

Nigerian Communications Commission

Guidelines on Procedure for Granting Approval to Disconnect Telecommunications Operators

Part I: General

1. Introduction

- (1) The Nigerian Communications Commission (the Commission) has been given powers under the Nigerian Communications Act 2003 (the Act) to, inter-alia
 - (a) Grant approvals for applications made under any circumstance to disconnect or discontinue interconnection with a licensee
 - (b) Make and publish guidelines on any matter for the due administration of provisions of the Act.
- (2) These Guidelines are developed to ensure that the procedure for granting approval by the Commission for the disconnection or discontinuance of interconnection to a licensee is founded on a predetermined framework to engender transparency, certainty and fairness.
- (3) The tariffs paid to operators include the interconnection charge. Consequently, an operator shall upon receipt of such tariffs ensure that it deducts and sets aside the interconnection fees payable to its interconnect partners, and effect payment thereof in accordance with the terms of duly executed interconnection agreements.

2. Guiding Principles

- (1) The Commission shall not consider any disconnection request except:
 - (a) There is a subsisting interconnect agreement between both parties duly filed with the Commission
 - (b) The interconnected operators must have accurate billing systems consistent with the standard and specifications determined by the Commission. No operator is permitted to have a billing system that is not type-approved to

ensure compliance with the standards and specifications as determined by the Commission.

- (c) Parties must have fully exhausted all the options contained in their interconnection agreements for resolving the dispute, billing or other interconnect debt issues in question.
- (2) The Commission shall in granting approval for the disconnection of an operator be guided by the need to ensure that the interest of subscribers of the affected network is protected, and to this end the Commission would at all times only allow the disconnection of out-bound calls from a debtor operator's network
- (3) Other relevant issues to guide the decision of the Commission shall include the public interest in observing the rule of law and the need to entrench good corporate governance practices among operators.

3. Request for Approval to Disconnect

- (1) Every operator (hereinafter referred to as "Applicant") has a right to apply to the Commission for approval to disconnect an interconnected operator (hereinafter referred to as "Respondent") for any of the following reasons. Where:
 - (a) The respondent fails to settle its interconnect indebtedness after it becomes due;
 - (b) An interconnection agreement has been terminated in accordance with the terms thereof;
 - (c) There is a fundamental breach of interconnection agreement;
 - (d) The respondent is engaged in acts contrary to the terms of its license as may be determined by the NCC.
 - (e) For any other reasons established under the Act or any subsidiary legislation made by the Commission.

- (2) Applications for approval to disconnect an operator on the grounds of failure or refusal to settle interconnect indebtedness should at all times be made on NCC Disconnection Form 1, completed in triplicate and forwarded under a covering letter to the Commission while an electronic copy of the duly completed NCC Disconnection Form 1 (available on the Commission's website) is sent via email to legal@ncc.gov.ng
- (3) The information to be provided to the Commission under paragraph (2) above would however not be required where the request for disconnection is made for reasons other than failure or refusal to settle interconnect indebtedness.
- (4) In every request for approval to disconnect made under Paragraph 3 (1) (a – e) above, the Commission shall within three (3) working days of receipt of the request, forward the request to the respondent requiring its comments and/or reasons within five (5) working days why approval should not be granted for the disconnection.
- (5) The comments and/or reasons which the Commission shall take into consideration in determining whether or not approval should be granted shall be forwarded under a covering letter to the Commission on duly completed NCC Disconnection Form 2, completed in triplicate.
- (6) Failure of the respondent to make a written response to the request for disconnection in line with paragraph 6, shall be taken as an indication that it has no response and the Commission may take a decision based on the submissions of the applicant.

4. Additional Information from the Requesting Operator

- (1) Notwithstanding the specific provisions of Paragraph 3 hereof, nothing in these guidelines shall preclude the Commission from requesting for any additional information which it may require in considering an application for consent to disconnect an operator.

5. Conditions for the Grant of Approval to Disconnect for Indebtedness

- (1) In considering a request for approval to disconnect an operator for interconnection indebtedness, the Commission will take into account the following:

- (a) That the applicant has paid all its regulatory fees to the Commission;
 - (b) That the applicant had prior to the request for approval to disconnect exchanged Call Detail Records (CDRs) with the respondent on demand; and
 - (c) That such CDRs had been reconciled and the outstanding amount agreed by both operators.
- (2) The debt must have been outstanding for sixty (60) days inclusive of the period agreed between the parties in their interconnection agreement.
 - (3) In the event that the respondent has a previous record of not meeting debt obligations the duration allowed for indebtedness may be reduced to forty-five (45) days inclusive of the period agreed by the parties in their interconnection agreement.
 - (4) In addition, the decision of the Commission on a request for approval shall be guided by the following considerations:
 - (a) Previous payment record of the respondent
 - (b) The antecedents of the respondent vis-à-vis payment of interconnection indebtedness to its interconnecting parties.
 - (5) For purposes connected with the determination of the total amount of indebtedness owed by parties, where an operator fails to exchange reliable CDRs after fifteen (15) days of the demand thereof, the CDRs of the other interconnecting party shall be deemed as the proper and correct records of indebtedness of the parties.
 - (6) The determination in sub-paragraph (5) above deeming the CDRs of one interconnecting party as the correct record of indebtedness between two parties shall be communicated to the parties by the Commission within a period of three (3) days.

Part II: Decisions of the Commission

6. Time for Taking Decisions

- (1) Without prejudice to the provisions of Paragraph 7 and 8 of these Guidelines and except for reason of cogent supervening circumstances (which shall be duly communicated to parties), a decision by the Commission either granting or refusing a request for approval to disconnect shall be taken within ten (10) working days of the receipt of comments or hearing required under Paragraph 3(9) hereof.
- (2) The decision of the Commission shall be duly communicated to the concerned parties.

7. Execution of Undertaking

- (1) Without prejudice to provisions of any paragraph of these Guidelines, the Commission may at any time opt to invite the parties to a hearing meeting on the application.
- (2) Where at such a meeting a respondent shows demonstrable efforts by the payment of at least 50% of the indebtedness, the respondent would be required to sign an undertaking on terms acceptable to the applicant.
- (3) Refusal to execute an undertaking or non-compliance with the terms of an undertaking will result in the grant of approval to disconnect the respondent.

8. Pre-Disconnection Notice

- (1) If the indebtedness or a part thereof remains unpaid as at the date agreed for payment in the undertaking/agreement, the Commission shall publish a notice to the subscribers of the debtor operator informing them that the operator is unable to pay its indebtedness and is likely to be disconnected from the network of the applicant.
- (2) The Pre-Disconnection Notice to subscribers required under the subparagraph (1) hereof shall also be issued in circumstances where no undertaking/agreement is

executed and where a respondent is to be disconnected for reasons other than non-settlement of interconnection indebtedness.

- (3) Upon the issuance of such notification, the Commission shall at its discretion allow a grace period not exceeding seven (7) days within which desiring subscribers would be at liberty to make arrangements to migrate or port from the operator's network to another network.

9. Notice to Parties

- (1) The Commission shall not publish any notice to subscribers pursuant to paragraph 8 above, unless prior notice of the approval to disconnect has been given to both the applicant and the respondent to be disconnected.
- (2) In every case where notice is given to a debtor operator, such notice shall include a directive to settle any indebtedness within three (3) days from the date of receipt thereof, failing which notice of the disconnection shall be published to subscribers of the debtor operator.

10. Partial Disconnection

- (1) Where a determination is made on the merits that a request for approval to disconnect should be granted, the Commission hereby reserves the right to authorize an applicant to partially disconnect the respondent on terms to be decided by the Commission. For purpose of these Guidelines, Partial Disconnection shall be limited to the disconnection of only outbound calls from the network of the respondent.

11. Disconnection

- (1) Where the discretionary power to approve partial disconnection is not exercised, the Commission shall grant approval for total disconnection upon due consideration of the application for approval to disconnect, response comments by the respondent and any further representation made to the Commission.
- (2) In any event where approval for partial disconnection is granted, if the Commission is not satisfied with the remedial efforts made by the respondent

subsequent to the approval, the Commission may subject to Paragraph 2 (1) above, grant approval for total disconnection of the respondent.

12. Other Remedial Steps for Non-Payment of Interconnect Debts

- (1) Without prejudice to any other provisions of these Guidelines, the Commission may take any or all of the underlisted steps in relation to operators or respondent with record of not meeting debt obligation(s), viz:
 - (a) Direct the migration of such operators to interconnect through an interconnect exchange
 - (b) Decline any request for regulatory services or assistance and upon such terms and conditions as the Commission may specify.
 - (c) Publish names of operators with records of indebtedness in the newspapers.
 - (d) Direct interconnect exchange licensee to disconnect the operator.

13. Application of Guidelines to Interconnect Exchange Licensees

- (1) As general principle due to the role played by Interconnect Exchanges, it is not permissible for them to be indebted to operators.
- (2) These Guidelines shall also apply to applications brought by Interconnect Exchanges for the disconnection of operators passing traffic through them.
- (3) These Guidelines do not apply to disconnection of Interconnect Exchanges by network operators.

14. Miscellaneous

(1) Use of Bank Guarantees

Parties to an interconnection agreement shall make provision for bank guarantees to ensure prompt payment of interconnection fees.

15. Definition

(1) In these Guidelines, unless the context otherwise requires, all terms shall have the same meaning as under the Nigerian Communications Act 2003.

(2) For specific purposes of these Guidelines;

“Applicant” means an operator bringing an application for disconnection

“Application” means the documentation of a request for approval for disconnection.

“CDR” means Call Data Record

“Disconnection” means not only the mere absence of physical connection between operators previously interconnected, but also the reduction of bandwidth in both directions; parity bit marking to deny access or flow; allowing only uni-directional flow as against bi-directional flow and the general restriction of traffic however called.

“Respondent” means an operator against whom an application for disconnection is made.

NCC DISCONNECTION FORM 1

APPLICATION FOR APPROVAL TO DISCONNECT TELECOMS OPERATORS FOR REASON OF INDEBTEDNESS

1. APPLICANT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

2. RESPONDENT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

3. DEBT PROFILE/ INFORMATION

- A. Amount Outstanding:
- B. Due Date for payment of Debt:
- C. Has a previous application for disconnection been made in respect of the Respondent?

(*If Yes insert details)

.....

.....

.....

.....

.....

4. PARTICULARS OF CALL DATA RECORD (CDR) EXCHANGE

- A. Date of Exchange of CDR
- B. Is Reconciliation Complete?
- C. Amount Undisputed:
- D. Amount Disputed:
- E. Reason(s) for Disputed Amount:.....
.....
.....
.....
.....

5. DETAILS OF COMPLIANCE WITH DISPUTE RESOLUTION MECHANISM CONTAINED IN INTERCONNECT AGREEMENT

.....
.....
.....
.....
.....

| | | | |
|------|-----------|-------------|------|
| NAME | SIGNATURE | DESIGNATION | DATE |
|------|-----------|-------------|------|

**Forms are to be completed in triplicate. Original copy to NCC; Duplicate copy to Respondent; Triplicate copy for Applicant's records.*

NCC DISCONNECTION FORM 2

**RESPONSE TO APPLICATION FOR APPROVAL TO DISCONNECT
TELECOMS OPERATORS FOR REASON OF INDEBTEDNESS**

1. RESPONDENT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

2. APPLICANT'S INFORMATION

- A. Name:
- B. Address:
- C. Licence Category

3. RECONCILIATIONS:

- A. Is Reconciliation Complete?
- B. Amount owed:
- C. Amount Undisputed:
- D. Amount disputed:
- E. Particulars of Disputed Amount:.....
.....
.....
.....
- F. Payment Proposal for Amount Undisputed:.....

.....
.....
.....
.....

4. DETAILS OF COMPLIANCE WITH DISPUTE RESOLUTION MECHANISM CONTAINED IN INTERCONNECT AGREEMENT

.....
.....
.....
.....
.....
.....

5. COUNTERCLAIM (IF ANY):.....

.....
.....
.....

| | | | |
|-------|-----------|-------------|-------|
| _____ | _____ | _____ | _____ |
| NAME | SIGNATURE | DESIGNATION | DATE |

**Forms are to be completed in triplicate. Original copy to NCC; Duplicate copy to Applicant; Triplicate copy for Respondent's records.*