



**NIGERIAN COMMUNICATIONS (ENFORCEMENT PROCESSES, ETC.)  
REGULATIONS**



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NIGERIAN COMMUNICATIONS ACT  
(2003 No. 19)

**Nigerian Communications (Enforcement Processes, Etc.) Regulations**

*Commencement :*

In exercise of the powers conferred upon it by section 70 of the Nigerian Communications Act and of all other powers enabling it in that behalf the Nigerian Communications Commission, hereby makes the following Regulations—

PART I—PRELIMINARY PROVISIONS

1. The processes or procedures for the exercise by the Commission of its monitoring and enforcement powers shall be in accordance with the provisions of the Act and these Regulations.

Monitoring and enforcement processes and procedures.

2.—(1) Subject to paragraph (2) of this regulation, the Commission shall exercise its monitoring and enforcement powers—

Processes for initiating monitoring and enforcement.

(a) on its own initiatives ; or

(b) in response to a written enforcement report made by any person.

(3) The Commission shall, prior to exercising its monitoring and enforcement powers pursuant to any enforcement report made by any person under paragraph 1 (b) of this regulation, satisfy itself in the manner and on the issues specified in section 62(2) of the Act.

(4) The Commission shall publish on its website, on a quarterly basis, the details of its monitoring and enforcement activities pursuant to paragraph (1) of this regulation and such publication shall include sufficient details on the actions taken by the Commission in regard to enforcement reports made to it pursuant to paragraph (1)(b) of this regulation.

PART II—GENERAL PROCESSES AND PROCEDURES FOR EXERCISING MONITORING AND ENFORCEMENT POWERS

3. Subject to the Act, any regulations made there under or any licence issued pursuant thereto, the Commission shall, in exercising its monitoring and enforcement powers, be guided by the following principles and considerations, that is—

General principles or monitoring and enforcement powers.

(a) transparency, fairness and non-discrimination ;

(b) the need to provide modern, qualitative, affordable and readily available communication services in all parts of Nigeria ;

(c) the need to promote fair competition and investment in the communications industry ;

(d) the proportionality of the enforcement sanctions with the contravention taking into account the factors specified in regulation 14(2) of these Regulations ; and

(e) such other principles and considerations as the Commission may, from time to time, consider necessary in the national interest.

Civil enforcement proceedings.

**4.—**(1) Without prejudice to any specific provision of the Act, any regulations made there under or any licence issued pursuant thereto, the Commission may, in the exercise of its enforcement powers, institute civil proceedings in Court against any person for any remedy including injunctive relief, recovery of administrative fines, specific performance or pecuniary awards or damages.

(2) The Commission may issue directions in writing to any person or licensee.

(3) The Commission may seek the assistance of any law enforcement agency to enforce compliance with any directions issued under paragraph (2) of this regulation.

Procedure for exercising power to seal off premises or seize and detain equipment, etc.

**5.—**(1) In exercising the powers of entry and investigation pursuant to section 141 (2) of the Act, the Commission, its authorised officers or appointed inspectors may—

(a) demand the testing or operation or use howsoever of any radio communication station or apparatus or other communication equipment or facilities by the person in whose custody the equipment or facility is ; and

(b) subject to paragraphs (2) and (3) of this regulation, seal off or seize and detain in the custody of the Commission for such period and on such terms as the Commission may consider expedient or necessary to carry out and conclude the relevant monitoring and enforcement procedure—

(i) any such radio communication station or apparatus or other communications equipment or facilities,

(ii) any building or premises, or

(iii) any book, record, document or other information storage system.

(2) The Commission may seize and detain or seal off any building or premises or any of the items mentioned in paragraph (1) of this regulation in the following circumstances, that is—

(a) where such item mentioned in paragraph (1) (b) of this regulation constitutes part of an unlawful or unauthorised operation ; or

(b) where such item mentioned in paragraph (1)(b) of this regulation is relevant and required for the prosecution in court of a person under the Act or any regulations made there under ; or

(c) such other circumstances that are expressly provided for under the Act.

(3) In seizing and detaining or sealing off any premises or building or any of the items specified in paragraph (1) (b) of this regulation, the Commission shall—

(a) obtain a warrant from a Judge of a court of competent jurisdiction ;

(b) provide to the owner or his agent, a written inventory in evidence of the seizure of the seized equipment, facility, book, record, document or other information storage system except that there shall be no need for the issuance of such receipt where the item is sealed off and remains in the custody of the owner or agent.

(4) Where any of the powers of the Commission under section 141 of the Act is to be exercised by any authorised officer or appointed inspector, the Commission shall issue a letter of authority to such officer or inspector in the form specified in Form A in the First Schedule to these Regulations.

Form A  
First  
Schedule.

**6.—**(1) Any person who assaults, obstructs or resists or aids any other person to assault, obstruct or resist any official or appointed inspector of the Commission in the performance of his monitoring and enforcement duties under the Act or these Regulations, commits an offence and shall be liable on conviction to a fine not exceeding ₦100,000.00 or imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

Obstruction  
of  
monitoring  
and  
enforcement  
duties. etc.

(2) Any person who impersonates any official or appointed inspector of the Commission, commits an offence and shall be liable on conviction to a fine not exceeding ₦100,000.00 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

**7.—**(1) Every licensee shall keep records of subscribers basic information for not less than six (6) months , pursuant to section 146 of the Act, upon presentation to the licensee of a written request therefore from the relevant authority (without any further assurance), duly signed by an officer of the Nigeria Police Force not below the substantive rank of Assistant Commissioner of Police or its equivalent in any of the relevant authorities.

Subscriber  
information  
to be kept  
for six(6)  
months. etc.

(2) Subject to paragraph (1) of this regulation, a licensee shall provide such non-basic information as may be required by any relevant authority, pursuant to section 146 of the Act, upon the presentation to the licensee by the relevant authority of the sanction therefore by a Judge in the form or manner specified in Forms C 1 of the First Schedule to these Regulations.

First  
Schedule.  
Form C 1.

(3) The provisions of paragraphs (1) and (2) of this regulation shall not apply to the Commission with respect to the exercise of its powers under or pursuant to section 146 of the Act.

### PART III—CONSUMER AFFAIRS AND TECHNICAL REGULATIONS

**8.—**(1) The Commission may from time to time, for the purposes of protecting consumers and ensuring ethical marketing and promotional standards by licensees, publish guidelines specifying *inter alia* minimum standards and requirements in respect of advertisements and promotions of products and services by licensees.

Guidelines for  
promotion  
and  
advertisement  
of services.

(2) Every licensee shall obtain the prior written approval of the Commission in respect of the contents and representations contained in any promotion of products or services whatsoever and howsoever, the failure to obtain such required approval shall constitute a contravention under these Regulations.

(3) The Commission shall cause the approval or otherwise of the content and representations of promotional products or services to be communicated to the operator within one week of the date of the request for approval.

Type approval processes and procedures.

**9.** In carrying out its type approval functions pursuant to section 132 of the Act, the Commission shall, from time to time, determine and publish its processes and procedures.

Miscellaneous provisions relating to spectrum frequency interference.

**10.** Where licences are issued based on assigned bands of frequencies and operating geographical regions, either in accordance with State boundaries or other such boundaries as may be delineated and specified by the Commission, from time to time, by regulation or in the licence, the licensee shall ensure that the strength of radio signals from its network emitting into adjacent or other licensee's regions or frequency bands are not such as to cause harmful interference in such regions or frequency bands.

Acts constituting contravention. etc.

**11.** Without prejudice to such other enforcement measures as are or may be contained in the Act, any regulations made there under or in a licence, any of the following acts or conducts by any licensee or person shall constitute a contravention under these Regulations, that is—

(a) any act occasioning harmful interference mentioned in regulation 10 of these Regulations ; or

(b) a breach or violation howsoever of any guidelines and standards as may be specified or issued by the Commission, from time to time, on advertisements and promotions of products and services by licensees pursuant to regulation 8(1) of these Regulations ; or

(c) a breach or violation howsoever of any regulations issued by the Commission from time to time; or

(d) a failure to meet such power limits as the Commission may, from time to time, specify and publish pursuant to section 130 of the Act with respect to radio frequency power output of any transmitting device ; or

(e) a failure to fulfil or satisfy howsoever the type approval provisions and requirements in the Act, any regulations made there under or in any licence.

Quality of service.

**12.** Without prejudice to such other enforcement measures as are or may be contained in the Act, any regulations made there under or any licence conditions, the failure by any licensee to meet such minimum standards of quality of service as the Commission may, from time to time, specify and publish pursuant to section 104 of the Act shall constitute contravention under these Regulations.

Administrative sanctions for contravention of technical regulations. etc. Second Schedule.

**13.** Without prejudice to such other enforcement measures as are or may be contained in the Act, any regulations made there under or any licence condition, contravention of the provisions contained in regulations 8, 11 and 12 of these Regulations shall attract the administrative fines specified in the Second Schedule to these Regulations.

PART IV—ADMINISTRATIVE FINES

**14.**—(1) Without prejudice to the specific enforcement provisions contained in the Act, any regulations made there under or any relevant licence, the Commission may, subject to paragraph (2) of this regulation, impose administrative fines for enforcement purposes, pursuant to the Act and these Regulations, including but not limited to instances where specific enforcement sanctions have not been provided for in the Act, any regulations made there under or in any license.

Imposition of  
general  
administrative  
fines.

(2) In imposing administrative fines as sanctions the Commission shall be generally guided by the following factors and considerations, that is—

(a) the severity of the contravention and the need to impose such fine or the amount thereof so as to act as deterrent both to the person who committed such contravention and other persons ;

(b) non-discriminatory and transparency in the imposition of sanctions generally including but not limited to sanctions on different persons for similar contraventions committed in identical circumstances ;

(c) the prevalence of the contravention in the industry generally and the likelihood of repetition by the person who committed the contravention or other persons ;

(d) the duration of the contravention ;

(e) the circumstances of the contravention and in particular, but not limited to, a consideration of whether or not the contravention was deliberately or recklessly or negligently committed by the person who committed the contravention ;

(f) the record of previous or similar contravention by the person who committed the contravention or other persons ;

(g) attitude and conduct of the person who committed the contravention prior to and leading up to the act of contravention and consequent upon the contravention ;

(h) the danger to life and property consequent upon the contravention ;

(i) the effect of contravention on relevant service provision generally ;

(j) any gain (financial or otherwise) made by the person who committed the contravention directly or indirectly arising from such contravention ;

(k) the degree of harm, injury, discomfort or the incremental cost caused or occasioned by such contravention to consumers or other stakeholders in the communications sector ;

(l) the size of the annual turnover of the person who committed the contravention ;

(m) the extent to which any contravention was caused by a third party or any relevant circumstances beyond the control of the person who committed the contravention ;

(n) the absence, ineffectiveness or repeated failure of internal mechanisms or procedures required to prevent contravention by the person who committed the contravention ;

(o) the possible mitigating circumstances including but not limited to—

(i) whether or not the contravention was of a minor nature and the consequences and effect thereof were equally minor in nature ;

(ii) whether or not the person who committed the contravention took immediate steps to remedy the contravention soon after having knowledge of the contravention ;

(p) such other factors as the Commission may, from time to time, determine.

Specific  
administrative  
fines.  
Second  
Schedule.

**15.**—(1) Without prejudice to the generality of the provisions of regulation 14 of these Regulations, the Commission may impose administrative fines in the amounts specified in Second Schedule to these Regulations for each contravention or non compliance by the licensees.

(2) Any administrative fine imposed by the Commission pursuant to the Act, any regulations made there under or any licence shall become due and payable by the person who committed the contravention within 14 days from the date of the receipt, by the person who committed the contravention, of the notification document issued by the Commission.

(3) The payment of an administrative fine by a person who committed the contravention shall not be construed as a limitation or foreclosure of the power of the Commission to impose any other enforcement sanctions under the Act, any regulations made there under or in any licence.

(4) Without prejudice to the provisions of Regulations 14 - 15 (1) - (3), the Commission may in addition to imposing a general or specific administrative fine withhold regulatory assistance to any licensee for any contravention or non-compliance with the Act, any Regulations or licence conditions.

#### PART V—PROCEDURE FOR REVOCATION OF LICENCE

Procedures for  
revocation of  
licence.

**16.**—(1) Without prejudice to the provisions of the Act, any Regulations made there under and notwithstanding any provision to the contrary in any licence, the Commission may, in addition to the circumstances for suspension or revocation of licence under section 45 of the Act, revoke a licence under the following circumstances and procedures, that is—

(a) if the licensee ceases for a continuous period of 30 days at any time after commercial launch date, to provide, in the licensed area or any part or location thereof, the service for which the license was granted ;

(b) if any amount payable under any condition of a license remains unpaid after it has become due and remains unpaid for a period of 21 days after the Commission notifies the licensee in writing that the payment is due ;

(c) if the licensee fails to comply with the type approval of equipment or facilities granted by the Commission pursuant to section 132 of the Act ;

(d) if within 12 months of the effective date of the license, the licensee has not commenced full licensed operations to the satisfaction of the Commission ;

Provided that the Commission shall give prior notice to the licensee specifying the details of the default by the licensee and requiring that remedial steps be taken within 30 days of such notice.

(e) if the licensee makes any statement in the course of applying for a license and the statement is subsequently discovered to be false or misleading in any material particular.



(2) Without prejudice to the provisions of the Act or paragraph (1) of this regulation, the Commission may, as an alternative to revocation of a licence pursuant to the Act, any regulations made there under, and wherever necessary—

(a) impose the administrative fines stipulated in the Second Schedule to these Regulations in respect of the contravention specified in paragraph (1) of this regulation ; or

Second  
Schedule.

(b) require that the licensee makes such changes in its management as the Commission may consider necessary and within such time as the Commission may specify :

Provided that nothing in this paragraph of this regulation shall, where the Commission determines that a licence shall be revoked, preclude the Commission from imposing, in addition to a revocation of the licence, any administrative fine stipulated in the Second Schedule to these Regulations.

(3) The licence fees that have been paid in respect of a license revoked pursuant to the Act or paragraph (1) of this regulation shall not be refunded whether in part or whole consequent upon such revocation.

17. The original copy of any license that is revoked pursuant to the Act or any regulations made there under shall be returned to the Commission by the licensee within 14 days of the effective date of the revocation.

Return of  
license to  
Commission.

#### PART VI—MISCELLANEOUS PROVISIONS

18.—(1) In these Regulations, unless the context otherwise requires ;

Interpretation.

“Act” means the Nigerian Communications Act 2003 ;

“administrative fines” are monetary penalties/fines assessed and imposed by the Commission without recourse to a court or an independent administrative tribunal;

“basic information” means subscriber account information or details; call data which, in the context of this definition, shall include the data of any communication service subscribed to or used by a consumer ; and such other information as the Commission may, from time to time, determine;

“commercial launch date” means the date on which a licensee commences in provision of commercial services ;

“commission” means Nigerian Communications Commission ;

“contravention” includes non-compliance with or the infringement of any of the provisions of the Act, any regulations made there under or of any licence ;

“enforcement” means any action or processes for securing compliance with any of the provisions of the Act, any regulations made there under or of any licence including but not limited to suspension or revocation of license, criminal or civil proceedings against any person who committed the contravention and any administrative action by the Commission ;

“facility” means network facilities as defined in the Act ;

“harmful interference” means interference which endangers the functioning of a radio-navigation service or of other safety services or seriously degrades, obstructs,

or repeatedly interrupts a radio communication service operating in accordance with Radio Regulations ;

“*interference*” means the effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception in a radio communication system, manifested by any performance degradation, misinterpretation, or loss of information which could be extracted in the absence of such unwanted energy ;

“*licence*” means any license that has been granted by the Commission pursuant to the Act and includes subsisting licences that were granted by the Commission prior to the commencement of the Act ;

“*licensed area*” means the geographical area covered by the licence and within which area the licensee is authorised to provide the service ;

“*monitoring*” refers to the powers of the Commission to monitor compliance with or infringement of any of the provisions of the Act, any regulations made there under or any licence ;

“*non-basic information*” means any information required by a relevant authority which relates to the operations of the licensee ;

“*regulations*” means any regulations or guidelines published or issued by the Commission pursuant to the Act ;

“*relevant authority*” means the Nigeria Police Force, National Intelligence Agency, State Security Services, Economic and Financial Crimes Commission, National Drug Law Enforcement Agency and any other organisation or agency as the Commission may from time to time specify and publish ;

“*unauthorised*” means an act or omission not within the scope of operating licence, the Act or any subsidiary legislation ;

“*unlawful*” means any act or omission that is contrary to or against the Act or any regulations made there under or any other law governing the telecommunications industry.

(2) The interpretation section of the Act shall, unless otherwise stated, apply to these Regulations.

Citation.

**19.** These Regulations may be cited as the Nigerian Communications (Enforcement Processes, Etc.) Regulations 2005.

FORM A

*Print on Commission's letterhead and insert name of  
Commission Official or Appointed Inspector*

LETTER OF AUTHORITY PURSUANT TO SECTION 141  
NIGERIAN COMMUNICATIONS ACT 2003

TAKE NOTICE that this letter serves as requisite mandate and authority given to you by Nigerian Communications Commission ("the Commission"), in exercise of its powers under Section 141 of the Nigerian Communications Act 2003 ("the Act"), to carry out, on its behalf, the functions and duties specified hereunder—

*[Provide details of assignment]*

AND FURTHER understand that you are expected to exercise your best of judgement and reasonable discretion in carrying out the said functions and duties with the sole aim of attaining the Commission's objectives and goals pursuant to the aforementioned section of the Act.

BY THIS letter of authority, you are also authorised to carry out all functions and duties that are ancillary and related howsoever to the specific assignments detailed in this letter and that are necessary and required for carrying out and achieving the specific assignment and objective of the Commission detailed hereafter.

DATED this.....day of.....20.....

*Signed*.....

*Name*.....

*Position*.....

*For and on behalf of the Commission*

SECOND SCHEDULE

Regulation 15(1)

SPECIFIC ADMINISTRATIVE FINES

PART A : FINES CALCULATED ON THE BASIS OF EACH OCCURRENCE OR CONTRAVENTION

1.	Failure to provide information required by the Commission or providing such information which the person knows or has reason to believe is false or misleading ..	N5,000,000.00
2.	Obstructing or preventing Whosoever the exercise of the powers of the Commission in regard to monitoring and enforcement pursuant to section 141 of the Act .. .. .	N5,000,000.00
3.	Occasioning harmful interference in the context of regulation 11 of these Regulations. .. .. .	N5,000,000.00
4a.	Contravention of section 133(2) of the Act (apart from seizure of such equipment) ..	N5,000,000.00 and a further sum of N500,000.00 per each Model of equipment
4b.	Contravention of section 133(1) of the Act ..	N5,000,000.00 and a further sum of N500,000.00 per each model of equipment.
5.	Exceeding such power limits as the Commission may from time to time specify and publish pursuant to section 130 of the Act in respect of radio frequency power output of any transmitting device ..	N250,000:00
6.	Violation howsoever of the guidelines issued or published, from time to time, by the Commission specifying <i>inter alia</i> minimum standards and requirements in respect of advertisements of products and services by licensees pursuant to regulation 8 of these Regulations .. .. .	N10,000,000.00
7.	Failure to obtain the prior approval of the Commission in respect of any promotion of products or services by a licensee .. ..	N10,000,000.00
8.	Failure to file with the Commission as at when due any required returns, forms or information pursuant to the Act, any regulations made there under or any licence conditions .. .. .	N500,000:00

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9.	Failure to maintain required records, data, forms or information pursuant to the Act, regulations or license conditions .. ..	₦10,000,000:00 and a further sum of ₦500,000.00 per day after expiration of the notice for as long as the contravention persists.
10.	Operation of services outside the scope of a licence other than contravention of section 31 of the Act.. ..	₦10,000,000.00
11.	Contravention of section 100 of the Act and section 103 (to the extent that it incorporates by reference aforementioned section 100) of the Act .. ..	₦10,000,000.00
12.	Failure to comply with any direction, decision, determination or orders of the Commission .. ..	₦10,000,000.00 and a further sum of ₦1,000,000.00 per day after expiration of the notice for as long as the contravention persists.
13.	Transmission by a licensee of any indecent, subversive or obscene material, as may be defined, from time to time, in and by any applicable criminal law in Nigeria provided that the material was prepared by and originated from the licensee .. ..	₦10,000,000.00
14.	Using antenna specifications other than that which are contained in the licensee's license .. ..	₦500,000:00
15.	Violation howsoever of any regulations issued or published, from time to time, by the Commission pursuant to regulation 11 of these Regulations .. ..	₦10,000,000.00

PART B : FINES CALCULATED ON OTHER BASIS

*Acts of Contravention*

*Maximum Fine Amount and basis for calculation*

1. Non-payment as at when due of annual operating levy or any other fees or charges imposed by the Commission pursuant to the Act, any regulations or license. ~~₦~~100,000.00 per day payable for as long as the contravention persists and calculated from the date following the due date for the payment of the annual levy, fees or charges.
2. Failure by licensee to commence full licensed operations to the satisfaction of the Commission within 12 months of the effective date of the licence except that the Commission would have given prior notice to the licensee specifying the details of the default by the licensee and requiring that remedial steps be taken within 30 days of the notice. ~~₦~~50,000.00 per day payable for as long as the contravention persists and calculated from the date following the expiration date of the 30 days remedial step notice given by the Commission to the licensee.
3. Contravention of section 111 of the Act. ~~₦~~10,000,000.00 and Forfeiture to the Commission of the entire margin between the approved tariffs or charges and the unapproved tariffs or charges applied by the licensee calculated on the basis of the subscriber numbers of the licensee per day during the period of the contravention and payable for as long as the contravention persists.
4. Failure by a licensee to provide in the licensed area or any part or location thereof, for a continuous period of 30 days at any time after commercial launch date, the service for which a license was granted. A maximum of ~~₦~~5,000,000.00 for the first one month and thereafter ~~₦~~500,000.00 per day for as long as the contravention persists.
5. Transfer or assignment howsoever by a licensee to a third party, without the prior written consent of the Commission, of any rights interests or obligations under a licence. ~~₦~~10,000,000.00 and a further ~~₦~~500,000.00 per day calculated from the effective date of the transfer or assignment as determined by the Commission and payable for as long as the contravention persists.

6. Failure to obtain the prior written consent of the Commission in respect of any joint venture arrangement or with a licensee or such percentage arrangement or change in shareholding level of. changes in the shareholding structure, as determined by the structure of a licensee as the Commission, and payable for as long Commission may, from time to time, specify. **₦5,000,000.00** and a further **₦500,000.00** per day calculated from the effective date of the joint venture arrangement or change in shareholding structure, as determined by the structure of a licensee as the Commission, and payable for as long Commission may, from time to time, specify.
7. Using frequency modulation other than that which is authorised under the licence. **₦1,000,000.00** for every day that the contravention persists.
8. Using carrier frequencies other than those which are authorised under the licence. **₦1,000,000.00** for every day that the contravention persists.
9. Fraudulent /unauthorised Sim Swap **₦250,000.00** for every Sim Swap that is not carried out accordance with the Sim Swap Guidelines.
10. Sale of Pre-Registered SIM card **₦100, 000.00** for the sale of each pre-registered SIM card by an Operator or through its agents and payable by the service provider or Operator.
11. Activation of any fraudulently registered SIM card **₦100, 000.00** for the activation of each fraudulently registered SIM card by an Operator or through its agents and payable by the service provider or Operator.
12. Knowingly capturing and transmitting wrongful subscriber information/data to the Central Database **₦200, 000.00** per subscription medium identified.

MADE AT Abuja this.....day of.....20.....

Dr. Eugene Juwah  
*Executive Vice-Chairman  
 Nigerian Communications  
 Commission*

#### EXPLANATORY NOTE

*(This note does not form part of the above Regulations but is intended to explain its purport)*

The Regulations provides for, among other things, processes and procedures for the exercise of monitoring and enforcement powers by the Nigerian Communications Commission.