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**STAKEHOLDERS' PRIORITIES IN THE  
AMENDMENT OF THE NATIONAL  
BROADCASTING COMMISSION  
(NBC) ACT.  
NIGERIA**

**SEPTEMBER  
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# INTRODUCTION

**The Government of Nigeria has been engaging in media sector reform. The process has featured, among other elements, an effort to amend broadcasting legislation.**

**In June 2020, the House of Representatives (of the National Assembly) organized a Public Hearing on a Bill to amend the main broadcasting legislation, National Broadcasting Commission (NBC) Act.**

**The Institute for Media and Society (IMS) submitted a Memorandum and made a presentation both of which were products of stakeholders' conversations.**

**In the pages that follow, we present the key recommendations made at the Public Hearing and on which stakeholders are following up with the National Assembly as the amendment process progresses.**

# PRIORITY 1

## The Regulator as a Full Entity – With Secure Leadership.

- a. In Section 3 of the National Broadcasting Commission (NBC) Act, the Board members should be designated as Commissioners; representatives of other government agencies should be excluded from membership of the Board; members of the Board should be appointed by the President upon consultation with the groups that they represent and confirmation by the National Assembly; the appointment dates of the board members should be staggered; the membership should include women, youth and persons with disability; and ineligibility criteria for membership should be specified.
- b. In Section 4, the law should provide a five-year term, renewable for only one further term, for the Board members; specify conditions for possible removal of members; outline a removal process which includes fair hearing and the participation of the Board, the Presidency and the National Assembly.
- c. The provision in the First Schedule of the Act which allows the participation of ineligible persons in the Board's proceedings, should be removed.
- d. On the appointment of Director General, Section 5 of the Act should be amended to provide that: the DG shall be appointed by the President upon consultation with broadcasting industry stakeholder groups and confirmation by the National Assembly; his/her tenure shall be five years, renewable for one further term; ineligibility criteria for the office should be specified; the process of removal from office should involve the Board, the President, the National Assembly and include fair hearing.

## Full Regulatory Powers for the Regulator

- a. Section 2(1)(b) of the Act should provide for the Commission the power to approve licences without reference to other government organs, while section 2(1)(c) should be removed.
- b. The power to give directives to the Commission, vested in the Minister of Information in Section 6 of the Act, should be removed and replaced with powers which include policy formulation for the broadcasting sector, notifying the commission of the policy direction of government and ensuring that the independence of the Commission is protected at all times.
- c. The provision in Section 23 of the Act that gives room for the Minister to participate in the making of regulations by the Commission, is also a tool of political interference. It should be removed.



## Secure Funding for the Regulator

- a. Section 7 of the Act should be strengthened by providing for review of the remunerations and allowances payable to the staff of the Commission.
- b. Section 14 of the Act should be amended to provide that government appropriation to the NBC should be through the first line charge.
- c. Section 15 of the Act should be amended to provide that the collection of radio and TV licence fees could be outsourced by the Commission; and the proceeds should be distributed to NBC, broadcasters in the public, private/commercial and community sub-sectors and other industry players which have emerged in the digital transition period. Additionally, section 1(b) of the Fourth Schedule of the Constitution should be amended to remove the hands of local governments from the collection of the fees.
- d. The provision on Digital Access Fund (DAF) in the Bill should be amended as follows:
  - a) The membership of the Board of Trustees of the Digital Access Fund (DAF) should include representatives of industry groups such as BON, NUJ, RATTAWU, etc. and marginalised groups such as women, youth and persons with disability (PWDs)
  - b) The sharing formula for the proceeds of DAF should be removed and left for administration – level handling to be done by the NBC, working with the DAF Board and industry stakeholders.
- e. The participation of the National Assembly should be prioritised in the borrowing arrangements articulated in Section 18 as well as in the budgeting process provided for in section 19 of the Act.



## **Accountability Mechanisms in Regulation**

- a) Some new provisions should be added to existing ones in Section 9 of the Act which deals with the commission's power on granting of licences. These are that: the Commission should periodically publish its licensing process; provide regular feedback to licence applicants; specify situations that could warrant licence denial; ensure transparency and full independence of the regulator if taking decision on revocation of licence; review the template of application form for licence, and create space for appeal of regulatory decisions.
- b) Informing the public of plan to conduct public inquiry by NBC should be done through media that have extensive nationwide reach. Hence, Section 19E (4) of the bill should be reviewed to include the publishing of notice of public inquiries through such media as newspapers, radio and television with national circulation and coverage.
- c) In addition to Annual Reports provided for in Section 20 of the Act, the Commission should prepare periodic reports, submit to the Presidency and National Assembly, and disseminate to the public.

## Protection of Freedom of Media and Expression

- a) The inclusion of the following among categories of broadcasting services licences, in Section 9A of the Bill, will be injurious to the civic space, freedom of expression and media freedom in Nigeria: "IPTV, IP Radio, EPG, Online News Related Services, Internet Broadcasting (webcast), Over-the-Top Television (OTT), and any other class of licences as may be determined by the Commission". They should be removed.
- b) Exercising regulatory power of sanctions over a licensee up to three (3) times during a 5-year period should not be enough ground for the regulator to refuse licence renewal. Hence, the new Section 13A(2)(b) in the bill should be removed.
- c) The penalty for failure to make licence renewal application six months to licence expiration is too harsh, hence Section 13A (4) of the Bill should be reviewed.
- d) Section 19T of the Bill which provides that "No civil action shall be commenced against this Commission (NBC) or its authorized officers before the expiration of a period of 30 days after which Notice of Intention to commence the suit shall be served on the Commission by the intending Plaintiffs or his Agents", should be removed.

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