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**VESTING THE BROADCAST
INDUSTRY REGULATOR WITH
FULL POWERS
NIGERIA**

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INTRODUCTION

The regulatory body in charge of broadcasting in Nigeria is called the National Broadcasting Commission (NBC). It was established through the National Broadcasting Commission (NBC) Act 38 in 1992. The law was later amended through the NBC (Amendment) Act 55 of 1999. Both the original and amendment laws are now consolidated in the Laws of the Federation of Nigeria.

Apart from providing for the establishment and functioning of the regulatory body, the NBC Act also articulated a framework for the licensing and participation of private entities in broadcasting in the country.

However, a major issue of concern to stakeholders in the law is its treatment of the coverage of the regulator's powers. The extent of the power exercised by a regulator is central to its effectiveness. It is the subject that this edition tries to unravel.

What Powers Does a Regulator Require?

A regulator, especially one in charge of the broadcasting industry, requires appropriate powers provided in law, to enable it achieve effectiveness and maintain industry respect and relevance.

Among the variety of powers are the following:

1. **Licensing:** Licences are the legal tools with which citizens are empowered to own or operate broadcasting facilities or operations. The regulator needs the power to issue licenses to broadcasters.
2. **Content:** is the heart of broadcasting. The primary product of the broadcaster for which it requires a license is content. Regulators need the power to determine the nature, proportion, etc of contents within broadcasts
3. **Research:** The regulator requires a constant understanding of the industry and vision of its future. Hence, a research function is an imperative.
4. **Manpower Development:** Manpower quality is central to broadcasting development. The industry will only be as good as the professionals who operate it. Power to oversight manpower development is necessary for the regulator.
5. **Conflict Resolution:** Conflicts arise among industry players from time to time. There would be various mechanisms for the resolution of such conflicts. The intervention of the regulator should be one of such mechanisms.
6. **Industry Protection:** The broadcasting industry is a starting point for the protection of media freedom. It should be a duty for the regulator to be in the vanguard of ensuring this protection.

What the Legislation Currently Provides

The NBC Act articulates a wide range of powers for the regulatory body, National Broadcasting Commission. Among these powers, outlined in Section 2 of the Act, are the following:

- i. Advising the Federal Government on the implementation of the National Mass Communication Policy with particular reference to broadcasting
- ii. Regulating and controlling the broadcasting industry.
- ii. Undertaking research and development in the industry
- iv. Establishing and disseminating a national broadcasting code and setting standards with regards to the contents and quality of materials for broadcast
- v. Monitoring broadcasting for harmful emission, interference and illegal broadcasting
- vi. Determining and applying sanctions on broadcasting stations which do not operate in accordance with the broadcast code and in the public interest
- vii. Ensuring qualitative manpower development in the broadcasting industry by accrediting curricula and programmes for all tertiary training institutions that offer Mass Communication in relation to Broadcasting.
- viii. Intervening and arbitrating in conflicts in the broadcasting industry.
- ix. Guaranteeing and ensuring the liberty and protection of the broadcasting industry with due respect to the law.

Gaps in the Provisions of The Act and The Bill

Despite the generally lofty provisions in Section 2 of the NBC, Act there are some which restrict the regulator and effectively deny it important and crucial regulatory powers. For example:

i Section 2(1)(B) of the Act provides that the NBC will merely receive, process and consider applications for the establishment, ownership or operation of radio and television stations.

Section 2(1) (c) goes on to stipulate that the NBC will recommend applications for broadcast license “through the Minister to the President, for the grant of radio and television licence”.

The implication of the foregoing is that the role of the NBC in the broadcasting licensing process ends at the application processing and consideration stage. The regulator cannot approve licenses. That role is assigned to the office of the President, through the Minister. The regulator is consigned to the position of a post office in the licensing process. This contradicts international standards and best practices.

ii. The denial of full regulatory powers for the regulator continues in other parts of the NBC Act. Section 6 confers on the Minister, the power to give the NBC, “directives of a general character relating generally to particular matters with regard to the exercise by the Commission of its functions under this Act and it shall be the duty of the Commission to comply with such directives”.

This means that decisions and actions of the regulator can be limited, varied or even cancelled by the Minister.

Section 23 also creates an approval role for the Minister whenever the NBC makes regulations. This means that, in the making of regulatory instruments such as the Broadcasting Code, the regulator may take input (approval?) from the office of the Minister.

Recommendations: What Should Legislation Now Provide To Give Full Regulatory Powers To The NBC?

- 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 NBC, 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 NBC of the policy direction of government and ensuring that the independence of the regulator 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.

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