

REPORT OF THE 6th MEETING OF THE INDUSTRY WORKING GROUP ON MULTIPLE TAXATIONS HELD ON WEDNESDAY APRIL 18, 2012 AT COLONADES HOTEL NO. 21 ALFRED REWANE WAY, IKOYI, LAGOS

1. COMMENCEMENT

The 6th meeting of the IWG was presided over by the EC (SM)/Chairman IWG who registered his displeasure over the late commencement of the meeting where members from Abuja got to the venue before those who are in Lagos. He further emphasized that if the group must continue then there should be a level of commitment by members especially those whose interest is the essence of the meeting.

An apology was received from Ms Amaka Agwaniru member of the Media and Publicity Committee who is engaged with other assignment in Abuja.

The report of the 5th meeting was reviewed with minor corrections. The adoption of the report was moved by the 2nd Vice Chairman, IWG/HCME NCC and seconded by Engr. A. O. Basorun, Member/focal person IWG Webpage.

2. MATTERS ARISING FROM REPORT OF 5TH IWG MEETING

- i. The EC (SM) reported that the EVC was briefed on the activities of the IWG and plans/strategies to address the current challenges of multiple taxations/Regulation in the Telecoms Industry. However the proposed Abuja conference will be discussed with the EVC.
- ii. Exploring all options to standardize all taxes across all states and LGAs is ongoing. Legal and Judicial Review Sub-Committee was mandated to look at the laws of different states and existing laws i.e. Kaduna Law all to be broken into components including the constitution using the FIRS Act 2005 as a benchmark and report back to the house within 2 weeks (May 2, 2012).
- iii. MTN Communications Nigeria Ltd to submit formally all demand notices to the Commission before Monday, April 23, 2012.

3. HIGHLIGHTS OF THE 6TH IWG MEETING

a) Presentation by Chairman, Legal and Judicial Reviews Sub-Committee for the Adoption of Statement of Intent and Position Paper

- i. Statement of Intent was reviewed with minor changes. It was resolved that paragraph one be moved to two and two to one if possible merging the two paragraphs into one and be circulated to members for comments and inputs on or before Friday, April 20, 2012 for upload to IWG webpage on Monday, April 23, 2012.
- ii. Position Paper; the Legal and Judicial Review Sub-Committee to forward final copy of the position paper on or before April 23, 2012.

b) Presentation of Work Plans/Budget by Chairman, Finance Sub-Committee

The Plan of Activities/Budget were reviewed and adopted with the following corrections.

- i. Abuja Conference to be combined with North Central Workshop
 - ii. Lagos Conference will be held separately with a workshop in Ibadan to cater for the South West.
 - iii. It was suggested that any information gotten on any regional workshop/summit being planned in any state should be communicated to the IWG Secretariat so as to leverage on such opportunities; e.g. the planned South-South Economic Forum scheduled for April 26-28, 2012 in Asaba, Delta State (www.southsouth.com.ng). The Secretariat was mandated to get additional information on the summit and forward to IWG members for attention by April 20, 2012.
 - iv. Operators were encouraged to bring up all issues of arbitrary and illegal taxes to the attention of the Commission while the Legal and Judicial Review Committee was mandated to contact the Office of the Attorney General and Minister for Justice on the interpretation of item 43 in the Constitution of the Federal Republic of Nigeria and report back within 2 weeks (May 2, 2012.)
- c) Presentation of Schedule of visit by the IWG Executive Committee to Management of Select Telecoms Operators**

The schedule of visit by IWG Executive Committee/Stakeholders Visitation and Engagement Sub-Committee to Management of Select Telecoms Operators was presented and adopted with Helios confirming visit to its management. Visafone and Starcomms are yet to confirm as there were no representatives of the two companies at the meeting. It was resolved that a follow up by the Secretariat be made to get confirmation before the visit of April 26-27, 2012.

It was resolved that members of the Executive Committee/Stakeholders Visitation and Engagement Sub-committee are to form the delegation with the inclusion of representatives of EMTS, Airtel Networks and Helios.

d) Presentation of Draft IWG Webpage Materials and adoption of URL

The focal person, Engr. A.O. Basorun called for the adoption of the URL as suggested in the 5th IWG meeting. The EC (SM)/Chairman called for voting, where the URL <http://www.ncc.gov.ng/iwgmultitax> , which got a total of 10 votes, was adopted as the official URL for the webpage of the IWG.

Other materials resolved to be uploaded on the IWG webpage are:

- i. Statement of Intent of IWG
- ii. Position paper
- iii. Summaries of various IWG meetings with the approval of the Executive Committee
- iv. Keynote address of the Inauguration and media/press briefing speeches.
- v. Terms of Reference, of the Executive Committee/various sub-committees of the IWG.

e) Update on recent issues on Multiple Taxations and Regulations

The HCM/member IWG Finance Sub-Committee reported to the house that complaints so far received from the operators with respect to demand notices are being attended to. A meeting has been scheduled with the Imo State Environmental Transformation Commission (ENTRACO) on April 19, 2012. The aim is to find a lasting solution in order to avoid any illegal site lock out. EMTS and Airtel Networks are to attend the meeting.

- i. IHS commended the Commission for the prompt attention on the Zamfara State issue which has been resolved.
- ii. Multi-links reported for information of IWG Members that on April 2, 2012, the House Committee on Finance of the House of Representative placed an advertorial in ThisDay Newspaper announcing the appointment of a firm, Olusola Adekanola & Co, to carry out audit investigation on tax matters in about 180 companies in the private sector for the period 2006 to 2011. They further confirmed receipt of a letter from the Audit firm. Other operators also confirmed to have received the same letter. In addition to that it was reported that the Nigeria Employers' Consultative Association (NECA) has placed a full page newspaper adverts calling on its members not to comply with or to open their gates to the said consultant which they classify as an illegal and flagrant abuse of rule of law. Members were encouraged to check Punch newspaper of Wednesday, April 18 for the NECA full page advertorial for full details.
- iii. MTN Communications Nigeria Ltd commended the Commission for the intervention on the case of AMMC's planned site lock-up in Abuja.
- iv. Globacom in the same vain appreciated and commended the Commission for the prompt response on the case of their sites in Ado-Ekiti which were sealed by NEASREA- though the case is currently in court. Also, five other sites were to be locked-up by Edo State government but for the intervention of the NCC.

4. AOB

Airtel Networks reported the following information:-

- a. A planned meeting/workshop organized by the State Ministry of Environment in Ibadan, Oyo State on Thursday, April 19, 2012 and requested that NCC sent a representation. The HCME/Second Vice Chairman, IWG confirmed that the Ibadan Zonal Controller will attend.
- b. Introduction and hiking of new charges/fees by the Edo State Ministry of Communications Technology & Works from N145 to N3,000 and now to N10,000 per kilometer of Fibre laid by operators in the state.
- c. Demand Notices by the Benue State government to be submitted to the Commission formally by MTN.

- i. The EC (SM)/Chairman, IWG requested that all the issues be submitted to the Commission formally, for necessary action.
- ii. The HCM also advised that operators should always insist on having a copy of the law on such levies. He further informed members that management has approved the unsealing of some sites sealed by NESREA in Abuja and Ilorin which is scheduled to take place on Monday, April 23rd and Tuesday, April 24th respectively and securing the sites by the police for the next two months for effectiveness.
- iii. On the issue of Globacom mast in Ado-Ekiti, which is in court, a careful review by the Legal & Regulatory Directorate of the Commission will commence as the site is in compliance with the NCC guidelines on installation of mast & towers and yet was sealed by NESREA.
- iv. Also, a letter has been written to the Minister of Communication Technology for intervention and harmonization of the regulations on setback between NESREA and NCC.
- v. The operators commended NCC's action on the matter and called for immediate engagement of NESREA management on this issue, as their action constitutes infringement on NCC's constitutional rights and a nuisance to the industry which needs to be addressed. The IWG also called for the evaluation of the scope of NESREA's powers and clear definition of boundaries.
- vi. The EC (SM) and Chairman IWG reassured members that the Commission will be on top of the issue until it is resolved, and progress will be circulated.
- vii. On the issue of numerous complaints on EMF radiations, the EC (SM)/Chairman IWG called on the Secretariat to research on EMF and health issues on Masts and Towers globally or locally by getting facts from the Ministry of Health and report within the next two weeks (May, 2, 2012). He said the Commission needs to come up with a statement on EMF radiation.
- viii. The Chairman of NATCOM informed members that Dr. Orige of the Federal Ministry of Health is an expert on EMF and can be contacted on this issue. He also noted that WHO and ICNIRP are the only bodies that can be quoted on EMF radiation related statements.

The NATCOM Chairman also reminded the IWG that there was a court judgment on EMF radiations in respect of a BTS site in Lagos that can be leveraged on. He said however that the sum of N200, 000.00 is needed to be paid to the lawyer in order to get a copy of the judgment out from the court, and he called on the IWG to assist in the payment, as this document can be used as an important legal reference on issues of EMF radiation complaints. No comment was made on the issue.

5. RESOLUTIONS

At the end of the meeting, the following resolutions were reached:

1. EC (SM) to seek the EVC's approval for sponsorship of the planned first Conference of IWG in Abuja.

2. Exploring all options to standardize all taxes across States and LGAs is ongoing. The Legal and Judicial Review Sub-Committee is to look at the various existing states laws and, using the Constitution and the FIRS Act of 2005 as a benchmark, break them down into components and come up with a harmonized draft report within 2 weeks (May 2, 2012).
3. MTN Communications Nigeria Ltd to submit formally all demand notices to the Commission before Monday, April 23, 2012.
4. The Secretariat is to follow up and get confirmation from Visafone and Starcomms on the CEO visits before the scheduled dates of April 26-27, 2012
5. Conclude and circulate final schedule of visit by the IWG Executive Committee/ Stakeholders Visitation and Engagement Sub-Committee to Management of Select Telecoms Operators by Friday, April 20, 2012.
6. Position Paper; - the Legal and Judicial Review Sub-Committee to forward final copy of the position paper on or before April 23, 2012.
7. Finalize and circulate revised draft of Statement of Intent of the IWG to members for comments and inputs for final presentation to Engr. A.O. Basorun, focal person IWG Webpage for upload on IWG Webpage on Monday, April 23, 2012.
8. Legal and Judicial Review Sub-Committee to finalise the draft position paper before the visit to the management of select telecoms operators scheduled for April 26-27, 2012.
9. Chairman, Finance Sub-Committee to forward harmonized incidences of multiple taxations before the next meeting (May 2, 2012).
10. Operators were encouraged to bring up all issues of arbitrary and illegal taxes to the attention of the Commission while the Legal and Judicial Review Committee was mandated to contact the Office of the Attorney General and Minister for Justice on the interpretation of item 43 in the Constitution of the Federal Republic of Nigeria and report back within 2 weeks (May 2, 2012.)
11. The Secretariat to research on EMF and health issues on Mast and Towers globally or locally i.e. the Ministry of Health and submit report within the next two weeks (May, 2, 2012).
12. The Secretariat to get additional information on the planned South-South Economic Forum scheduled for April 26-28, 2012 in Asaba, Delta State and forward to IWG members for attention by April 20, 2012 (www.southsouth.com.ng).

The meeting came to a close at 2.40pm with the EC (SM)/Chairman, informing members on planned workshop on good governance and extending invitation to attend. Mr. Collins moved for adjournment and seconded by Mr. Atoyebi. The date of the next meeting was fixed for **Thursday May 3, 2012** at the same venue.