



REPORT OF THE PUBLIC INQUIRY ON THE GUIDELINES ON SHORT CODE OPERATION IN NIGERIA

1.0. INTRODUCTION

The Nigerian Communications Commission (the Commission) pursuant to its powers under Section 72 of the Nigerian Communications Act 2003 (the Act) commenced the process of reviewing the Guidelines on Short Code Operation in Nigeria (the Guidelines).

Based on the Commission's policy of participatory rule-making, the Draft Guidelines was published on its website for comments from the general public, particularly its licensees and other stakeholders.

Further to this, the Commission received submissions from the following stakeholders:

1. MTN Nigeria Communications Plc.

As required by Section 58 of the Act, a Public Inquiry on the Draft Guidelines was scheduled for August 9, 2022 and a Notice of the Public Inquiry 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 11:00am and was chaired by the Executive Vice Chairman, Professor Umar Garba Danbatta *FNSE, FRAES, FAEng, FNIEEE*. In attendance were the Board Chairman, Professor, Adeolu Akande, Engineer Ubale Ahmed Maska, the Executive Commissioner, Technical Services, Mr Adeleke Adewolu, the Executive Commissioner, Stakeholder Management. Also in attendance were other Board Members namely; Chief Uche Onwude, Professor Millionaire Freeborn Nestor Abowei and Professor Mansur Bindawa Auwalu. Attendees at the Public Inquiry included Staff of the Commission, and representatives of telecommunications companies, as well as other interested stakeholders.

In her opening remarks, the Head Telecoms Laws and Regulations welcomed participants to the forum, and amongst other things stated that the Public Inquiry is an avenue that enables the Commission to incorporate the comments and suggestions of industry stakeholders in the development of its regulatory

instruments. She therefore enjoined all participants to make inputs/comments that will further enrich the output of the regulatory instruments.

The Executive Vice Chairman, Professor Umar Garba Danbatta in his opening remarks stated that the Public Inquiry was in line with the consultative approach of the Commission and was consistent with the resolution of the board of the Commission to review regulatory instruments every five (5) years. He added that all (5) five regulatory instruments are existing instruments which are being amended to reflect current realities. One of such realities is that with the deployment of 5G, it will become necessary for Mobile Network Operators (MNOs) to invest heavily in communications infrastructure. Subsequently, the EVC enjoined all participants to be part of this key and important process in the Nigerian communications sector.

The Principal Manager, Legal and Regulatory Services Department, Dr. Mohammed Suleh-Yusuf, gave an overview of the draft Guidelines, while Engineer Kings Adeyemi, Principal Manager, Technical Standards and Networks Integrity Department presented the Commission's responses to the comments received from stakeholders prior to the Public Inquiry.

A. GENERAL OVERVIEW OF THE GUIDELINES ON SHORT CODE OPERATION IN NIGERIA

The Guidelines provide guidance on the standard and procedure which network operators and content aggregators are expected to adhere to in the provision of the Short Code Services. The purport of the review is to ensure that the provisions of the Guidelines reflect current realities.

B. REVIEW OF COMMENTS RECEIVED BEFORE THE PUBLIC INQUIRY

1. MTN Nigeria Communications Plc

1.1. Comment

MTN recommend that the Guidelines should contain suspensive conditions on enforcement which should be tied to the successful conclusion of the harmonization process.

Response

While noting these comments, the Commission states that it has considered all the new developments in the VAS industry before making this prescription.

1.2. Comment

MTN recommended that the Commission should define the "classification of services" in line with the shortcode harmonization plan project to ensure that the provision of services across the envisioned shortcodes is standardized. They also proposed that the Guidelines should make provision for non-common services shortcode category, that is, short codes allocated to operators for operations other than common service codes.

Response

The Commission intends to open up more short code bands and define them as part of its sole mandate to manage the process.

1.3. Comment

MTN recommended that the Commission should define critical services and in doing so, recognise the operations of its licensees as critical services, as short code resources are primarily for the provision of telecommunications services by licensees.

Response

The Comments are noted and will be considered in the further review of the Guidelines.

1.4. Comment

MTN noted that the Commission makes provision for application developers and VAS Aggregators to apply for shortcodes, which is inconsistent with the role they play within the VAS ecosystem. Further to this, they recommended that the Commission should expunge the reference to the VAS Aggregator Framework and also expunge the assignment of codes to Application developers and VAS Aggregators.

Response

The VAS Aggregator Framework only makes reference to the revenue sharing formula and not to the allocation of short codes.

1.5. Comment

MTN noted that the application/renewal process is inconsistent with the Numbering Regulations. As such, they recommended that Paragraph 4(i-ii) of the Guidelines should be expunged or modified to align with the Numbering Regulations.

Response

The Comment is noted and will be considered in the further review of the Guidelines.

1.6. Comment

MTN recommended that the Commission consider the assignment of shortcodes tied to services that are network specific to be issued free of cost and the tenure specified. They also recommended that in addition to harmonized common codes which the Commission has provided will be free, other shortcode allocation to MNOs should be free of charge.

Response

The Commission notes the comments and states that it has taken all factors into consideration.

1.7 Comment

MTN recommended that for licensees, the assignment tenure of shortcode should be tied to the duration of the license. Whilst for non-licensees, it recommended that the issuance of shortcodes should be tied to a specific tenure per the Shortcode Harmonisation Plan.

Response

The assignment tenure of short codes cannot be tied to the validity of the licence because there are renewal fees attached to the short code and the allottees can always relinquish short codes to the Commission if not in use.

1.8 Comment

MTN recommended that the Commission should include a provision that confers responsibility for content management on VAS Aggregators and a description of the regulatory obligations, e.g. measuring valid IP rights for content prior to deployment.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

1.9 Comment

MTN opined that the obligations defined in Paragraph 11 of the Guidelines, should be extended to VAS Aggregators as well.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

1.10 Comment

MTN stated that in view of the fact that the Harmonization exercise is ongoing and the fact that the Commission may need to update the table to reflect current realities, it might be necessary for a general reference to be made to the table, while noting that the table will be available on the Commission's website. This will allow for amending the same from time to time.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

C. REVIEW OF COMMENTS RECEIVED AFTER THE PUBLIC INQUIRY

1. EMERGING MARKETS TELECOMMUNICATIONS SERVICES LIMITED (EMTS)

1.1 Comment

EMTS noted that the terms allocation, allotment and assignment have different meanings and recommended that the Commission maintain Tables of Allocations, Allotments and Assignments which contain entries made by the Commission into relevant Tables showing the various allocations, allotments or assignment of short codes in the country. It also recommended that the terms be defined in the interpretation section.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

1.2 Comment

EMTS requested for more information and clarity around the configuration, operation and application of the “Stop Service” short code to assist their proper implementation on the networks.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

1.3 Comment

EMTS stated that with respect to the reference to fee or charge in Paragraph 3.2 of the Guidelines, there is need for clarity on whether the Guidelines is referring to processing fees as indicated under Paragraph 5 or fees for assigned short codes. EMTS also added that the use of terms such as “consumer” may create uncertainties and suggested the use of terms such as Network Operators, VAS Aggregator e.t.c.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

1.4 Comment

EMTS also stated that with respect to the reference to fee in Paragraph 4.2 of the Guidelines, there is need for clarity on whether the Commission is referring to processing fees or fees for assigned short codes.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

1.5 Comment

EMTS recommended that Paragraph 4.3 of the Guidelines which deals with Commercial Agreements for services provided between Network Operators, VAS Aggregators, Application Developers, Content Service Providers and others be moved from Paragraph 4, to a stand-alone Paragraph as it does not have any link to the renewal process. Further to this, it also recommended the incorporation of the VAS Aggregator Framework as an Annexure to this Guidelines.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

1.6 Comment

EMTS recommended interchanging Paragraphs 5.1 and 5.2 of the Guidelines to give greater clarity to the effect that all entities will pay processing fees, however licensees will only pay renewal fees, while non-licensees will pay for both application and renewal fees.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

1.7 Comment

EMTS opined that the Application and Renewal fees for Short Codes are intended as administrative fees for processing applications submitted by applicants. They added that these Administrative Charges are based on the principles of cost recovery, which should be a modest fee to cover reasonable administrative cost and not-for-profit.

Response

The Commission notes the comment and will consider it in the further review of the Guidelines.

D. GENERAL COMMENTS

Mr Adeleke Adewolu, the Executive Commissioner, Stakeholder Management thanked everyone for coming and stated that all comments submitted by stakeholders will be considered by the Commission before the draft regulatory instruments are finalised.

The Public Inquiry ended at about 1:00pm.

Dated this 9th day of August 2022

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

