



REPORT OF THE PUBLIC INQUIRY ON THE SIM REPLACEMENT GUIDELINES

1.0 INTRODUCTION

The Nigerian Communications Commission (the Commission) pursuant to its powers under Section 70 (2) of the Nigerian Communications Act 2003 (the Act) developed the draft SIM Replacement Guidelines (the Guidelines). Based on the Commission's policy of participatory rule-making procedure, the Guidelines was published on its website for comments from the general public especially, telecommunications operators and other stakeholders.

Further to this, the Commission received Five (5) submissions from the following stakeholders:

1. MTN Nigeria Communications Limited
2. Airtel Networks Limited
3. Emerging Markets Telecommunication Services (trading as Etisalat)
4. Globacom Limited, and
5. Visafone Communications Limited.

In the exercise of its discretionary powers under the law, the Commission scheduled a Public Inquiry on the Guidelines for July 14, 2015 and a Notice of the Public Inquiry on the Guidelines was published in the Guardian Newspaper on Wednesday June 24, 2015, in Thisday Newspaper on Thursday June 25, 2015 and in the Vanguard Newspaper on Tuesday June 30, 2015.

2.0 THE PUBLIC INQUIRY

The Inquiry held as scheduled at the Conference Hall of the Commission. The forum commenced at 11:25 am and was chaired by the Executive Vice Chairman, Dr.

Eugene Juwah. Staff of the Commission and over forty (40) persons made up of representatives of telecommunications companies, interested stakeholders and the media attended the forum.

The EVC welcomed participants to the Forum. He explained that the Inquiry was part of the rule-making process adopted by the Commission to ensure wide consultations in the making of regulatory instruments by the Commission. He highlighted the primary objectives of the Guidelines which include:

- Creating and providing a seamless, effective and efficient procedure for SIM Replacement in Nigeria
- Ensuring a secure process for SIM Replacement
- Curtailing the incidents of fraudulent replacements which have now become rampant in the industry, and
- Complementing the Act and the respective licences issued by the Commission.

The EVC enjoined all participants to freely make their contributions and to raise issues that would assist the Commission in coming up with Guidelines towards ensuring a robust regulatory framework that will guarantee consumer satisfaction and confidence in the industry.

The Head of Legal & Regulatory Services, Mrs Yetunde Akinloye gave a short overview of the Guidelines. This was followed by a presentation by Gwa Tobbie Mohammed (Assistant Director, Legal & Regulatory Services) on issues raised on the Guidelines prior to the Public Inquiry. Further comments received are also covered by this Report.

A. General Overview of the SIM Replacement Guidelines

The Guidelines is made up of 13 Paragraphs. The Paragraphs deal with several issues including the Introduction, Scope and Objective of the Guidelines, Circumstances when a subscriber SIM can be Replaced, Persons Authorized to carry out a SIM Replacement, Requirements for SIM Replacement, SIM Replacement by Proxy, Register/Auditing of SIM Replacement Transactions, Online SIM Replacement, Operation, Offences/Penalties, as well as a Paragraph which defines terms used in the Guidelines. The Guidelines also has a Schedule which is a Standard Form to be filled by a person requesting SIM Replacement.

B. Review of Submissions Received

The Commission had prior to the Public Inquiry reviewed the submissions received from stakeholders and its response to the issues raised are set out below.

1. Circumstances when a Subscriber SIM can be Replaced

Comment 1

The provisions of Paragraph 4.1 should be amended to enable operators retain the discretion to deny or grant requests where there are grounds to suspect fraud.

Response

Accepted. The Guidelines has been redrafted but includes an obligation on the operator to notify the Commission within 24hrs of refusal of a SIM Replacement request.

Comment 2

The medium of reporting rejected SIM Replacements should be the same data dump format currently utilized for submission of SIM registration details.

Response

Accepted. The same format used for submitting SIM card registration details will be adopted subject to any modifications the Commission may make.

Comment 3

The 24hrs period to report such rejection should be quarterly.

Response

Not accepted. The Commission needs to be informed within the shortest possible time because of the issue of fraud.

2. The SIM must be registered in accordance with the Registration of Telephone Subscribers Regulations 2011

Comment

To eliminate a situation where SIM Replacement may be carried out on a number that has not been registered before the replacement request was made. Paragraph

6.1 should be redrafted as follows: “*the MSISDN on the SIM to be replaced must have been registered in accordance with the Registration of Telephone Subscribers Regulations 2011.*”

Response

Accepted. This is valid as every subscriber number is primarily tied to the SIM. The provision has been redrafted accordingly.

Comment

A request was made that the database of SIMs registered by the Commission should be given to operators.

Response

Not accepted

3. Proxy SIM Replacement

Comment 1

Proxy SIM Replacement as provided for in Paragraph 6.2 should be entirely discouraged as large number of fraudulent activity on SIM Replacements are done by persons who fraudulently hold themselves to be duly authorized proxies of legitimates owners of SIMs.

Response

Not accepted. Very strict conditions would be provided for proxy replacement.

Comment 2

In exceptional cases where a customer is unable to visit any of the walk-in centers to personally effect SIM Replacement, very strict conditions should be applied before replacement is carried out by a proxy such as;

- i. Provision of the SIM Pack or receipt or a sworn affidavit of loss should be introduced.
- ii. The proxy should be made to swear an affidavit stating the reason for replacement and inability of the owner to carry out the replacement personally.

Response

Accepted.

Comment 3

- i. The requirements for Replacement should be differentiated between registered owners and proxies.
- ii. The list of frequently called numbers should be reduced from 6 to 3.
- iii. Details of the last two recharges should be restricted to just the last recharged amount.
- iv. Postpaid customers should be made to provide details of last paid invoice.
- v. Frequently Called Numbers must have been dialed at least five times over a 30 days period.

Response

Accepted.

Comment 4

- i. 3 of the 6 Frequently Called Numbers must be from the same network.
- ii. Paragraph 6.2 (ii) requiring a signed letter of authority from a subscriber should be expunged as operators do not capture signature during SIM registration process.
- iii. A customer who provides a SIM certificate and a photo identification should be able to carry out SIM replacement without need to comply with the requirements of 6.2

Response

Not accepted. While (i) may encourage the creation of calling-clubs, the high incidence of irregularity in the SIM Replacement process requires compliance with conditions not the mere presentation of a photo identification.

4. The SIM must be active on the Network of the Operator

Comment 1

A clarification was sought on the words “active on the network” as used in Paragraph 6.3 and whether inactive SIM should not be replaced

Response

This provision is sufficiently explained by Paragraph 4.1

Comment 2

Recommendation was made that active SIM should include suspended SIM due to non-recharge/stolen or loss.

Response

Accepted.

- 5. The request for SIM Replacement can be made by the Subscriber or through a proxy**

Comment

This provision (Paragraph 6.4) should be deleted as it has been extensively dealt with in Paragraph 6.2

Response

Accepted.

- 6. The subscriber must fill a Standard Form as provided in Schedule 1 of these Guidelines for SIM Replacement**

Comment

Given the fact that the SIM Replacement can be made by a proxy, this provision (Paragraph 6.5) should be amended to read “*A person requesting replacement must fill a Standard Form as provided in Schedule 1 of the Guidelines for SIM Replacement*”.

Response

Accepted.

- 7. A valid photo identification of the Subscriber must be provided**

Comment 1

The photo identification to be provided under Paragraph 6.6 should be same as that required by the Registration of Telephone Subscribers Regulations.

Response

Not accepted. The Registration of Telephone Subscribers Regulations does not indicate the types of photo identification to be used.

Comment 2

Since a customer can be verified on the SIM Registration Portal, can any means of identification be provided?

Response

The Guidelines will specify the acceptable types of photo identification.

8. The Network Operator must capture a facial image of the subscriber which must be matched against the existing record of the subscriber

Comment 1

The nature of the word ‘matched’ should be defined.

Response

This provision in Paragraph 6.7 was redrafted to read “*The Network Service Provider must capture a facial image of the subscriber which must be kept for Twelve (12) months*”. (It is now Paragraph 6.8)

Comment 2

- i. The provision is unnecessary as the SIM Registration Database already contains a picture of the customer. The existing record can be matched against the facial image in the photo identification provided. Paragraph 6.7 should be removed or operators should be allowed to use subscriber’s image obtained during SIM registration.
- ii. The requirement to capture facial images should be restricted to proxy during SIM Replacement.

Response

Not accepted. Operators are not expected to keep pictures of customers captured during the SIM Card Registration exercise

9. New Paragraph 6.8 -The Network Service Provider must capture a facial image of the subscriber which must be kept for Twelve (12) months

Comment

This requirement will overwhelm the operator’s storage capacity and will create a duplication of data which was retained during SIM registration. This provision should therefore be expunged.

Response

Not accepted. This does not duplicate the operators’ data as in accordance with Regulation 9(6) of the Registration of Telephone Regulations. Operators are prohibited from retaining the biometrics of any subscriber after transmission thereof to the Central Database.

- 10. All completed SIM Replacement Forms and other requirements as stated in these Guidelines must be reviewed and approved by the network operator before carrying out the SIM Replacement**

Comment

This provision in Paragraph 6.8 implies that licensed agents and dealers will have to forward physical or scanned copies of SIM replacement requests to network operator to approve before the SIM replacement is performed. This would cause delay and it also contradicts Paragraph 6.9. It should be redrafted as follows “***a SIM replacement will be implemented upon the fulfillment of the requirements in this paragraph 6, provided that all completed SIM Replacement Forms and other requirement as stated in these Guidelines must be reviewed by the network in accordance with the Guidelines***”

Response

Not accepted. This does not contradict Paragraph 6.9

- 11. Upon satisfactory receipt of validated information the Network Operator shall execute the Replacement**

Comment

The word “shall” in Paragraph 6.9 should be replaced with the word “may” so the operator would retain the discretion to deny any suspicious request for SIM replacement.

Response

Accepted.

- 12. The Network Operator shall provide the subscriber with a new SIM.**

Comment

The cost of replacement should be borne by the subscriber and in line with the recommendation on Paragraph 6.9 above, Paragraph 6.10 should be redrafted as “***The Network Operator may provide the person requesting the replacement with a new SIM, at the cost of that person.***”

Response

Not accepted. The option to either charge the customer or not for a new SIM is at the discretion of the operator and should not be included in the Guidelines. However, the phrase “***person requesting the replacement***” will be included since proxy SIM replacement is acceptable.

13. Auditing of SIM Replacement Transactions

Comment 1

Paragraph 7.1 should be redrafted to read as follows “*The network operator must carry out a quarterly audit of SIM Replacement transactions carried out by both its staff and agents to ensure **that appropriate documentation was in all cases provided** prior to Replacement and the integrity of the Replacement processes and a Report should be forwarded to the Commission.*”

Response

Accepted.

Comment 2

The format of the Report should be in Microsoft Excel Format.

Response

Accepted. The Commission will develop the template and include it as a schedule to the Guidelines.

14. All Network operators must keep a register of all SIM Replacements undertaken

Comment 1

It was suggested that Paragraph 7.2 should make provision for a storage or retention period of 6 months.

Response

Accepted. Provision for a storage retention period will be made in the Guidelines. However, the period will be 12 months instead of the suggested 6 months. (New Paragraph 7.5)

Comment 2

Forms filled by the subscriber/proxy during the SIM Replacement process should suffice in this respect.

Response

Not accepted. The operator needs to keep a comprehensive register of SIM Replacements carried out in the event that the register needs to be inspected.

15. New Paragraph 7.5-The Network Service Provider shall keep all documents and information provided by the Proxy for Twelve (12) Months

Comment

The Commission did not specify whether the requisite data is to be retained in hard copy or digital/electronic form.

Response

This is at the discretion of the Operator.

16. A SIM Replacement may be done by proxy.

Comment 1

In view of the suggestions in Paragraph 6.2, the provision of Paragraph 8.1 should be amended as follows *“A SIM Replacement may be done by proxy subject to the provisions of Paragraph 6.2 of this Guidelines”*

Response

Not Accepted. SIM Replacement by a proxy cannot be made subject to only paragraph 6.2.

Comment 2

Paragraph 8.2 & 8.4 should be deleted in view of the recommendations in 6.2 and 8.1. Storage of proxy biometrics may pose challenge to the operators and the cost may outweigh the benefits, photo identification and retention of a copy for a period of 6 months in this regard would suffice.

Response

Not Accepted. It is necessary to capture the biometrics of the proxy.

17. There shall be no SIM Replacement without a physical visit of either the Subscriber or its proxy to the Network Operator/ or its agent

Comment 1

The Commission should review Paragraph 9 and remove the proposed prohibition of SIM Replacement through virtual channels such as web based or online channel and multiple SIM Replacement channel should be retained.

Response

Accepted. The Commission requested Network Service Providers to send in their respective processes of carrying out secure online SIM Replacements. Further to the comments received the Guidelines was redrafted allowing SIM replacements via online and self-service terminal centers through secure log-in credentials to be provided by the Service Providers.

Comment 2

The Commission should implement a comprehensive safeguard against abuse such as Security Number issued to each subscriber which is equivalent to an ATM PIN.

Response

Not accepted. It is Operators that have the obligation to ensure that their SIM Replacement process is secure.

Comment 3

The inclusion of call centers in Paragraph 9.1 as one of the channels for SIM replacement affirms that NCC's intention is to allow customers to place call to their operator's centers to carry out SIM replacement. This contradicts Paragraph 9.2 & 9.3

Response

The Guidelines have been redrafted to clarify that no SIM Replacement will be carried out over the phone.

Comment 4

SIM Replacement over the phone should be retained considering security and environmental challenges with making a physical visit to the operator's outlet.

Response

Not accepted.

18. Period for Activation of SIM after replacement

Comment

The period of activation in Paragraph 10 should be 24 hours so as to provide operator's ample time to resolve any issue that may arise in the course of the SIM Replacement and to ensure the SIM is activated within the timeframe.

Response

Not accepted. The provision for 2 hours is sufficient as a longer period may be detrimental to the subscriber.

19. Liability for any SIM Replacement carried out in violation of the Guidelines or done fraudulently

Comment 1

Paragraph 11.2 should be amended and a new provision to address fraudulent SIM Replacements by Agent and Dealers should be included as follows: *"An agent or dealer of a network operator shall be held directly responsible for SIM Replacement carried out in violation of these Guidelines"*.

Response

Not Accepted. Since SIM Replacement is a function of the operator, an Agent/Dealer is only acting on behalf of the operator.

Comment 2

For clarity and certainty of obligations this should be redrafted as follows *"A network operator shall be held liable for any SIM Replacement carried out in violation of these Guidelines or done fraudulently by its or dealer, provided that no liability shall attach where it is demonstrated that all necessary care has been taken to comply with the provisions of this Guidelines"*

Response

Not Accepted.

20. Interpretation

Comment 1

The meaning of the term “biometrics” should be amended to “*refers to prints and facial image of a subscriber within the meaning of the Registration of Telephone Subscribers Regulations 2011*”

Response

”Biometric” has been deleted. There are no reference to the word in the Guidelines

Comment 2

The term “subscriber” should be changed to “registered holder”

Response:

Not accepted.

Comment 3

For consistency, the meaning of the term “Network Operator” should be the same as the meaning of the term “Licensee” as defined in the NCA, 2003.

Response

Accepted. The Guidelines will be redrafted accordingly.

Comment 4

The meaning of the term “Photo Identification” should be amended to “*This includes an international Passport, Driver’s License or National Identity Card or any other verifiable means of identification within the meaning of the Registration of Telephone Subscribers Regulations 2011*”

Response

Not accepted. The Registration of Telephone Subscribers Regulations does not indicate the types of photo identification to be used. However, “**verifiable means of identification**” has been deleted and “**Voters Identification Card**” has been included as a means of identification.

Comment 5

Letter of Authentication by a traditional ruler/community leader affixed with passport photograph, Affidavit and declarations sworn to under oath should be added to the means of identification.

Response

Accepted.

21. SIM/RUIM Replacement Form

Comment

The requirement to provide “date of first activation” by the subscriber or proxy should be redrafted to read “month and year of first activation”.

Response

The comment has been noted. However, the phrase “date of first activation by the subscriber” has been deleted hence there is no need for an amendment.

22. SIMs for Data and Tele-centres

Comment

The replacement of Data SIM and SIMs used for tele-centre operations should not be subjected to the replacement process stated in the draft Guidelines.

Response

Where the SIM to be replaced is a Data SIM, the subscriber would be requested to provide 3 recently visited site.

23. Blocking of Stolen/Lost SIMs

Comment

The need to ensure that the process of blocking stolen or lost SIMs is not subjected to the same replacement process stated in the draft Guidelines.

Response

Accepted. The Guidelines will include a provision for blocking SIMs where a replacement is not to be carried out. This will include facial image captured and information on 3 last dialed numbers.

30. Porting Restriction Time on a newly replaced SIM

Comment

The Commission should institute a time limit on how soon following replacement a number can be ported. The restriction forecloses the use of number portability as a channel for fraud.

Response

Accepted. The Guidelines will indicate that such restrictions will be as provided in the MNP Business Rules and Port Order Processes.

C. Additional Issues Raised at the Public Inquiry

At the Public Inquiry, stakeholders made comments and raised additional issues which the Commission addressed. Highlights of the issues that were raised and response given by the Commission are as follows:

1. Data SIM Replacement

Comment

Clarification was required on how the operators can verify the last 3 visited sites on replacement of data SIM. Operators further stated that the information is restricted to certain of its staff because of the sensitivity of some of the sites visited by customers and therefore verifying this information may not be practicable. Furthermore, it was recommended that the SIM Registration Portal should be utilized for verifying the details of the subscriber.

Response

The concern raised is germane. The Commission has taken note of the comment and will consider it alongside additional submissions which the operators may send to the Commission on the Guidelines within 7 (seven) days of conclusion of the Public Inquiry.

2. Prohibition of SIM Replacement over the Phone

Comment

Recommendation was made that the Commission should not totally prohibit SIM replacement over the phone as it would be more cumbersome for customers to come into the operator's office. It was further recommended that the Commission should focus more on strengthening the requirements needed before a replacement is carried out rather than totally prohibiting it.

Response

Considering the high incidence of fraudulent SIM replacement that have been linked to SIM replacement done over the phone, the Commission will not allow SIM replacement over the phone at the moment. The Commission expressed

readiness to reconsider its position if operators undertake to bear the cost of any damage which subscribers may suffer arising from SIM Replacement done over the phone. Operators were however not willing to provide such an undertaking.

3. Reports mentioned in the Guidelines

Comment

Clarification was sought regarding the number of reports which need to be prepared under the Guidelines.

Response

There are two reports required from operators under the Guidelines. The first is the report to be submitted to the Commission within 24 hours after an operator refuses a request for replacement. The second is a report on the quarterly audit carried out by the operator of SIM Replacement transactions done by its staff and its agents.

4. Online SIM Replacement

Comment

Further to the provisions on online SIM replacement in the Guidelines, clarification was sought as to whether subscribers also made submissions on the issue.

Response

Further to the policy of the Commission on participatory regulation, the Commission published the Guidelines on its websites and invited comments from stakeholders. The submissions received, as mentioned earlier, were the ones that treated.

5. Review of the Guidelines

Comment

Stakeholders requested to know how soon the Guidelines would be reviewed if any negative impact is seen in terms of satisfaction with its implementation after it is been published.

Response

The determination of the need for review of the Guidelines will depend on certain condition, like the usage and complaints received from stakeholders. The stakeholders were however assured that they will be consulted whenever a review is required.

6. Information about a Subscriber

Comment

It was suggested that the operator should be able to verify the subscribers biometrics based on the biometrics received during the SIM registration.

Response

As earlier stated, in accordance with Regulation 9(6) of the Registration of Telephone Subscribers Regulations, operators are prohibited from retaining the biometrics of any subscriber after transmission thereof to the Central Database.

3.0 General Comments

The Head, Legal and Regulatory Services Department thanked everyone for coming and assured them that all comments will be considered by the Commission before the Guidelines are finalized.

The Public Inquiry session ended at 3:06 pm.

Dated this 14th day of July 2015

Dr. Eugene I. Juwah
Executive Vice-Chairman/CEO
NIGERIAN COMMUNICATIONS COMMISSION