



## REPORT OF THE PUBLIC INQUIRY ON THE REGISTRATION OF SIM CARD REGULATIONS

### **Introduction**

The Nigerian Communications Commission (the Commission) pursuant to its powers under Sections 1(i) and 70 of the Nigerian Communications Act 2003 (the Act) developed the SIM Card Registration Regulations. The Regulations were published on the Commission's website for comments from telecommunications operators, other stakeholders and the general public.

A Public Inquiry was fixed for 16<sup>th</sup> November, 2010 and all stakeholders were duly notified. However due to the fact that 16<sup>th</sup> November was declared a holiday the Inquiry had to be deferred till 9<sup>th</sup> December, 2010. A Notice of Public Inquiry on the Regulations was published on Tuesday December 7, 2010 in the Vanguard and Leadership newspapers.

The Commission received five (5) submissions from the following stakeholders:

1. MTN Communications Nigeria Limited
2. Airtel Networks Limited
3. Emerging Markets Telecommunications Service (Trading as Etisalat)
4. National Association of Telecom Subscribers (NATCOMS)
5. Association of Licensed Telecom Operators of Nigeria (ALTON)

### **The Public Inquiry**

The Public Inquiry took place on December 9, 2010 at the Conference Hall of the Commission, in Abuja.

### **Participation**

Participants numbering 41 (Forty One) at the Forum were drawn from licensed telecom operators and the media.

### **Opening**

The Inquiry commenced at 11:33 am and was chaired by the Executive Vice Chairman, Dr. Eugene Juwah. Other Management and Staff of the Commission were also in attendance. The EVC welcomed everyone to the Forum. He explained that the Inquiry was part of the Commission's rule-making process that aims at ensuring wide consultations in the enactment of regulations by the Commission. The EVC stated that the Commission was optimistic that the Regulations would enhance the security of lives and

property of Nigerian citizens and ensure an appropriate database that meets international standards. He acknowledged the challenges towards a successful registration of SIM cards in Nigeria and enjoined all participants to freely make their contributions and to raise issues that would assist the Commission in coming up with regulations that would enhance development of the industry and the entire economy.

The EVC's welcome address is attached as Appendix 1.

## **Presentation by the Commission**

The Commission's presentation on the Regulations was made by the Assistant Director of the Legal & Regulatory Services Department, Mrs. Akinloye. She did a short review of the Regulations and also a summary of the submissions received from stakeholders.

## **Review of Submissions Received**

The Commission had prior to the Public Inquiry reviewed the submissions and the responses thereto are set out below.

### **1. Comment**

The Regulations should allow retention of information/data collected by operators.

#### **Response**

The Regulations will be amended to allow Operators keep the biodata information like they have always done. However the biometrics (digital images and fingerprints) information must be forwarded to the Commission for storage in the central database and no operator is allowed to retain biometrics information

### **2. Comment**

Proxies should be allowed to register in order not to disenfranchise many subscribers

#### **Response**

The position on proxy registration is that it is not allowed. However several SIM cards can be registered in the name of one person for use by other people for which such person is to be held liable for the use of those cards.

### **3. Comment**

Subscribers should not be requested to provide a form of identification in order to register.

#### **Response**

The request for a form of identification is for sighting only by the operators/registering agents.

### **4. Comment**

The Title & Scope of the Regulations should be expanded to include registration of Removable User Identity Module (RUIM) being presently used by CDMA operators.

#### **Response**

The amendment will be effected. The new title for the Regulations will be registration of Telephone Subscribers Regulations.

**5. Comment**

Third party solution providers should also be penalized for retaining subscribers' information.

**Response**

This point is noted and will be taken on board. The relationship between the Commission and the Third party solution providers is contractual and such issues cannot be included in the Regulations but are adequately addressed in the contract document.

**6. Comment**

Third party solution providers should provide immunity for operators where such Third parties have leaked the information in their possession.

**Response**

As stated above the relationship between the Commission and the Third party solution providers is contractual and such issues cannot be included in the Regulations is noted. Adequate provisions will be made for indemnity in the agreement.

**7. Comment**

Registration of existing subscribers should be done jointly by the operators and Third party solution providers.

**Response**

The Regulations will be amended to reflect this accordingly.

**8. Comment**

There is need for clarity on details to be registered by the operators.

**Response**

The Business Rules, Specification for photo image, Specification for fingerprints, Interface control documents, data dictionary, and File Transfer protocols will be duly attached as Schedules to the Regulations.

**9. Comment**

Third party solution providers should be bound by the provisions of Section 10 on data protection.

**Response**

Accepted. It will also be included in the contract.

**10. Comment**

There is need to specify obligations for subscribers.

**Response**

Operators are entitled to deactivate any unregistered SIM card after the expiration of the 6 months time frame specified for the exercise. Other obligations for subscribers will also be specified.

**11. Comment**

Imposition of sanctions must follow due process as provided in the Nigerian Communications Act 2003.

**Response**

Accepted. The Commission has always followed due process in imposing sanctions.

**12. Comment**

The exemption of foreign SIM cards from being registered has the potential of creating a black market for such SIMs.

**Response**

The Commission will consider this valid point.

*This was also an issue for discussion. It was noted that this will only affect countries where sim cards are not registered. A system must be put in place to address this matter.*

**13. Comment**

NCC should have the right to extend the timeframe for the completion of the registration exercise.

**Response**

The Regulation under the Definition section has expressly provided for the time frame for the exercise and also gives the Commission the discretion to vary the time.

**14. Comment**

Written consent as provided in Section 9(9) of the Regulations should be expanded to include email & SMS.

**Response**

It is not safe to include SMS/Email as there is no way of verifying that it was actually sent by the subscriber directly.

**15. Comment**

Does the term “Third parties” in Section 9(9) of the Regulations include law enforcement agencies?

**Response**

Law enforcement agencies are not included but in order to avoid ambiguity the Regulations will be amended to make it more explicit. However the procedure already set out by the Commission for releasing information to enforcement agencies will continue to apply.

**16. Comment**

There is a need for uniformity in the use of terms and definitions in the regulations in relation to the NCA 2003 and the licence issued to operators.

**Response**

Point valid and accepted.

**17. Comment**

The role of the Inter-operator Working Group and the Commission should be a continuous one until all subscribers are registered

**Response**

Point noted and will be considered. It is not an issue to be included in the Regulations.

**18. Comment**

There is a need for more rules for data protection and access to database information.

**Response**

Point noted for consideration

**19. Comment**

The administration of the database should be certified to guarantee security in line with ISO standards.

**Response**

Point noted.

**20. Comment**

Does the NCC have the legal capacity to create criminal offences, conduct criminal proceedings or impose sanctions for criminal acts?

**Response**

The Regulation did not create any criminal offence but made provision for contraventions of the regulations. Furthermore Section 70(C) of the NCA 2003 empowers the Commission to make and publish regulations for any fees, charges, rates, or fines to be imposed pursuant to or under the Act or its subsidiary legislation.

**21. Comment**

The Regulations should have a provision to accommodate juristic persons with registration numbers from the Corporate Affairs Commission.

**Response**

Already provided for in Section 5(3) c of the Regulations.

**22. Comment**

Registration solution providers should not be the ones to advise the operators on when to de activate a subscriber.

**Response**

The Regulations provide that the Commission not the RSV will notify the operators when a subscriber is to be de activated

**Response to Comments by the Operators and Stakeholders**

At the end of the Commission's presentation other issues and questions were raised and the Commission responded accordingly. Highlights of the issues and responses are as follows:

**1. Comment**

There was a comment that Section 7 of the Regulations should provide for deactivated subscribers who wish to be reactivated.

**Response**

The provision for deactivated subscribers will be reviewed.

**2. Comment**

There was a comment recommending that the Commission should ensure the integrity of the database.

**Response**

The Commission assures of the integrity of the database and will treat all information gathered with responsibility, bearing in mind that the biometrics captured will be the property of the Government of Nigeria.

**3. Comment**

There was a recommendation that the various bills on SIM Card Registration pending at the National Assembly should be harmonized.

**Response**

The Commission attended the Public Hearing on the Bill at the House of Representatives wherein the House of Representatives had stated that the Bill might be jettisoned as the Nigerian Communications Act 2003 (NCA) has power to make regulations in this regard.

**4. Comment**

A participant also advised that the Commission and operators should ensure that the information given to the public would be uniform.

**Response**

The Commission will try to ensure that information is the same between the Commission, Third party agents and Operators.

**5. Comment**

A participant wanted to know where the central Database will be domiciled.

**Response**

All data collected from the registration of SIM cards will ultimately be transmitted to the National Identity Management Commission (NIMC). No data will remain with the Commission, Third party registration agents or Operators. The integrity of collated data will be verified at NCC database before it is transmitted and deposited with NIMC.

**6. Comment**

A participant requested the Commission's assurance that subscribers will not be compelled to go to Third party registration agents but have a choice of registering with their service provider.

**Response**

The Commission is a professional organization and will not renege on its directives. There will be no discrimination between registration done by NCC and Operators as they

are working at achieving the same objective. Subscribers may register all their SIM cards at the NCC centers but can also choose to register individual SIM cards with the respective service providers.

**7. Comment**

There were several comments regarding the requirement for a subscriber to show an Identity card before registration. One participant was of the opinion that the physical presence of a person (including thumb print, photograph taken on the spot) should suffice as identification rather than an identity card which many rural dwellers may not have.

**Response**

Subscribers in rural areas who do not have identity cards can obtain an authenticated letter bearing their photographs from their traditional rulers or Local Government Chairmen or Imams/Pastors

**8. Comment**

Authenticated letters from the Local Government may prove to be time consuming and the integrity of the process may be compromised by corrupt Local Government Chairmen.

**Response**

The Federal Government is of the opinion that a form of identification must be provided before registration and there will be no exemption.

**9. Comment**

There were several comments calling for sustained and intense heavy media campaign.

**Response**

There will be sustained and increased media campaign. The Commission has placed adverts in the newspaper and TV, and these will increase in frequency. These adverts will inform the public on all the relevant information. This will be a joint effort by the Commission and the Service Providers.

**10. Comment**

There were several comments to the effect that the registration period of six months is too short to register all subscribers.

**Response**

The Commission has the discretion to extend the timeframe if it deems it necessary. However, all stakeholders must work towards achieving the objective within the stipulated time frame.

**11. Comment**

There were two remarks that the exemption of foreign SIM Cards from the registration process may pose a major challenge in the future. A suggestion was put forward that those with foreign SIM cards could be informed via SMS to register their SIM Cards with the roaming partner of their network operator within 24 hours of arrival in Nigeria.

**Response**

The issue has to be dealt with administratively. A lot of foreign SIM cards are already registered in their home countries and such subscribers can be easily traced. However,

difficulties exist where people come from countries where SIM registration is not done. The Commission will consult widely on this issue, and is also open to useful suggestions in this regard.

**12. Comment**

There was a comment that the Commission should provide operators with incentives to register their SIM cards in order to get them interested in the exercise.

**Response**

The greatest incentive for a subscriber to register his SIM Card is the knowledge that such a subscriber may lose the number after the expiration of the registration period. Operators are also enjoined to offer incentives to subscribers in this regard.

**13. Comment**

A participant pointed out that the issue of Data Retention is ambiguous in the Regulations and should be harmonized.

**Response**

The point is noted and the Commission will deal with the observed discrepancy.

**14. Comment**

The role of the Third party registration agents should be separated from that of the central database administrator in order to have independence of function.

**Response**

The Commission will look into this and take appropriate decisions.

**15. Comment**

There is need for clarification regarding subscriber information to be obtained, as the Regulations specify that father's name be obtained while operators have been requesting for mother's maiden name for registration

**Response**

This issue will be reviewed. The Commission is likely to follow Operator's lead and ensure that the Regulations specify mother's maiden name.

**16. Comment**

There was a query as to whether corporate SIM Cards allocated to staff will be registered by the organization or the staff.

**Response**

The Regulation will not permit companies to register staff's Sim cards under company name. It is assumed that once a company gives a phone to its staff, it becomes the property of the staff.

**17. Comment**

A comment was raised regarding the ability of people living in rural areas to access the SIM registration centres.

**Response**

There will also be mobile registration agents who will go to homes to register subscribers.

**18. Comment**

There is inadequate information regarding SIM Card Registration, even at the SIM registration centres.

**Response**

SIM Card registration is the registration of subscribers of telephone services. The exercise will include users of CDMA and GSMs and in future users of internet services. It is a practice all over the world; and it will greatly curtail criminal activities perpetrated through telecommunication. The exercise was delayed due to the late passage of the Commission's budget for the project. Operators have begun the exercise of registration. The Commission will announce the commencement date for the six month registration period for existing SIM cards.

**19. Comment**

A participant enquired about the Commission's position on the sale of SIM Cards on the street.

**Response**

The Commission is not against the sale of SIM cards on the streets. However, from May 2010 all new SIM Cards were to be registered according to the Commission's Directive. The SIM cards sold on the streets should be partially activated, and can only receive calls pending registration.

**20. Comment**

There was a comment enquiring whether people who make mistakes during the registration exercise would be allowed to make the necessary corrections or re-register.

**Response**

The Commission will take this into consideration

**21. Comment**

There was a further comment asking if those already registered are to be re-registered by NCC.

**Response**

There will be no need to re-register people unless the process was incomplete.

**22. Comment**

There is disparity in the information being requested by operators for registration.

**Response**

The Commission will harmonize with Operators on the information they have been collecting from subscribers.

**Closing Remarks**

The Director, Legal and Regulatory Services Department thanked everyone for coming and assured them that all comments will be considered by the Commission before the Regulations are finalized. She brought the Inquiry to a close at 1.20pm.

NIGERIAN COMMUNICATIONS COMMISSION