

PUBLIC ENLIGHTENMENT
SERIES NO 2

SECURE LEADERSHIP:
AN ESSENTIAL FOR BROADCAST
REGULATOR'S EFFECTIVENESS

NIGERIA

OCTOBER
2021





SECURE LEADERSHIP: AN ESSENTIAL FOR BROADCAST REGULATOR'S EFFECTIVENESS NIGERIA

OCTOBER
2021

Published by

Institute for Media and Society (IMS)

3, Emina Crescent, Ikeja, Lagos, Nigeria.

Tel: +234 8033079828

Email: imesoimeso@hotmail.com, Info@imesoimeso.org

Website: www.imesoimeso.org



European Union



CONTENTS

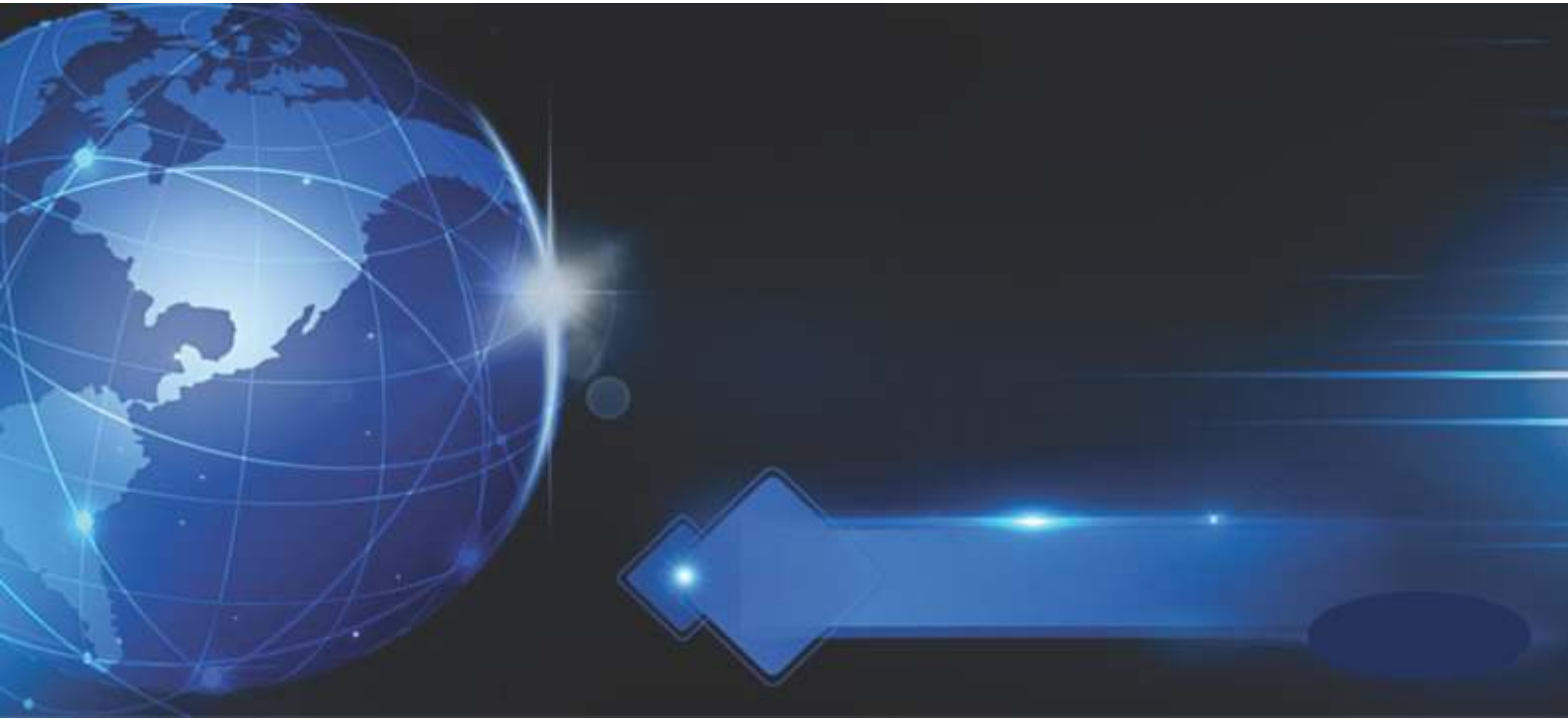
Introduction 5

**Essence of Secure Leadership
for the Regulator. 6**

**What The Legislation
Currently Provides 7**

**The Gaps in the Provisions
of The Act and the Bill 8**

**Recommendations:
What the Bill Should Now Provide 10**



INTRODUCTION

The train of media sector reform is advancing in Nigeria. The government is making efforts on several fronts to alter several features of the media landscape. One of the areas of focus is broadcasting legislation.

The major broadcasting legislation in the country is the National Broadcasting Commission (NBC) Act, which was first enacted in 1992 and amended in 1999.

Legislative action progressed on the NBC Act in 2021 in the National Assembly. Specifically, in June 2021, a Public Hearing was organized in the House of Representatives (of the National Assembly) on a Bill which sought to amend the NBC Act. The event gathered a wide range of stakeholders, including the Institute for Media and Society (IMS) which submitted a Memorandum and followed up with a presentation.

One of the front burner issues in the reform of broadcasting legislation in Nigeria today is the security of the regulator's leadership. It is the focus of attention for this month.

Essence of Secure Leadership for the Regulator.

The regulator has a wide range of functions to perform while having to deal with a multiplicity of issues and interests in the broadcasting industry.

A wide range of stakeholders such as government, business, politicians, broadcast licensees and operators have interests to protect in broadcasting.

To be able to engage with the interests and issues of stakeholders, the leadership of the regulator must be secure. If it is not, its decision-making capacity will be weakened and the regulatory body may be “captured”, meaning that its decisions and actions become overly influenced by the vested interests in the industry it regulates to the detriment of the public interest it is intended to serve.

The pillars that speak to the issue of leadership security are in several dimensions which include the following:

- a. **Composition:** How is the Board composed? Which constituencies are represented in it? Is attention given to inclusion?
- b. **Appointment:** What is the process of appointment of the Board? Which institutions participate in this process? What are the eligibility criteria for Board appointment?
- c. **Tenure security:** What is the duration of Board members' term? What safeguards exist to enable them complete their terms?

What The Legislation Currently Provides:

The NBC Act contains provisions that address issues related to secure leadership of the regulator.

1. Section 3(1) of the NBC Act states the composition of the Board of the regulatory body: it is to consist of a chairman and ten other members which represent the following groups: Law, business, culture, education, social science, broadcasting, public affairs, engineering, state security service and the Federal Ministry of Information and National Orientation. The Director General is also a member.
2. Section 3(2) of the Act specifies the eligibility criteria for membership of the Board as: proven integrity, experience and special knowledge in the Broadcasting industry or professional or business attainment, and citizenship of Nigeria.
3. Section 3(2) also provides that the Board members shall be appointed on the recommendation of the Minister (of Information) and approval of the President.
4. Section 4(1) provides that the Chairman and other members of the Board shall hold office for three years renewable for one further period of three years only.
5. Section 4(4) stipulates that a member of the Board “may be removed by the President if he is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office”.
6. Section 3 of the First schedule of the Act provides that the Board may function notwithstanding “any defect in the appointment of a member” or “that a person not entitled to do so took part in its proceeding”.

The Gaps in the Provisions of The Act and the Bill

1. The composition of the Board in Section 3(1) of the Act fails to apply the lens of inclusion. Worldwide, inclusion has become a major criterion in appointing citizens into government positions of public, including regulatory agencies. This law does not articulate the appointment of usually marginalized groups such as women, youth and people with disability.

The presence of representatives of State Security Service and Information Ministry on the Board is of concern because it is felt that their intimidating presence would affect the quality of the Board's outputs.

2. Section 3(2) outlines eligibility criteria for membership of the Board. However, it omits an important corresponding provision: ineligibility criteria.
3. In assigning the role of appointing Board membership to only the Minister of Information and the President, Section 3(2) makes the appointment process restrictive. It has created no space for the participation of important institutions such as civil society, the sectoral groups that the members represent and the National Assembly.
4. According to Section 4(1) of the Act, Board members have a term of three years with a renewal possibility for a second three years. However, Section 5(b) grants the Director General of the Agency a terms of five years renewable for "such further periods as the President may, from time to time, determine. This is a lopsided situation. The Board is an important leadership body and should have a sufficiently long tenure, especially comparable to that of the Director General.

5. The provision in Section 4(4) which allows arbitrary removal of Board members by the President can only have space in a dictatorship. It is not suitable for a democratic society.
6. Allowing ineligible persons to participate in the Board's proceedings is a sure way to erode the legitimacy of its decisions and undermine its existence.

Recommendations: What the Bill Should Now Provide

- 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.

DISCLAIMER

This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of the Institute for Media and Society, and can in no way be taken to reflect the views of the European Union

EU-SDGN IMPLEMENTERS:



Funded by The



European Union