

DRAFT REGULATIONS

FOR THE

REGISTRATION OF TELEPHONE

SUBSCRIBERS

2011

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REGISTRATION OF TELEPHONE SUBSCRIBERS REGULATIONS, 2011

In exercise of the powers conferred upon it by Sections 1 (i) and 70 of the Nigerian Communications Act 2003, and of all other powers enabling it in that behalf, the Nigerian Communications Commission hereby makes the following Regulations:

PART I: GENERAL

1. Definitions

- (1) The terms and expressions defined in the Act shall have the same meaning in these Regulations, save that unless the context otherwise requires:

“Act” means the Nigerian Communications Act, 2003;

“Activate” means to allow full access to a Licensee’s Network Service, including the ability to make and receive calls, to send and receive short message services and other range of services usually provided by Mobile Telecommunication Service providers; **“activated”**, **“activation”**, **“deactivate”** and **“deactivation”** shall be read and construed accordingly;

“Activation Window” means the period of one (1) month from the day a subscriber acquires a new line on the network of a Licensee, within which a New Subscriber will be required to register with the relevant Licensee and during which, the New Subscriber will be granted Limited Access;

“Biometric Information” refers to finger prints and facial image of a Subscriber in accordance with the Registration Specifications (as may be amended from time to time) provided by the Commission for the registration of Subscribers;

“Central Database” means Subscriber Information database, containing the biometric and other registration information of all Subscribers;

“Commission” shall have the same meaning as in the Act;

“Effective Date” means the date on which these Regulations come into force;

“Existing Subscriber” means a person who is a Subscriber prior to the Effective Date;

“Foreign Licensee” refers to a Network Service provider licensed by a telecommunications regulator other than the Commission, to provide telecommunication services in a country other than Nigeria;

“General Consumer Code of Practice for Telecommunications Services” means the General Code (as amended from time to time) attached as Schedule 1 to the Nigerian Communications Commission Consumer Code Of Practice Regulations, 2006 (as amended from time to time);

“Independent Registration Agent” means a company contracted by the Commission for the registration of Existing Subscribers on such terms as may be agreed upon between the Commission and the company;

“Licensees” mean all providers of Mobile Telephone Services that utilize a Subscription Medium in the Federal Republic of Nigeria;

“Limited Access” means the limitation by a Licensee of services available to a Subscriber to receipt of calls and short message service, and making of calls to emergency centre numbers and the Licensee’s call centre only;

“National Assembly” means the National Assembly of the Federal Republic of Nigeria as established by the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

“New Subscriber” means a person who becomes a Subscriber after the commencement of these Regulations;

“Network Service” shall have the same meaning as in the Act;

“Personal Information” refers to the full names (including mother’s maiden name), gender, date of birth, residential address, nationality, state of origin, occupation and such other personal information and contact details of Subscribers specified in the Registration Specifications;

“Mobile Telephone Services” mean telephone services that utilize a Subscription Medium;

“Registration Specifications” mean the Data Dictionary, Guidelines on Fingerprint Quality, Transmission protocol/Technical Interface specifications to guide the interaction of Licensees’ or Independent Registration Agents’ databases with the Central Database when set up, the XML Schema, the Business Rules governing the exercise and such other specifications (inclusive of any amendments thereto) issued from time to time by the Commission for the registration of Subscribers.

“Regulations” mean the Regulations for the Registration of Telephone Subscribers in Nigeria;

“Security Agency” refers to either or all of the Nigerian Police Force, the Economic and Financial Crimes Commission, the State Security Service, the Federal Road Safety Corps, the National Intelligence Agency, the Office of the National Security Adviser and any other security agency established by the Federal Government;

“Subscription Medium” means a Subscriber Identity Module (**SIM**) smart card, a Removable User Identity Module (**R-UIM**) smart card, a CDMA Subscriber Identity Module (**CSIM**) smart card, a Universal Subscriber Identity Module (**USIM**) smart card or any other mobile phone subscription medium marketed from time to time by Licensees, containing the telephone number of a Subscriber, encoded network identification details, the personal identification number and other user data normally provided by a Licensee for the provision of Network Services;

“Subscribers Registration Solution Provider” refers to a company contracted by the Commission for the conceptualization, design, development, and delivery of Registration Solutions covering all Licensees and providing detailed Subscriber Information in a manner facilitating seamless integration into the Central Database;

“Subscriber” means a person who subscribes to Mobile Telecommunication Services by purchasing a Subscription Medium or entering into a subscription contract with a Licensee;

“Subscriber Information” refers to the Biometrics and other Personal Information of a Subscriber recorded and stored by Licensees and or the Independent Registration Agents;

“Subscriber Registration Period” means the six (6) months period from the Effective Date or such other date as the Commission may specify, and any extensions thereto that may be announced by the Commission, within which Existing Subscribers will be required to register their Subscription Mediums pursuant to these Regulations.

- (2) Where in these Regulations the context so requires, words in the singular include the plural and words in the plural include the singular.

PART II: SCOPE AND OBJECTIVES

2. Objective

These Regulations are made to provide a regulatory framework for the registration of all Subscribers to Mobile Telephone Services that utilize a Subscription Medium in the Federal Republic of Nigeria, and for the control, administration, and management of the Central Database.

3. Scope

The Regulations shall apply to all Licensees and all individual, corporate, private and commercial Subscribers to Mobile Telephone Services that utilize a Subscription Medium in the Federal Republic of Nigeria inclusive of subscribers of Foreign Licensees who are roaming on the network of a Licensee; Provided that Subscribers of Foreign Licensees will not be required to register where they have registered their Subscriber Information in the jurisdiction of the relevant Foreign Licensees and there exists necessary arrangements between the Commission and the relevant regulatory authority of the Foreign Licensee to access such Subscriber Information.

PART III: ESTABLISHMENT OF CENTRAL DATABASE

4. Establishment and Maintenance of the Central Database

- (1) The Commission hereby undertakes to establish, in conjunction with Independent Registration Agents and the Licensees, a central database of all recorded Subscriber Information to be known as the Central Database.
- (2) The Central Database shall be segregated across Network Services in such a manner as to ensure that easy access by authorised persons to data in respect of Subscribers of the different Licensees. The Central Database shall be domiciled and housed within the Commission, providing a platform for central processing of all Subscriber Information.
- (3) Subject to the provisions of these Regulations, the Central Database shall belong to the Government of the Federal Republic of Nigeria. The Licensees are however granted the right to use the Subscriber Information of Subscribers on their respective networks in accordance with the provisions of Part V of the General Consumer Code of Practice for Telecommunications Services and any other instruments issued from time to time by the Commission or any act of the National Assembly regulating the specific purposes for which the Subscriber Information may be used.

PART IV: REGISTRATION

5. Registration of New Subscribers

- (1) All Licensees are hereby required to register a minimum set of details as specified in paragraph (2) hereof for New Subscribers.
- (2) Further to paragraph (1) of this Section, from the Effective Date, all Licensees are hereby required to, at their own cost, implement a process to capture and transmit to the Central Database, the Biometrics and other Personal Information of their New Subscribers, in accordance with the Registration Specifications.
- (3) From the Effective Date, Licensees shall capture and transmit to the Central Database:
 - (a) the identification number of any Subscription Medium that is to be activated by a Licensee at the request of any New Subscriber contemplated in paragraphs (b) and (c) below;
 - (b) the Biometrics and other Personal Information of any New Subscriber, other than a juristic person, who requests the activation of such Subscription Medium by the Licensee;
 - (c) in the case of a corporate body or other juristic person, the Biometric and other Personal Information of the authorised representative of the corporate body or other juristic person; and the name, the address and, where applicable, the registration number of the juristic person issued by the Corporate Affairs Commission; and
 - (d) such other information specified in the Registration Specifications by the Commission.
- (4) The failure by any Licensee to capture and register the details of a Subscriber as specified in Paragraphs 2 and 3 above or as may be stipulated from time to time by the Commission shall attract a fine of N200,000.00 (Two Hundred Thousand Naira) per Subscriber.
- (5) For the avoidance of doubt, there shall be no proxy registration of Subscription Mediums. An individual shall be free to register as many Subscription Mediums as may be necessary for his use and any persons registered pursuant to the foregoing paragraph (3) in respect of any Subscription Mediums shall be liable for activities carried out with those Subscription Mediums.

6. Activation of New Subscriptions

- (1) Upon the commencement of these Regulations, Licensees shall only provide New Subscribers with Subscription Mediums enabled for Limited Access to their Network Services. Such Limited Access will last for the duration of the Activation Window.
- (2) It shall be the responsibility of a New Subscriber to, at any time within the Activation Window, present his/its Personal Information to the Licensee from whom the Subscription Medium is obtained for registration in accordance with the requirements of these Regulations.
- (3) Upon the registration of the Biometrics and the Personal Information of a New Subscriber, the Licensee shall activate the Subscription Medium on its Network Service.

7. Registration of Existing Subscribers

- (1) Subject to the terms of any contractual arrangement with the Commission, the Independent Registration Agents shall carry out the registration of the Biometrics and other Personal Information of Existing Subscribers within the Subscribers Registration Period in accordance with the provisions of Section 5(3) of these Regulations and the Registration Specifications.
- (2) Where the Commission deems necessary, it shall authorise the Licensees to undertake the registration of Existing Subscribers on their respective networks and upon the issuance of any directive authorising such registration, these Regulations shall apply mutatis mutandis to such registration, as if reference to New Subscriber means Existing Subscribers.
- (3) Licensees shall promote and support the registration of Existing Subscribers by the Independent Registration Agents, and shall promptly, upon being notified by the Commission, deactivate any subscription where the Personal Information of the Subscriber has not been entered into the Central Database by the end of the Subscriber Registration Period or such extensions thereof as the Commission may prescribe.
- (4) A deactivated subscription shall be reactivated upon the registration of the Biometric Information and other Personal Information of the relevant Subscriber in accordance with the relevant provisions of these Regulations and confirmation by the Commission of the entry thereof onto the Central Database.

8. Registration of Foreign Subscribers

- (1) Subject to the proviso to Section 3 hereof and any instrument or guidelines issued from time to time by the Commission, a Licensee who is providing roaming services in Nigeria to a Subscriber of a Foreign Licensee shall register the Personal Information of such Subscriber in accordance with the provisions of these Regulations before providing such Subscriber with roaming services.
- (2) For the purposes of this Section 8, the Activation Window shall be a period of forty-eight (48) hours.

9. Non-Compliance with activation and deactivation requirements

- (1) Any Licensee who activates a Subscription Medium in violation of Section 6 or 8, or who fails to deactivate a Subscription Medium in accordance with Section 7(3) shall be deemed to be in material breach of these Regulations and shall be liable to pay a fine of N200,000 (Two Hundred Thousand Naira) per Subscription Medium or such other amount as may be fixed by the Commission.
- (2) Any person who at the time of the commission of a breach of these Regulations was a director, chief executive officer, manager, secretary or other similar officer of the defaulting Licensee or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the Licensee or was assisting in such management:
 - (a) may be charged severally or jointly in the same proceedings with the body corporate; and
 - (b) if the Commission is satisfied that the body corporate is culpable, shall also be liable to pay a fine of N200,000 (Two Hundred Thousand Naira) or such other amount as may be fixed by the Commission unless, having regard to the nature of his functions in that capacity and to all the surrounding circumstances, he proves –
 - (i) that the offence was committed without his knowledge, consent or connivance; and
 - (ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

PART V: THE CENTRAL DATABASE

10. Operation of the Database

- (1) Licensees and Independent Registration Agents shall, on a monthly basis or at such regular interval as the Commission may from time to time specify, transmit all Subscriber Information captured within the preceding month or such period as stipulated by the Commission onto the Central Database. Licensees and Independent Registration Agents are hereby prohibited from retaining the Biometrics of any Subscriber following transmission thereof to the Commission.
- (2) Subject to provisions of this Section 10, care, control and management of the Central Database shall be vested in the Commission which shall be entitled to contract out such responsibility to suitably qualified persons. Administration of the Central Database shall be in accordance with the latest standards issued from time to time by the ISO in relation to security and management of electronics/personal data.
- (3) Subject to the prohibition in paragraph 1 above, Licensees are permitted to retain Information of Subscribers on their Network. A Licensee shall not retain the Personal Information of Subscribers other than those of its own Subscribers.
- (4) Any entity which retains, duplicates or deals with Subscriber Information in contravention of the provisions of these Regulations shall be liable to a penalty of N200,000.00 (Two Hundred Thousand Naira) per Subscriber. Where such entity is found to have utilised the Subscriber Information in any business, commercial or other transaction, such entity shall, in addition to the above fine, be liable to a further fine of N1,000,000.00 (One Million Naira) per Subscriber and forfeiture of such commercial benefit derived from the unauthorised use of such Subscriber Information.
- (5) Notwithstanding the provisions of these Regulations restricting access to Subscriber Information on the Central Database and subject to the provisions of any act of the National Assembly, Subscriber Information on the Central Database shall be provided to only a Security Agency, provided that a prior written request is received by the Commission from an official of the relevant Security Agency who is not below the rank of an Assistant Commissioner of Police or a coordinate rank in any other Security Agency.
- (6) The written notice to be issued by the Security Agency pursuant to paragraph 5 above, shall indicate the rank of the official of the Security Agency, and the purpose for which the Subscriber Information is required.

11. Data Protection

- (1) In furtherance of the rights guaranteed them by virtue of Section 37 of the Constitution of the Federal Republic of Nigeria 1999 and subject to any reasonable guidelines, terms or conditions that may from time to time be issued either by the Commission or a Licensee, any Subscriber whose Personal Information is stored in the Central Database or a Licensee's database, shall be entitled to view the said information and to request updates and amendments thereto.
- (2) The Subscriber Information contained in the Central Database shall be held on a strictly confidential basis and no persons or entities shall be allowed access to any Subscriber Information on the Central Database except as provided in paragraph 1 above and in paragraph 5 of Section 10 of these Regulations or by any act of the National Assembly. Licensees, Independent Registration Agents, and Subscriber Registration Solution Providers shall not under any circumstances retain, duplicate, deal in or make copies of any Subscriber Information or store in whatever form any copies of the Subscriber Information for any purpose other than as stipulated in these Regulations or by an act of the National Assembly.
- (3) Licensees, Independent Registration Agents, Subscriber Registration Solution Providers and the Commission shall each take all reasonable precautions in accordance with international best practises to preserve the integrity and prevent any corruption, loss or unauthorized disclosure of Subscriber Information obtained pursuant to these Registrations and shall take steps to restrict unauthorized use of the Subscriber Information by their employees who may be involved in capture and or processing of such Subscriber Information.
- (4) Licensees shall utilize Personal Information retained pursuant to these Regulations, solely for their operations and in accordance with the provisions of Part V of the General Consumer Code of Practice for Telecommunications Services and any other instruments of the Commission or any act of the National Assembly issued from time to time regulating the specific purposes for which the Personal Information may be used.
- (5) Release of Personal Information to Security Agents shall be in accordance with the provisions of the Act and any guidelines or instrument issued from time to time by the Commission. Licensees shall not release Personal Information to any third parties without obtaining the prior written consent of the relevant Subscriber. For the purpose of this paragraph 5, the term "third party" shall exclude Security Agents as defined in these Regulations.
- (6) Subscriber Information shall not be released to a Licensee, Security Agency or any other person, where such release of Subscriber Information would constitute a breach of the Constitution of the Federal Republic of Nigeria, or any other Act of the National Assembly,

for the time being in force in Nigeria or where such release of Subscriber Information would constitute a threat to National Security.

- (7) The Subscriber Information shall not be transferred outside the Federal Republic of Nigeria.

PART VI: MISCELLANEOUS

12. Amendments

- (1) The Commission may from time to time issue additional directions, decisions or orders on any aspect of these Regulations, and either of general application or specific to a Licensee. The Commission may also revise these Regulations, or part thereof, at any time. Provided that the Commission shall comply with the provisions of Section 71 of the Act in its revision of this Regulations or any guidelines, rules, directions etc, made pursuant thereto or in furtherance of the objectives thereof
- (2) Nothing done or permitted to be done pursuant to or in accordance with these Regulations, any Registration Specification, or any guidelines, rules, directions etc, made pursuant to these Regulations or in furtherance of the objectives thereof shall be adversely affected, reversed or nullified by the subsequent coming into effect of any amendment or revision or repeal of these Regulations, any Registration Specification, or any guidelines, rules, directions.

13. Application of the Business Rules of the Commission

The provisions of the Business Rules and the Registration Specifications as amended from time to time, shall apply to these Regulations. The Registration Specifications now in operation are attached as schedules to these Regulations.

14. Citation

These Regulations may be cited as the Registration of Telephone Subscribers Regulations 2011.

SCHEDULE

MADE at Abuja this [*] day of [*] 2011

[*]

Executive Vice Chairman

EXPLANATORY NOTE

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

These Regulations are made to provide a regulatory framework for the registration of all Subscribers to Mobile Telephone Services that utilize a Subscription Medium in the Federal Republic of Nigeria, and for the control, administration, and management of the Central Database