



REPORT OF THE PUBLIC INQUIRY ON THE DRAFT AMENDED CONSUMER CODE OF PRACTICE REGULATIONS

1.0 INTRODUCTION

The Nigerian Communications Commission (the Commission), pursuant to its powers under Section 70 of the Nigerian Communications Act 2003 (the Act) developed the draft amended Consume Code of Practice Regulations (draft Regulations). In accordance with the participatory rule-making procedure established by the Commission, the draft Regulations was published on its website in order to solicit comments from the general public and in particular, critical stakeholders.

A Public Inquiry was scheduled for August 11, 2022 and all stakeholders were duly notified. A Notice of the Public Inquiry on the Regulations was published in the Guardian and Daily Trust Newspapers on Friday, July 8, 2022.

2.0 THE PUBLIC INQUIRY

The Public Inquiry held physically and virtually as scheduled, commencing at 11.00 am and was chaired by Mr. Adeleke Adewolu, the Executive Commissioner, Stakeholder Management. Attendees at the Public Inquiry included Staff of the Commission, telecommunications operators, relevant stakeholders and the media.

The Executive Commissioner, Stakeholders Management made the opening remarks and welcomed everyone to the Public Inquiry, noting that it was the last day of the three-day session which started on the August 9, 2022. He stated that it was the longest duration of Public Inquiries that the Commission has had in recent years and went further to commend the Director, Legal and Regulatory Services Department and her team for the remarkable initiative.

He described the Consumer Code of Practice as one of the most pivotal instruments for delivering digital infrastructure and services to Nigerians.

He further highlighted the critical elements which the Regulations cover, to include:

- Provision of information to consumers
- Advertising and representation of services
- Billing, Charging, Credit, and other financial aspects
- Fault resolution and complaints handling
- Data protection and information privacy on telecoms networks
- Obligations of the consumers when using telecoms services and infrastructure

The EC(SM) assured stakeholders that every contribution will be carefully considered.

The Assistant Director, Legal and Regulatory Services, June Nwanchukwu gave an overview of the Draft Regulations, while Mrs. Ifunanya Ike, Senior Manager Consumer Affairs Bureau, presented the Commission's responses to the comments received from stakeholders prior to the Public Inquiry.

A. General Overview of the Consumer Code of Practice Regulations

- The draft Regulations is made up of 4 Parts comprising 13 Sections and 1 Schedule
- Part I - Scope, Application and Objectives
- Part II - Consumer Codes of Practice
- Part III - Compliance and Enforcement
- Part IV - General Consumer Code of Practice

B. REVIEW OF SUBMISSIONS RECEIVED BEFORE THE PUBLIC INQUIRY

1. ALLIANCE FOR AFFORDABLE INTERNET (AAI)

1.1 Comment

Code 13- AAI recommended that the Commission should amend the Quality of Service (QoS) Regulations in order to totally overhaul the existing QoS measurement, by taking cognizance of new QoS parameters and key performance indicators that are consistent with the evolving nature of IP based network and other new technologies, and designing the appropriate methodology that may be applied in obtaining accurate QoS measurements.

Response

The Commission appreciates these comments and will duly consider them

1.2 Comment

AAI noted that the word “consumer” was defined in Regulation 15 of the Draft Regulations, but the meaning of “consumer information” was not provided. Further to this, suggested a definition as follows:

“consumer information means any information relating to an identified or identifiable natural person who subscribes or uses a communications service; an identifiable natural person in this regard is one who can be identified, directly or indirectly, in particular by reference to an identifier, such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, psychological genetic, mental, economic, cultural or social identity of that natural person.”

Response

These comments are acknowledged and the Commission will review the terms in the definition part of the Draft Regulations.

1.3 Comment

AAI noted that implementing Code 42 of the draft Regulations may create regulatory uncertainty for both licensees and consumers alike because the Commission has not been granted any specific powers under the NDPR to enforce its provisions. Specific rules on how consumer information may be used and/or processed by Licensees should be clearly set out by the Commission in the Individual Consumer Code.

Response

The Commission is the sole and exclusive regulator of Communications services in Nigeria and all licensees must note that its regulatory prescriptions apply as appropriate.

1.4 Comment

AAI noted that the delineation in Code 42 is not expansive enough to afford protection to consumers in circumstances where their consumer information is processed by licensees. To remedy this, AAI recommended as follows:

- i. The Individual Consumer Code outline the lawful basis, at least one of which can be relied upon by licensees to process consumer information.
- ii. The Individual Consumer Code should provide the various rights of consumers regarding the processing and protection of their consumer information.
- iii. The Individual Consumer Code should require Licensees to conduct a Data Protection Impact Assessment when using communications systems and/or equipment capable of processing consumer data on a massive scale or when such processing operation presents a high risk to the privacy rights and other freedoms of the consumer.
- iv. A licensee suffering a breach is obligated to notify the Commission within 48 hours of ‘becoming aware’ of breach.
- v. The Individual Consumer Code should provide the conditions or safeguards that would apply if a Licensee intended to transfer consumer information out of Nigeria.

Response

These comments are noted and will be considered

2. MTN NIGERIA COMMUNICATIONS PLC

2.1 Comment

MTN recommended that the term “peculiar operational responsibilities” in Regulation 8 should be clarified and its definition included in the proposed draft of the amended Regulations prior to finalization.

Response

These comments are noted and will be considered

2.2 Comment

Code 49 – MTN opined that the definition of “information” be included in the Regulations and recommended the definition as follows: “For the purpose of this regulation, “information” means Call Data Records and Subscriber Information as defined under the Registration of Telephone Subscribers Regulations”. MTN also noted that Code 49(3) is loosely worded and very open-ended. Data storage and provision as specified in Code 49(1) should be in line with the terms of the Commission’s Enforcement Regulations.

Response

These comments are noted and will be considered

2.3 Comment

Code 21 – MTN stated that Paragraph 3 of the Guidelines on Advertisements and Promotions provides a timeframe of 7 days within which the written notification should be transmitted to the Commission, while the draft Regulations provides a timeframe of 14 days. Further to this, MTN opined that the issue of notification timelines should be solely addressed in the Guidelines on Advertisements and Promotions

Response

These comments are noted and will be considered.

2.4 Comment

Code 45(9) –MTN opined that to avoid instances of multiple regulation, especially where conflicting obligations may arise from the Commission’s institution of Data Protection Regulations which may be at variance with the terms of the NDPR, the Commission should adopt the NDPR instead. Further to this, MTN suggested a re-draft as follows:

“This regulation shall supplement and be read in conjunction with the Registration of Telephone Communications Subscribers Regulations and Nigeria Data Protection Regulations.”

Response

The Commission is the sole and exclusive regulator of Communications services in Nigeria and all licensees must note that its regulatory prescriptions apply as appropriate.

2.5 Comment

MTN suggested that Code 44(9) should be drafted as follows: *“Market analytics generated by a licensee and containing personally identifiable information may not be transferred for free or for remuneration to a related or unrelated third party, where it will be used for the purpose of revenue generation and/ or competitive advantage etc. without the prior notification to and permission from the consumer.”*

For the purpose of this Regulations, “Personal Identifiable Information “means information that can be used on its own or with other information to identify, contact, or locate a single person.

Response

These comments are noted and will be considered.

C. GENERAL COMMENTS

Mr. Oludayo Okeowo (Deputy Manager, Legal and Regulatory Services Department) thanked everyone for coming and noted that the session was very informative. He stated that all the issues raised will be considered and consolidated to benefit the Telecommunications Industry.

The Public Inquiry ended at 12:53pm.

Dated this 11th day of August, 2022

Professor Umar Garba Danbatta, *FNSE, FRAES, FAEng, FNIEEE*
Executive Vice-Chairman/CEO
NIGERIAN COMMUNICATIONS COMMISSION