

HB. 118 NIGERIAN COMMUNICATIONS COMMISSION BILL, 2001

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SCHEDULE.

A BILL

FOR

AN ACT TO REPEAL THE NIGERIAN COMMUNICATIONS COMMISSION DECREE 75 1992
AND TO INVESTS ALL ASSETS AND LIABILITIES IN A NEW NIGERIAN
COMMUNICATIONS COMMISSION; AND FOR OTHER MATTERS RELATING THERETO
Sponsored by HON. NDUKA IRABOR

1 ENACTED by the National Assembly of the Federal Republic of Nigeria—

2 CHAPTER I—ESTABLISHMENT OF NIGERIAN COMMUNICATIONS COMMISSION

3 1. The Nigerian Communications Commission Decree 75, 1992 is repealed.

4 2. There is established a Commission known as the Nigerian
5 Communications Commission (in this Act referred to as "the Commission¹) which
6 shall be a body corporate with perpetual succession and a common seal, and
7 may sue and be sued in its corporate name.

8 3.—(1) there is established for the Commission a board of Commissioners
9 which shall consist of—

10 (a) a Chairperson ;

11 (b) even other members as Commissioners; and

12 (c) a Chief Executive Officer.

13 (2) Members of the Commission shall be persons who—

14 (a) possess qualifications, expertise and experience in the field of, amongst
15 others, telecommunication policy and technology, law, economics, business
16 practice, financial matters, public administration, and frequency band planning;
17 and

18 (b) are committed to the objects and principle of fairness, openness and
19 accountability.

20 (3) The Chairperson and other members of the Commission shall be
21 appointed by the President of the Federal Republic of Nigeria subject to the
22 Confirmation of the National Assembly.

23 (4) The President shall cause a notice to be published in a Gazette of the

**Commence-
ment.**

**Repeal of
Decree 75,
1992.**

**Establishment
of Nigerian
Communi-
cation
Commission.**

**Board of
Commissioners.**

1 Federal Government inviting interested persons to submit, within a period of 30
2 days after such publication, nominations for appointment as Commissioners.

3 (5) The President shall, after the expiry of the period for nomination,
4 compile a short-list from the nominations received and forward same to the
5 National Assembly.

6 (6) The number of candidates in the short-list shall not exceed the number
7 of Commissioners to be appointed by more than 50 per cent.

8 (7) Upon receipt of the short-list, the National Assembly shall—

9 (j) publish it in a Gazette of the Federal Government, stating date, time
10 and place where a public hearing in respect of each candidate mentioned
11 in the short-list, will take place; and

12 (ii) hold public hearing on such time and place.

13 (8) The National Assembly shall thereafter confirm candidates for
14 appointments as Commissioners.

15 (9) If the National Assembly determines that circumstances exist which
16 render any, some or all candidates unacceptable, it shall furnish the President
17 With reasons rendering the candidate unacceptable.

18 (10) after having been informed, the president shall invite further
19 nominations.

20 (11) Where a vacancy exists in the Commission the procedure provided
21 in Subsections (4) (5) (6) (7) and (8) above shall apply.

22 (12) A person shall not be appointed or continue as a member of the
23 Commission if such a person—

24 (a) is not a citizen of Nigeria;

25 (b) is not permanently resident in Nigeria;

26 (c) is a public servant or he holds any other office of profit under the State.

27 (d) is serving as a member of the National Assembly, State House of
28 Assembly; or any Local Government Council;

29 (e) or a member of the family of such a person has a controlling interest or
30 any substantial financial interest in the telecommunications or broadcasting
31 industry ;

1 A business partner holds an office in, or is employed by any
2 company, organisation or other body, whether incorporated or not,
3 which has an interest as provided in paragraph (e) above ;

4 (g) is of unsound mind and has been so found by a court in Nigeria or
5 elsewhere;

6 (h) is an un-discharged bankrupt';

7 (?) has at any time been convicted, whether in Nigeria or elsewhere, of
8 theft, fraud, forgery or uttering a forged document, perjury, or any other
9 offence involving dishonesty;

10 (i) has at any time been removed from office of trust on account of
11 misconduct.

12 (13) the supplementary provisions set out in the Schedule to this Act Schedule.
13 shall have effect with respect to the tenure of office of the members of the
14 Board, proceedings of the Board and other matters mentioned therein.

15 4. The objectives of the Commission shall be to—

Objectives

16 (a) promote the universal efficient, reliable and affordable, provision of
17 telecommunication services within the Federal Republic of Nigeria;

18 (b) promote the provision of the widest range of telecommunication service
19 in the interest of the growth and development of all sectors of Nigerian
20 economy ;

21 (c) make steady progress towards the universal provision of
22 telecommunication services throughout Nigeria ;

23 (d) encourage foreign investment and innovation on the Nigerian
24 telecommunication industry in keeping with global trends ;

25 (e) encourage the development of a competitive and effective
26 telecommunication equipment manufacturing and supply sector within the
27 Nigerian economy;

28 (f) promote the development of telecommunication services which are
29 practicable and responsive to the needs of users and consumers;

30 (g) promote and safeguard national interest, safety and security in the
31 radio frequency spectrum;

- 1 (h) ensure that in relation to the provision of telecommunication
2 services, the needs of the local communities and rural areas are taken
3 into consideration ;
- 4 (i) ensure that need" of the disabled persons are taken into consideration
5 in the provision of telecommunication services;
- 6 (j) ensure domestic inter-operability of telecommunication services and
7 compliance with globally accepted technical standards in the provision and
8 development of telecommunication services in Nigeria;
- 9 (k) ensure fair competition in all sector of the Nigerian telecommunication
10 industry;
- 11 (l) promote the growth of stability of the Nigerian telecommunication
12 industry ;
- 13 . mi) encourage indigenous participation, ownership and control of
14 telecommunication services;
- 15 (n) promote the growth of small, medium and large enterprises in Nigerian
16 telecommunication industry;
- 17 (o) protect the rights and interest of telecommunication services licenses
18 and consumers in Nigeria;
- 19 (p) encourage the growth and development of human resources in the
20 Nigerian telecommunication services; and
- 21 (q) ensure the most efficient planning, co-ordination allocation,
22 assignment, registration, monitoring and use of the national radio frequency
23 Spectrum.

CHAPTER II—FUNCTIONS OF THE COMMISSION

The
Functions of
the
Commission.

- 25 5.—(1) Functions of the Commission shall include—
- 26 (a) preparation of the National Frequency Plan ;
- 27 (b) preparation of Frequency Band Plan in respect of any part of the
28 radio frequency spectrum;
- 29 (c) compilation of a computerized database of all allocated radio
30 frequencies within Nigeria and the regular updating of same;
- 31 (d) periodic publication of an up to date table of radio allocations;

- 1 (e) processing of requests for radio frequency allocation and the
2 allocation and assignment of frequencies ;
- 3 (f) co-ordinating the management of radio frequency and assignments of
4 frequencies;
- 5 (g) determining which additional parts of the radio frequency spectrum
6 shall form part of the broadcasting industry, frequency bands or *vice versa*
7 from time to time;
- 8 (h) monitoring, investigating and detecting operational, technical or other
9 irregularities in the use of the national radio frequency spectrum;
- 10 (i) complying with all applicable standards and requirements of the
11 International Telecommunications Union and its Radio Regulations' as agreed
12 to, or adopted by the Federal Republic of Nigeria;
- 13 (j) advising the Federal Government on the present and future
14 commitments of the Federal Republic of Nigeria with regard to international
15 agreements and standards in radio-communication and telecommunication
16 matters ; and
- 17 (k) advising the Federal Government on proposed policies for the effective
18 utilization of the radio frequency spectrum.
- 19 (2) In carrying out the functions under Subsection f 1) of this section the
20 Commission shall—
- 21 (a) have due regard to the objectives of this Act;
- 22 (b) have due regard to the reports of experts in the field of spectrum or
23 frequency band planning to internationally accepted methods for preparing
24 such plans ;
- 25 (c) take into account existing uses of the radio frequency spectrum and
26 frequency band plans in existence or in the course of preparation;
- 27 (d) give notice of its intentions to prepare a plan and give a short notice
28 inviting interested parties to submit their written representations to the
29 Commission within such period as may be specified in such notice, which
30 shall not be less than 30 days ;
- 31 (e) after the period referred to in paragraph (d) of this subsection has

1 lapsed, hold a hearing in respect of the proposed plan ; and
 2 (f) after the hearing and after due considerations of all representations
 3 received pursuant to the notice mentioned in paragraph (d) of this
 4 subsection, the Commission shall prepare the frequency band plan in
 5 question, and cause such plan to be published.

6 (3) any frequency band plan prepared in terms of this section and all
 7 representations and other documents received in response to the notice provided
 8 in Subsection (2) () or tendered at the hearing, shall be kept at the office of the
 9 Commission, and shall be open to public inspection by interested persons
 10 during normal office hours and the Commission shall at the request of any
 11 person and on payment of such fees as shall be prescribed, furnish him with a
 12 copy there of.

13 (4) A frequency band plan prepared by the Commission pursuant to
 14 Subsection (2) of this section shall—

15 (a) define how the radio spectrum shall be used ;

16 (b) aim at ensuring that the radio frequency spectrum is utilized and
 17 managed in the most orderly, efficient and effective manner;

18 (c) aim at reducing congestion in the use of frequencies and at protecting
 19 frequency users from any interference or inability to make use of the
 20 frequencies assigned to them ;

21 (d) avoid obstacles to the introduction of new technologies and
 22 telecommunication services; and

23 (e) aim at providing opportunities for the introduction of the widest range
 24 of telecommunication services ; and the maximum number of users thereof
 25 as is practically feasible.

26 CHAPTER III—STAFF OF THE COMMISSION

Secretary and
 other
 Officers of
 the
 Commission.

27 6.—(1) there is appointed for the Commission, an Executive Secretary
 28 who shall be appointed by the President

29 (2) The Secretary shall—

30 (a) keep the records and conduct the correspondence of the
 31 Commission; and

(6) perform such other duties as the Commission shall from time to time direct.

(3) The Commission shall appoint such other persons as employees of the Commission.

7. The Commission shall develop and submit for the approval of the National Assembly, in the course of its yearly budget and plans presentation, appropriate conditions of service concerning remuneration fringe benefits, pension schemes and other benefits which would enable it attract and retain high quality man power.

8.—(1) Notwithstanding the provisions of the Pension Act, service in the Commission shall be approved service for the purposes of the Act and accordingly, officers and other persons employed by the Commission shall in

respect of their service in the Commission be entitled to pensions, gratuities and other benefits as are enjoyed by persons holding equivalent grades in the Civil Service of the Federation; provided that nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.

(2) For the purposes of the application of the provisions of this Act, any power exercisable there under by a minister or other authority of the Government of the Federation, other than the power to make regulations under Section (23) thereof is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.

9. No person employed by the Commission shall be— (a) financially interested in any company or entity engaged in the manufacture or sale of telecommunications equipment or undertaking which is subject to regulation by the Commission;

(b) financially interested in any company engaged in the business of the use of the electromagnetic spectrum ;

(c) financially interested in any company which control any company specified in paragraphs (a) and (b) of this subsection ; which derives a significant portion of its total income from ownership of stocks, bonds, or

conditions of Service.

Service in the Commission to be

pension

LFN and

Prohibition on staff of the Commission.

■ other securities of any such company ; and
2 (d) employed by, hold any official relation to, or other securities of any
i person regulated by the Commission under this Act, except that the
4 prohibitions established in this section shall apply only to financial interest
5 on any company which has a significant interest in communication
6 manufacturing, or sales activities which are subject to regulation by the
7 Commission.

Waiver of
Prohibition.

8 10.—(1) The Commission shall have authority to waive, from time to time
9 the application of the prohibition to persons employed by the Commission if
10 the Commission determines that the financial interests of a person which are
11 involved in a particular case are minimal.

12 (2) in any case in which the Commission exercises the waiver authority
13 established in Subsection (1) of this section, the Commission shall publish
14 notice of such action in a Gazette of the Federal Government and shall furnish
15 notice of action to the appropriate committees of each house of the National
16 Assembly such notice shall—

17 (a) include information regarding the identity of the person receiving the
18 waivers;

19 (b) state the position held by such person ; and

20 (c) state the nature of the financial interests which are the subject of
21 waivers.

Conditions
required to
quality for
regulation by
the
Commission.

22 11. The Commission shall in determining whether a company or other
23 entity has a significant interest in communications, manufacturing, or sales
24 activities which are subject to regulation by the Commission, consider—

25 (a) the revenue investments, profits, and managerial efforts directed to
26 the related communications, manufacturing or sales activities of the company
27 involved, as compared to the other aspects of the business of such company
28 or other entity ;

29 (b) the extent to which the Commission regulates and oversees the
30 activities of such company or other entity.

31 (c) the degree to which the economic interest of such company or other

1 entity shall be affected by any action of the Commission ; and

2 (d) the perceptions held by the public regarding the business activities of
3 such company or other entity.

4 CHAPTER IV—FUNDS AND POWERS OF THE COMMISSION

5 12.—(1) the funds of the Commission shall consist of such sums as shall Fund of the
, Commission.
6 from time to time be appropriated by the National Assembly.

7 (2) the commission shall utilize any money appropriated in Subsection
8 (1) of this section in accordance with the statement of estimated expenditure
9 Referred to in Subsection (3) of this section.

10 (3) The Commission shall, in each financial year submit a statement of
11 estimated income and expenditure for the following financial year to the National
12 Assembly for approval, provided that the Commission shall also, in each financial
13 year submit adjusted statements of estimated income and expenditure to the
14 National Assembly for approval.

15 (4) The Commission shall keep proper accounts in respect of each year,
16 and proper records in relation to those accounts and cause its accounts to be
17 audited within three months after the end of each year by an external auditor
18 appointed by the commission from the list submitted by the Auditor-General
19 for the Federation and shall present the audited accounts to the National
20 Assembly.

21 (5) The Commission shall cause all surplus funds from its activities at the
22 end of each financial year to be disbursed as follows—

23 (a) 80 percent to be deposited in the Federation Account; and

24 (b) 20 percent to be retained by the Commission.

25 (6) The Commission shall deposit in the Federation Account fees charged for
26 auction, sale, award, allocation, grant of licenses and frequencies under this Act.

27 (7) The Commission shall charge administrative fees and similar other
28 charges for its services and publications.

29 13. The Commission shall open and maintain a bank account in the name Bank
30 of the Commission with a registered bank in which there shall be deposited the \ccounts.
31 money received by the Commission and from which payments to the Commission

I or on its behalf shall be made.

Annual Report. 2 14.—(1) The Commission shall furnish to the National Assembly with
3 such information and particulars as shall from time to time in writing be required
4 in connection with the activities of the Commission, and shall annually not later
5 than three months after the end of each financial year, furnish the National
6 Assembly a report in regard to the functions, activities and financial position of
7 the Commission in respect of such financial year which shall include—
8 (a) information regarding licenses granted, renewed, amended,
9 transferred, suspended or revoked; and
10 (b) such other information as the National Assembly shall require.

II (2) The commission shall table the annual report in both houses of the
12 National Assembly within the period as provided in Subsection (1) of this
13 section, if the National Assembly is not in session, within 30 days after the
14 Commencement of its next session.

Policy Directions. 15 15.—(1) The Commission shall from time to time by notice in the Gazette
16 of the Federal Government issue policy directions consistent with the
17 Objectives of this Act.
18 (2) The Commission shall, before a policy direction provided in
19 Subsection (1) of this section is issued—
20 (a) consult the National Assembly in order to obtain the view of
21 interested persons;
22 (b) cause the text of such direction to be published in a Gazette of the
23 Federal Government together with a notice declaring the Commission's
24 intention to issue that direction and inviting interested persons to lodge
25 written representations in relation to the direction in the manner specified
26 in such notice within 30 days from the date of the notice.

Delegation of Power 27 16. The Commission shall, subject to such conditions as it shall deem
28 fit, delegate any of its powers under this Act to any of its members or to its
29 Chief Executive Officer.

Power to make regulations. 30 17. The Commission shall make such regulations as are necessary for
31 the purpose of implementing the policy directions of the
Government or

1 achieving the objectives of this Act.

2 CHAPTER V—COMMITTEES, EXPERTS AND ENQUIRIES

3 18.—(1) The Commission shall establish such standing or special
4 committees for such purposes as it may deem necessary in order to assist in
5 the effective performance of its functions and shall at any time extend, limit
6 or dissolve any such committees.

**Establishment
of
Committees.**

7 (2) Each committee, shall consist of—

8 (a) one or more commissioners designated by the Commission ; and

9 (b) such additional members as the Commission shall determine from
10 time to time.

11 (3) The additional members referred to in Subsection (2) (b) shall be
12 persons—

13 (a) who are not subject to any disqualification provided in this Act;

14 (b) who, on account of their expertise, qualifications and experience in
15 relation to the mandate or terms of reference of the relevant committee,
16 are suited to serve thereon ; and

17 (4) The Chairperson of a committee shall be one of the Commissioners
18 concerned

19 19. A Committee shall, with due regard to the objectives of this Act,
20 perform such functions as shall be delegated by the Commission.

**Functions of
the
Committees.**

21 20.—(1) the members of any committee who are not commissioners
22 or members of the staff of the Commission shall be paid such remuneration
23 and allowances as the Commission shall from time to time determine.

**Remuneration
and
Allowances
of Committee
members.**

24 (2) For the purposes of Subsection (1) of this section, the Commission
25 shall differentiate between different committees and different members
26 thereof.

27 21.—(1) The Commission shall appoint as many experts as shall be
28 necessary, including experts from other countries, with a view to assisting
29 the Commission in the performance of its functions.

**Appointment
of experts.**

30 (2) The terms, conditions, remuneration and allowances applicable in
31 respect of any expert by virtue of his appointment in terms of Subsection (1) of

1 this section and the work to be performed or service to be rendered by virtue of
2 such appointment shall be determined in a written agreement entered into for
3 that purpose 'between the Commission and the expert concerned.

Enquiries.

4 22.—(1) The Commission shall from time to time conduct an enquiry
5 into any matter relevant to—

6 (a) the achievement of the objectives of this Act; and

7 (b) The performance of its functions in terms of this Act.

8 (2) The Commission shall make known its intention to conduct such
9 an enquiry by publication in the Gazette of the Federal Government of a
10 Notice to that effect.

U (3) The notice referred to in Subsection (2) of this section shall indicate
12 the subject-matter of the enquiry and invite interested persons, within the
13 period specified in the notice (which period shall not be less than 30 days)
14 to submit written representations and to indicate whether they require an
15 Opportunity to make oral representations to the Commission.

16 (4) Written representations made pursuant to such notice shall be
17 open to inspection by interested parties during the normal office hours of
18 The Commission.

19 (5) The Commission shall, at the request of any interested person and
20 on payment of such fees as shall be prescribed, furnish him with a certified
21 copy of or extract from representations open to inspection as provided in
22 Subsection (4) of this section.

23 (6) The Commission shall advise persons referred to in Subsection (3)
24 of this section, of the place where and time when oral representations shall
25 be made and such oral representations shall be made in public.

26 (7) The Commission shall, after it has conducted an enquiry, make
27 known its findings and any recommendations or conclusions pursuant to
28 such enquiry ; or state that such findings and any such recommendations
29 or conclusions are open to inspection.

30 (8) Nothing in the foregoing sections of this Act shall prevent the
31 Commission from requiring any person to appear before the Commission or

any committee of the Commission for the purpose of—

- (a) conducting an enquiry into any matter which the Commission deems necessary for the effective discharge of its duties under this Act; and
- (6) giving evidence or producing any document or other information required by the Commission or any committee set up by the Commission for the effective discharge of its duties under this Act.

23. No Commissioner, member of a committee of the Commission, expert Confidentiality.

Appointed or other member of the staff of the Commission shall disclose any Information with regard to any matter which shall come to his knowledge in the performance of any function in terms of this Act or any work arising

There from or by virtue of the office held by him, except—

- (a) in so far as the provisions of the Constitution or this Act require or provide for the publication of or access by the public or any interested person to information relating to such matter;
- (b) in so far as shall be necessary for the purpose of the due and proper Performance of any function under this Act; and
- (c) on the order of a competent court of law.

CHAPTER VI—TELECOMMUNICATION SERVICES AND LICENCES

) No person shall provide communication service except under an the telecommuting- with a telecommunications service licence issued to him under this Act services and

(2) The categories of licences to be granted shall be determined by the Services to be provided by means of such licences.

(3) A licence granted in accordance with this Act shall confer on the Holder the privileges and obligations specified in the licence.

(4) The Commission shall prescribe the category of telecommunications Services which shall be conducted without a licence under this Act.

(5) Every licence granted under section 27(1) of this Act shall contain a condition requiring the telecommunication system by means of which the service concerned is provided to be interconnected to the telecommunication system of the Nigeria telecommunication Limited or any other body providing a public
31 switched telecommunication service.

Eligibility to operate.	1 2 3 4 5 6 7 8 9 •0 11 •2 13 14 15 16 17	<p>25.—(1) As from the commencement of this Act, non-Nigerians shall not participate or invest in any telecommunication company unless—</p> <p>(a) The equity participation of Nigerian citizens or associations in the company is not less than forty-five per cent;</p> <p>(b) not less than forty-five per cent of the members of the board of directors of the company are Nigerian citizens ;and</p> <p>(c)Nigerian citizens own directly or indirectly in the aggregate by way of security, not less than forty-five per cent of the company's voting shares issued and outstanding.</p> <p>(2) Section 1 (a) of this section shall not apply in respect of the ownership or operation of—</p> <p>(a) International submarine cables; or</p> <p>(i) Earth stations that provide telecommunications services by means of</p>
Telecommunication Licences.	•8 19 20 21 22 23 24 25	<p>(3) The Commission shall require proof of compliance by telecommunications companies or enterprises with the provisions of Subsection 1 (a) of this section within one year of the commencement of this Act.</p> <p>26.—(1) The categories of licences to be granted and the telecommunications services authorised by the said licences shall be aimed at providing the widest range of telecommunication services as are practical and technically feasible taking into account emerging technologies and global trends.</p> <p>(2) The Commission shall specify further conditions on which a</p>
Frequency Licences.	26 27 28 29 30 3(<p>licence is granted in the licence.</p> <p>(3) Nigeria Telecommunication limited shall be deemed to be a licensee for all the services it currently provides.</p> <p>27.—(1) No person shall transmit or cause to be transmitted any signal by radio or, in relation thereto, do or permit to be done anything for which a licence or other authority was required prior to the commencement of this Act, except in accordance with—</p> <p>(a) a licence issued prior to the commencement of this Act conferring on the licensee the right to use or cause any person in his employment or</p>

1 control to use a transmitting station or any radio frequency or group of radio
2 frequencies for any purpose in a planner prescribed by law ;

3 (b) an authority issued prior to the commencement of this Act conferring on
4 the holder the right to use or operate any transmitting station in accordance with
5 the conditions of any licence, radio regulation or any other applicable law ;

6 (c) a licence deemed to be issued by the Commission under this Act.

7 (2) The Commission shall be the issuing authority for the purposes of
8 frequency licences deemed or required to be issued under this Act.

9 (3) A frequency spectrum or station licence shall be required in addition
10 to any telecommunication service licence issued under this Act where the
11 Provision of the service or the use entails the use of radio frequencies.

12 (4) The Commission shall conduct examinations or cause examinations to
13 be conducted in order to determine the proficiency of any person to use or
14 Maintain a transmitting station as provided in Sub-section (1) of this Section.

15 (5) The Commission shall amend a frequency spectrum licence or station
16 licence issued under this Act for the purpose of Implementing any frequency
17 band plan or in the interest of orderly frequency management, provided that
18 Such amendment will not cause substantial prejudice to the affected licensee.

19 (6) the procedure in relation to the amendment, renewal or transfer of a
20 frequency spectrum licence, certificate or authority shall be as prescribed by
21 the Commission taking into" account the need to ensure adequate consultation,
22 Fairness and transparency.

23 (7) The Armed Forces of the Federal Republic of Nigeria shall be deemed
24 to be holders of frequency licences under Subsection (1) of this Section
25 authorising the use of the radio frequencies assigned for defence purposes
26 provided that the Armed Forces shall apply to the Commission within six months
27 from the commencement date of this Act, or such extended period as the
28 Commission may allow for such licence, and the Commission shall grant such
29 licence in accordance with this Act.

30 (8) Nigeria Telecommunication Limited shall be deemed to have applied

- to the Commission for a frequency spectrum or a station licence in accordance
2 with this Act.
- Application
and fees. 3 28—(1) An application for a licence, approval, certification or registration
4 under this Act shall be accompanied by the prescribed application fee.
5 (2) every holder of a frequency spectrum licence or telecommunication
6 service licence shall, at the prescribed time pay to the Commission the licence
7 fee specified in the licence or, where no such fee is so specified, the prescribed
8 Licence fee.
9 (3) A licence holder who fails to pay the licence fee on the due date shall
10 be liable to pay a penalty of a prescribed amount, in addition to the licence fee.
11 (4) All statutory licence and regulatory fees and penalties received shall
12 be paid into the Federation Account.
13 (5) All administrative fees shall be paid into the bank account of the
14 Commission.
15 (6) A licensee shall lose his licence if after 60 days of issuance of such
16 licence he fails to pay required licence fees.
- Suspension
and
revocation of
licenses. 17 29.—(1) The Commission shall suspend or revoke any licence granted
18 under this Act whether the Commission believes on reasonable grounds that
19 the licensee has ceased to be eligible under this Act or has contravened the
20 Commission's regulations made pursuant to this Act or any condition of the
21 licence. Provided that the licensee must first be notified in writing of the reasons
22 for the suspension or revocation and given a reasonable opportunity to make
23 representations to the Commission.
24 (2) The Commission shall suspend or revoke any licence granted under
25 this Act on a Application made by or with the consent of the licensee.
26 (3) The Commission shall revoke any licence granted under this Act to a
27 telecommunications company that fails to comply with the provisions of Section
28 26 of this Act within one year of the commencement of this Act.
- Numbering
Plans. 29 30.—(1) The Commission shall prescribe a numbering plan for use in
30 respect of telecommunication services.
31 (2) A numbering plan shall consist of a scheme of identification so as to

1 ensure that telecommunication is correctly and efficiently directed to the point
2 of reception for which it was intended.

3 (3) In preparing a numbering plan, the Commission shall take account of
4* existing numbering plans, schemes and emerging global trends regarding
number
5 portability.

6 31.—(1) The tariffs and charges which shall be levied by a licensee in
7 respect of the provision of a telecommunication service shall be determined in
8 such manner as shall be prescribed by the Commission subject to Sub-section
9 (2) of this Section.

**Tariffs and
Charges for
Telecommuni-
cation
Services.**

10 (2) The manner of determining tariffs and charges shall be prescribed only in
11 respect of fields where no competition exists pursuant to an enquiry conducted
12 or a policy direction issued by the Commission under this Act.

**Accounts and
Records of
the licensee.**

13 32.—(1) Every telecommunication service licensee shall keep such
14 accounts and records relating to the provisions of this telecommunication service
15 as shall be prescribed by the Commission.

16 (2) Nigeria Telecommunication Limited shall keep such accounts as shall
17 be prescribed by the Commission, in respect of—

18 (a) each telecommunication service provided by it where another licensee
19 also provides such telecommunication service in competition with Nigeria
20 Telecommunication Limited;

-21 Which interconnection to its telecommunication system or instance where
22 its telecommunication facilities are made available to another licensee; and

23 (c) any other part of its operations as shall be prescribed by the Commission.

**Uncompetitive
Actions.**

24 33. If it appears to the Commission that the holder of a telecommunication
25 licence is taking or intends to take any action which has or is likely to have the
26 effect of giving an undue preference to or causing undue discrimination against
27 any person or category of persons, including other licensee the Commission
28 shall, after giving the licensee concerned an opportunity to be heard, direct the
29 licensee by written notice to cease or refrain from taking such action, as the case
30 maybe.

International telecommunication facilities.

1 34. The right of any licensee or user of a telecommunication service to
2 utilise a telecommunication facility made available in terms of any international
3 treaty, agreement or arrangement shall be as prescribed by the treaty.

Limitations on control of telecommunication service'..

4 35. the Commission shall be regulation restrict or prohibit the ownership or
5 control of, or the holding of any financial or voting interest by any person in—
6 (a) a telecommunication services of the same category or kind;
7 (b) two or more telecommunication services of the same category or kind; and
8 (c) a telecommunication service of one category or kind and another
9 telecommunication service of a different category or kind.

10 Provided that no regulations referred to in this section shall be made until
11 the Commission has conducted an enquiry into the regulations proposed.

Register and approval of licenses.

12 36.—(1) The Commission shall keep a register of every licence approval,
13 certification or registration issued or renewed in terms of this Act.

14 (2) The administration, amendment, renewal, approval, certification,
15 registration or transfer of every licence shall be under the control of the
16 Commission.

17 (3) Such register shall be open to inspection by interested persons during
18 the normal office hours of the Commission.

19 (4) The Commission shall, at the request of any person and on payment of
20 such fee as shall be prescribed, furnish him with a copy of or extract from any
21 part of the register.

Interconnection.

22 37.—(1) Nigeria Telecommunication Limited shall, interconnect its
23 telecommunication system to any licensee on request at any technically feasible
24 point on its network to the telecommunication system of a licensee.

25 (2) A licensee shall interconnect its telecommunication system to any
26 consumer on request at any technically feasible point on the licensee's
27 Telecommunication network.

28 (3) for the purposes of Subsections (1) and (2) of this section, a request
29 shall not be unreasonable where the Commission determines that the point is
30 technically feasible and will promote the increase use of public telecommunication
31 services.

1 (4) An agreement between two parties envisage in Sub-sections (1) and
2 (2) of this section relating to interconnection shall be entered into within the
3 prescribed period or such extended period as the Commission shall allow in any
4 Particular case.

5 (5) The parties concerned shall, unless exempted by the regulations—

6 (a) notify the Commission of any request provided in Subsections (1) and
7 - (2) of this section as the case shall be ;

8 (b) refer any dispute to the Commission where the reasonableness of any
9 such request is disputed;

10 (c) submit any disagreement relating to the terms and conditions of the
11 Interconnection Agreement to the Commission for its decision.

12 (6) The Commission shall prescribe guidelines relating to the form and
13 contents of agreements for the leasing or other manner in which
14 telecommunication facilities are made available as provided by Section 39 (2) of
15 this Act with the necessary changes.

16 (7) every agreement for the leasing or otherwise making available of
17 telecommunication facilities shall, unless exempted by the regulations, be lodged
18 by the parties concerned with the Commission to enable it determine whether
19 the agreement is consistent with the provision of this Act.

20 38.—(1) Every agreement for the interconnection of telecommunication Interconnection
Agreements.

21 systems including any agreement provided in Section 37 (1) shall, unless exempted
22 by the regulations be lodged by the parties with the Commission to enable the
23 Commission determine whether the agreement is consistent with the guidelines
24 Provided in Subsection (2) of this section.

25 (2) The commission shall prescribe guidelines relating to the form and
26 content of interconnection agreement, and such guidelines shall among others
27 include—

28 (a) the time period within which interconnection pursuant to the agreement
29 shall be carried out;

30 (b) the quality or level of service to be provided by means of the one
31 telecommunication system for the other telecommunication service; and

1 (c) the fees and charges payable for such interconnection.

2 (3) In the case of a dispute relating to reasonable request for interconnection
3 agreement the Commission shall, after hearing the parties and considering any
4 written representations made by the said parties, make a determination as
5 Provided in Section 37 of this Act.

6 (4) In the case of unwillingness or inability by the parties to negotiate or
7 agree upon the terms and conditions of interconnection, the Commission shall
8 propose terms and conditions in accordance with the guidelines provided in
9 Subsection (2) of this section, which, subject to re-negotiation, shall be agreed
10 upon by the parties within such period as the Commission shall specify.

11 (5) Where the parties concerned fail to agree upon terms
12 as provided in Subsection (4) of this section, the Commission shall declare the
13 terms and conditions proposed in accordance with Subsection (4) of this
14 section, to be applicable between the parties, subject to any variation which the
15 Commission shall deem fit to make in the circumstances.

16 (6) Where the parties concerned make oral or written representations to
17 the Commission with regard to interconnection agreements, the Commission
18 shall, on the request of either party, determine that a particular portion of that
19 party's representations discloses confidential commercial information and should
20 on that account not be disclosed to the other party, and the requesting party
21 shall be entitled, where the Commission refuses such request, to exclude such
22 information from his representations.

23 (7) Where the Commission determines that any terms and conditions
24 contained in an interconnection agreement are inconsistent with the guidelines
25 provided in Subsection (2) of this section or with the objectives of this Act, it
26 shall direct the parties concerned to negotiate and agree upon new terms and
27 conditions within such period as it shall specify.

28 (8) any terms and conditions in an interconnection agreement declared
29 by the Commission to be inconsistent with the guidelines provided by Subsection
30 (2) of this section shall be unenforceable between the parties concerned.

31 (9) Nothing in this Act shall be constructed as preventing negotiations for

1 interconnection before the issue of a licence authorising the provision of any
2 Telecommunication service.

3 (10) for the purposes of interconnection, any agreement entered into
4 before the commencement of this Act, shall be subject to re-negotiation between
5 the parties concerned for the purpose of conforming with the objectives,
6 Requirements and guidelines provided under this Act.

7 (11) notwithstanding the terms and conditions of interconnection
8 agreement between the parties concerned, a party shall not disconnect any
9 Other party from its network without the written permission of the Commission.

10 39.—(1) The Commission shall prescribe—

11 (i) the manner, form and period of notice to be given by a licensee to any
12 person or authority in connection with the performance by the licensee of the
13 activities provided in this chapter; and

Activities in
relation to
telecommuni-
cation
facilities and,
services.

14 (ii) the procedure to be followed and consultations to be held between a
15 licensee and any affected person or authority.

16 (2) Subject to the provisions of Sub-section (1) of this section, a licensee
17 shall—

18 (i) for the purposes of provision of the licensee's telecommunications
19 services, enter upon any land, including any street, road, footpath or land
20 reserved for public purposes, and any railway ;

21 (ii) construct and maintain a telecommunications facility upon, under, over,
22 along or across any land, street, road, footpath or waterway or any railway,
23 and alter or remove the same ; and

24 (iii) for that purpose attach wires, stays or any other kind of support to
25 any building or other structure.

26 (3) in taking any action as provided under this chapter due regard must be
27 had to the environmental policy of the Federal Republic of Nigeria.

28 (4) Where a licensee agrees with the appropriate government authority
29 that his telecommunication services shall be provided by means of underground
30 cable within a particular area, the government authority shall permit the laying of
31 a conduit-pipe or other facilities for the installation of an underground

1 telecommunication service line from a point of connection on the street boundary
2 to a building on the premises within the specified area.

3 (5) A licensee shall, after giving reasonable notice in writing to the
4 appropriate government authority or person owning or having the care and
5 management of any street, road or footpath—

6 (a) construct and maintain in the manner specified in that notice any pipe,
7 tunnel or tube required for telecommunication facilities under any such street,
8 road or footpath ;

9 (b) alter or remove the said pipe, tunnel or tubes ;

10 (c) break or open up the said street, road or footpath and alter the position
11 there under of any pipe (not being a sewer drain or main) for the supply of
12 water or electricity;

13 Provided the authority or person concerned shall be entitled to supervise
14 the work, and the licensee shall pay all reasonable expenses incurred.

15 (6)—(a) Where any telecommunication facility, pipe, tunnel or tube
16 constructed by a licensee passes over any private property and interferes with
17 any building about to be erected on that property, the licensee shall, on receiving
18 satisfactory proof that a building is actually to be erected, cause the line to be
19 deviated or altered in such manner as will remove all obstacles to the proposed
20 building operations,

21 (b) Notice that any such deviation or alteration is required shall be given
22 to the licensee in writing not less than 28 days before the alteration or deviation
23 is to be effected ;

24 (c) If any deviation or alteration of a telecommunication facility, pipe,
25 tunnel or tube constructed by a licensee and passing over any private property
26 is desired on any ground other than as provided under Subsection (6) (a) of
27 this Section, 28 days notice in writing shall be served on the licensee, who
28 shall decide whether or not the deviation or alteration is possible, necessary
29 or expedient, and if the licensee agrees to make the deviation or alteration, the
30 cost shall be borne by the person at whose request the deviation or alteration
31 is effected or as otherwise agreed between the parties concerned.

1 (7) If any fence is erected or is to be erected on land over which a
2 telecommunication facility, pipe, tunnel or tube is constructed or is to be
3 constructed by a licensee, renders or would render it impossible or inconvenient
4 for the licensee to obtain access to that land, the licensee shall at this own
5 expense erect and maintain gates in that fence and shall provide duplicate keys
6 One of which shall be handed to the owner or occupier of the land.

7 (8) any tree or vegetation which in the opinion of a licensee obstructs, or
8 interferes or is likely to obstruct or interfere with the working or maintenance of
9 any of the licensee telecommunication facilities shall, after reasonable notice to
10 the owner or occupier of the land on which the vegetation is growing, be cut
11 down or trimmed in accordance with the licensee's requirements by the owner,
12 occupier or other authority having the care and management of such land at the
13 Expense of the licensee.

14 (9) In the event of failure to comply with any such notice, the licensee shall
15 cause the said tree or vegetation to be cut down or trimmed as it shall deem
16 necessary, provided that where telecommunication is actually interfered with or
17 endangered by any such tree or vegetation, the licensee shall cause the work
18 which is immediately necessary for the removal of the interference or danger to
19 be undertaken without any such notice.

20 (10) Aerial telecommunication wires or cables along any railway or public
21 or private street, road, footpath or land shall be at the prescribed height above
22 the surface of the ground.

23 (11) Underground telecommunication facilities, pipes, tunnels and tubes
24 shall be placed by a licensee at the prescribed depth below the surface of the
25 ground.

26 (12) Where the owner of any private land reasonably proves that he is
27 obstructed in the free use of his land by reason of the height or depth of any
28 telecommunication wire, cable or other facility, pipe, tunnel or tube constructed
29 by that licensee, the licensee shall take such steps as it shall deem necessary for
30 Giving relief to that owner.

31 (13) any person who constructs, equips or carries on any work for the

1 supply of light, heat or power by means of electricity shall conform to the
2 requirements of a licensee for the prevention of any of its telecommunication
3 facilities or works being injuriously affected thereby, and shall, before commencing
4 the construction of any such works, give one month's notice in writing to the
5 licensee* of his intention to commence the construction, and shall furnish the
6 licensee with a plan of the proposed works, together with particulars showing
7 the manner and position in which the same are intended to be constructed,
8 executed and carried on and such further information relative to the proposed
9 works as shall be necessary in the circumstances ; and

10 (14) Where it appears to the licensee that the construction, equipment or
11 operation of any such works is likely to affect any of its telecommunication
12 facilities or works, or where any of its telecommunication facilities or works are in
13 fact injuriously affected thereby, the licensee shall give reasonable notice of its
14 requirements to the person concerned, and any person who, after receiving any
15 such notice, proceeds with or causes to be proceeded with any such construction,
16 equipment or operation in contravention of the said requirements, shall be liable
17 to the licensee for any damage or expense suffered by the licensee by reason of
18 the failure to comply with the said requirements.

19 (15) Nothing in this Act shall be constructed as empowering any licensee
20 to enter upon any land, which is occupied by any burial ground or thing held to
21 be sacred or object of veneration.

22 (16) For the purposes of all activities provided under this Chapter, a licensee
23 shall take all reasonable care as shall be practicable and shall in all cases—

24 (a) restore all affected structures and services to their normal state of repair;

25 (b) remove from site all dirt and debris resulting from its activities upon
26 any land; and

27 (c) pay compensation to any affected party for any damage done to crops
28 or economic trees.

29 CHAPTER VII—TELECOMMUNICATIONS EQUIPMENT

Telecommuni- 30 40.—(1) for the purposes of providing telecommunication services under
cations
Equipment. 31 this Act, no person shall procure, supply or install any telecommunication

1 equipment or facility unless the said equipment or facility is the type approved
2 by the Commission.

3 (2) The Commission shall from time to time prescribe the types of equipment
4 or facility not rendering the approval of the Commission including the
5 circumstances in' which the procurement, supply and installation of
6 Telecommunication equipment and facilities shall not require such approval.

7 (3) The Commission shall prescribe standards for the performance and
8 operation of any telecommunication facility or equipment including radio
9 apparatus.

10 (4) the standards provided in Subsection (3j) of this section shall be for
11 the purpose of—

- 12 (a) protecting the integrity of the telecommunication services network ;
- 13 (b) ensuring the proper functioning of connected facilities or equipment; and
- 14 (c) avoiding radio or other interference with telecommunication.

15 (5) Any technical standard prescribed by the Commission as provided in
16 Subsection (3) shall be deemed to be a regulation of the Commission.

17 (6) The Commission shall keep the text of each-technical standard
18 prescribed in its regulations under Subsection (3) of this section and of each
19 amendment or substitution thereof, and such text shall be open to inspection
20 during the normal office hours of the Commission, and the Commission shall at
21 the request of any person and on payment of such fee as shall be prescribed,
22 Furnish him with a copy.

23 (7) Subject to Subsection (8) of this, section, no person shall supply
24 telecommunication facilities or equipment without prior registration by the
25 Commission.

26 (8) The Commission shall prescribe types or categories of
27 telecommunication facilities or equipment the supply of which shall not require
28 registration in terms of this section.

29 (9) The procedure for obtaining registration in terms of this section shall
30 be as prescribed by the Commission.

1

CHAPTER VIII—ENFORCEMENT

Books and records.

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41. The Commission shall by notice in writing direct a licensee to produce

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• or furnish to the Commission at the time and place specified in the notice such

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accounts, records another documents or information specified in such notice

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and relating to any matter in respect of which a duty or obligation is imposed on

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the licensee in terms of this Act, the licensee's licence or any agreement for the

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interconnection of telecommunication systems- or the making available of

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telecommunication facilities and as the Commission shall reasonably require,

Appointment and power of Inspectors.

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42.—(1) The Commission shall appoint any person employed by it or any other suitable person as an inspector.

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(2) A person who is not in the full-time service of the Commission and

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who is appointed as an inspector shall be paid such remuneration as the

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Commission shall prescribe.

14

(?) \n inspector shall be provided with a certificate of appointment signed

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by or on behalf of the Chairperson of the Commission • in which it is stated that

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he has been appointed an inspector in terms of this Act.

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(4) When an inspector performs any function as provided under this Act,

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he shall have such certificate of appointment in his possession and show it at

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the request of any person affected by the performance of that function.

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(5) for the purposes of determining whether the provisions of this Act or

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of any licence, permit, certificate or other authority as provided under this

22

Act of any agreement for the interconnection of telecommunication systems

23

are being complied with, an inspector shall at any reasonable time and without

24

prior notice enter the premises in question and—

25

(a) inspect and make copies of, or extract* from books, records, documents

26

or other information storage systems;

27

(b) demand the production of and inspect the relevant licence, permit,

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certificate or authority , and

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(c) inspect any radio apparatus or tower Telecommunication facilities on

30

the premises.

31

(6) Any person who—

- 1 (a) fails to comply with provisions of Subsection (2) of this section ;
2 (b) hinders or obstructs or attempts to hinder or obstruct an inspector, in
3 the exercise of his powers in terms of this section ; or
4 (c) falsely hold himself out as an inspector, shall be guilty of an
5 offences under this Act.

6 43.—(1) The Commission shall investigate and prosecute— investigation
and

7 (a) any contravention by a licensee of the provisions of this Act, or any prosecution.
8 direction, or regulation prescribed by the Commission; and

9 (b) any failure by a telecommunication licensee to provide service to any
10 customers.

11 (2) The procedure for such investigation and prosecution shall be as
12 prescribed by the Commission.

13 (3) The commission shall have power with regards to—

14 (a) summoning and examination of witnesses ; and

15 (b) Production of books and objects.

16 (4) Where the Commission, after investigation, finds that the licensee is
17 responsible for a failure or contravention as provided under Subsection (1) of
18 this section, the Commission shall—

19 (a) direct the licensee to desist from further failure or contravention ;

20 (b) direct the licensee to pay a prescribed fine ;

21 (c) direct the licensee to take such remedial and other steps as shall be
22 determined by the Commission; and

23 (d) where the licensee has repeatedly been guilty of such failure or
24 contraventions revoke his license.

25 (5) any person affected by an order under subsection (4) of this section
26 may apply to a court to have the order set aside.

27 (6) Where the Commission is satisfied that the failure or contravention in
28 question constitutes an offence, it shall refer the record of the investigation to
29 The Attorney-General.

30 44.—(1) A person shall be guilty of an offence if— Offences.

31 (a) he furnishes any false or misleading information or particulars ;

1 (b) he fails to disclose any information particularly material to his
2 applications;

3 (c) he fails to comply with any order made by the Commission in his
4 applications;

5 (d) by means of telecommunications equipment or facilities, he sends or
6 attempts to send any message which to his knowledge is false, misleading or
7 likely to prejudice the efficiency of any service or endanger the safety of any
8 person ;

9 (e) (except under lawful authority, or in the course of his duty as an
10 employee of a licensee), he uses any telecommunications equipment or facility
11 with intent to improperly obtain information relating to the content, sender
12 or recipient of any message which he is not authorised to receive ; or

13 (f) (except in the course of legal proceedings or for the purpose of any
14 report thereof), he discloses any information relating to the contents, sender
15 or recipient of any message, which information he could not otherwise have
16 obtained but for his use of the telecommunications equipment or facility as
17 Provided in paragraph (e) above.

18 (2) A person who contravenes the provisions of this Act shall be liable
19 on conviction where no specific penalty is prescribed to—

20 (a) in the case of a first offender, a fine of N20,000 or imprisonment for a term
21 not exceeding two" years, or to both such fine and term of imprisonment; and

22 (6) in a case of a second and subsequent offender, a fine of Ml 00,000 or
23 imprisonment for a. term of not exceeding 6 years, or to both such fine and
24 term of imprisonment.

25 (3) The Commission shall make regulations generally to provide for the
26 imposition of fines, or the payment of compensation to any person or the
27 confiscation of telecommunications equipment and facilities for any
28 contravention of the provisions of this Act.

29 (4) Where a body corporate or member of any partnership or firm commits
30 an offence as provided under this Act, every director or officer of that body
31 corporate or any member of the partnership or other person concerned in the

1 management of the firm shall, upon conviction, be liable to a fine not exceeding
2 N1,000,000 and shall in addition be liable to payment of such compensation to
3 any person or body for any damage resulting from the conduct constituting the
4 offence as the Commission shall prescribe unless he establishes to the
5 satisfaction of the court that—

6 (i) he exercised due diligence to ensure compliance with the provisions of
7 this Act; and

8 (ii) the offence was committed without his knowledge, consent or
9 connivance.

10 45. In this Act—

Interpretation.

11 (1) "broadcasting services frequency band" means that part of the
12 electromagnetic radio frequency spectrum which is assigned for the use of
13 broadcasting services by the International Telecommunications Union (ITU),
14 in so far as such assignment has been agreed to or adopted by the Federal
15 Republic of Nigeria, as well as any other additional part of the electromagnetic
16 radio frequency spectrum determined for the use of broadcasting services, but
17 excluding any of the broadcasting services frequency bands which have been
18 made available for use by telecommunication users.

19 "member of the family", means any member of a nuclear family, including
20 a person living with that person as if they were married to each other;

21 "frequency band" means a specified range of frequencies for use by one
22 or more radio communication services;

23 "frequency band plan" means a table setting out the allocations of various
24 frequency bands for use by one or more radio communication services under
25 specified conditions ;

26 "interconnect" means to link two telecommunications systems at any
27 reasonable and technically feasible point on either network so that users of
28 either system may communicate with users of, or utilise services provided by
29 means of the other system, and any other telecommunication system, and

30 "interconnection" has a corresponding meaning ;

31 "Licence" means a licence referred to in Chapter 6 and includes a deemed

1 licence under this Act;

2 "Licensee" includes a deemed licensee under this Act;

3 "Minister" means the Minister of Communications;

4 "Radio" means electromagnetic waves which are propagated in space
5 without artificial guide and having frequencies of lower than 3 000Ghz.

6 "Signal" includes signs, sounds, writing or information of any kind ;

7 "Telecommunication" means the emission* transmission or reception of a
8 signal from one point to another by means of electricity, magnetism, radio or
9 other electromagnetic waves, or any agency of a like nature, whether with or
10 without the aid of tangible conductors ;

11 "Telecommunication facility" includes any wire, cable, antenna, mast or
12 other thing which is or may be used for or in connection with
13 telecommunication;

14 "Telecommunication service" means any service provided by means of a
15 telecommunication system;

16 "Telecommunication system" means any system or series of
17 telecommunication facilities or radio, optical or other electromagnetic
18 apparatus or any similar technical system used for the purpose of
19 telecommunication is subject to re-arrangement, composition or other
20 process by any means in the course of their transmission or emission or
21 reception ;

22 "Universal service" means the universal provision of telecommunication
23 services as determined from time to time.

24 (2) Interpreting the provisions of this Act, regard must be had to the
25 provisions of any relevant International treaties to which the Federal Government
26 of Nigeria is a signatory and the regulations of any relevant International
27 Telecommunications body or organisation of which the Federal Government of
28 Nigeria is a member.

Citation.

29 46. This Act may be cited as the Nigerian Telecommunications
30 Commission Act, 2001.

SCHEDULE

Section?, (U)

TENURE OF MEMBERS

SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION 1.—(1) A member of the Commission shall serve for an initial period of five years and is renewable for one further period of five years only.

(2) As from the commencement of this Act, a member of the commission appointed by virtue of the Nigeria Communications Commission Decree 1992 shall be deemed to be serving the remainder of an initial five years tenure.

(3) A member of the Commission shall resign his appointment at any time by giving one month's notice in writing under his hand and addressed to the President.

(4) With the exception of the Chairperson who shall be appointed on part-time basis, every member of the Commission shall serve in a full-time capacity to the exclusion of any other remunerative employment, occupation or office.

REMOVAL FROM OFFICE

3. A member of the Commission shall be removed from office by the President upon written approval from the National Assembly for the following reasons—

- (a) misconduct;
- (b) inability to perform the duties of his office effectively ;
- (c) absence from three consecutive meetings of the Commission without prior consent of the Chairperson, except on good cause shown ;
- (d) performing or having performed other remunerative work;
- (e) Failure to disclose an interest or ; attendance at, or participation in proceedings of the Commission while having an interest.

REMUNERATION AND ALLOWANCES OF COMMISSIONERS

4. The Chairperson and other Commissioners shall be paid such remuneration and allowances and be entitled to such benefits as the National Assembly shall determine.

VACANCIES

5.—(1) There shall be a vacancy in the Commission if a member—

- (a) Becomes subject to a disqualification ;
- (b) tenders his resignation and such resignation takes effect;
- (c) is removed from office; and
- (d) dies or becomes incapacitated.

(2) A vacancy in the Commission shall be filled by the appointment of another member by the President as soon as shall be reasonably practicable after the occurrence of such vacancy, and any member so appointed shall hold office for the un-expired period of his predecessor's term of office.

MEETINGS

6.—(1) Meetings of the Commission shall be held whenever necessary for the expeditious conduct of its business, at such time and place as shall be determined by the Commission, provided that the first meeting shall be held at such time and place as the Chairperson shall determine.

(2) In the absence of the Chairperson, the remaining members shall from their number elect an acting chairperson who, while he so acts, shall perform all the functions of the chairperson.

(3) The Chairperson shall at any time convene a special meeting of the Commission, which shall be held at such time and place as the Chairperson shall determine, provided that the chairperson shall, upon being presented with a requisition for that purpose signed by at least four members, convene a special meeting, and if the chairperson fails to convene a special meeting within seven days after such presentation, such members shall convene a special meeting.

(4) The quorum for any meeting of the Commission shall be a majority of the members.

(5) A decision of the Commission shall be taken by resolution agreed to by the majority of members at any meeting of the Commission and, in the event of an equality of votes regarding any matter, the chairperson shall have a casting vote in addition to his deliberative vote.

(6) Where the Commission wishes to obtain the advice of any person on any particular matter, the Commission shall co-opt him as a member for such period as it deems fit, but such person shall not be entitled to vote at any meeting of the Commission and shall not be counted for the purposes of forming a quorum.

(7) The Commission shall allow members of the public to attend any of its meetings¹.

(8) The meeting of a Committee (including any special meeting) shall be convened by the Chairperson, who shall determine the procedure at any such meeting.

(9)"The provisions to this Act shall apply within the necessary changes as regards the meetings of any Committee.

DISCLOSURE OF CONFLICTING INTEREST

7.—(1) A Commissioner shall not vote, attend or participate in the proceedings at any meeting or hearing of the Commission if—

(a) in relation to an application relating to a licence, he or member of his family, or partner is a director, member or business partner of or has a financial or other interest in the business of the applicant or of any person who made representations in relation to the application ; or

(b) in relation to any matter regulated by, or immediately before the

Commission, he has any interest which shall preclude him from performing his functions as a Commissioner in a fair, unbiased and proper manner.

(2) If at any stage during the course of any proceedings before the Commission there is reason to believe that a Commissioner has any interest—

(a) that Commissioner shall disclose the nature of his interest and leave the meeting or hearing in question to enable the Commission discuss the matter and determine whether that particular Commissioner is to be precluded from participating in such proceedings by reason of a conflict of interest; and

(b) such disclosure and the decision taken by the remaining Commissioners regarding such determination shall be recorded in the minutes of the proceedings in question.

VALIDITY OF PROCEEDINGS

8.—(1) A decision taken by the Commission or an act performed under the authority of such a decision shall not be invalid merely by reason of—

(a) any irregularity in the appointment of a Commissioner;

(b) a vacancy in the Commission ;

(c) the fact that a Commissioner is guilty of an act or omission justifying his removal from office; and

(d) the fact that any person who is disqualified from being a Commissioner or who was removed from that office sat as such in a meeting of the Commission at the time when such decision was taken, if such decision was taken by a majority of Commissioners lawfully entitled to vote and present at the time and the said members at the time constituted a quorum.

(2) The fixing of the seal of the Commission shall be authenticated by the signature of the Chairperson or of the Chief Executive.

(3) Any contract or instrument if made by a person not-being a body corporate, would be required to be under seal shall be made or executed on behalf of the Commission by the Chief Executive or by any other person generally or specially authorised to act for that purpose by the authority.

(4) Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Commission shall be received in evidence and shall, unless the contrary is proved, be presumed without further prove to have been so signed or sealed.

(5) No member of the Commission shall be personally liable for any act or omission done or made in good faith while engaged in the business of the Commission.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Nigerian Communications Commission Decree No. 75 of 1992 and to establish a new Nigerian Communications Commission and to vest all assets and liabilities of the former to the later.