 14 of the Enforcement Processes Regulations; and
 - (b) Any failures to fulfil obligations that arise partly or wholly from the failures of another Equipment Holder.

Part XI – Miscellaneous

30. In these Regulations terms defined in the Act shall have the same meanings as in the Act, and also: Definitions
- “Act” means the Nigerian Communications Act 2003;
- “Contravention” means any failure to comply with the requirements identified in Regulation 27;
- “Declaration of Conformity” means a declaration, meeting the requirements identified in the these Regulations and the Type Approval Guidelines, that an

Equipment Type complies with applicable Type Approval Standards;

“Enforcement Processes Regulations” means the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005, S.I. 7 of 2005, as those regulations may be amended from time to time;

“Equipment Holder” means a provider of communications services or a supplier of communications equipment ;

“Equipment Type” means a type of communications equipment specified in terms of its manufacturing brand name, trade name, model number, version number and function;

“Type Approval” means an authorisation by the Commission to use or supply an Equipment Type;

“Type Approval Guidelines” (“Guidelines”) means any guidelines published by the Commission pursuant to Section 70(2) of the Act and these Regulations, identifying applicable Type Approval processes, including the initial Guidelines published with these Regulations; and

“Type Approval Standards” (“Standards”) means any standards published by the Commission pursuant to Section 70(2) of the Act and these Regulations, which shall be the applicable technical standards and specifications for identified Equipment Types, including the initial standards set out in Schedule 1 to the Guidelines.

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| 31. | The Commission may from time to time review and modify these Regulations pursuant to the review processes of Section 72 of the Act. In doing so the Commission may request and receive advice from external advisory groups but shall not be bound by any such advice. | Changes to the Regulations |
| 32. | The Commission may from time to time issue additional rules or directions on any aspect of these Regulations, and either of general application or specific to an Equipment Type or Equipment Holder. | Further Directions |
| 33. | These Regulations may be cited as the Type Approval Regulations 2007. | Short Title |

Made at Abuja this _____ day of _____ 2007.