

PUBLIC ENLIGHTENMENT
SERIES NO 4

SECURE FUNDING FOR
THE REGULATOR IN CHARGE
OF BROADCASTING
NIGERIA

DECEMBER
2021





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Published by

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CONTENTS

Introduction	5
The Place of Secure Funding for the Regulator	6
What the Legislation Currently Provides	7
What the Current Bill Also Provides	8
Gaps in the Provisions of The NBC Act and The Bill	9
Recommendations: What The Bill Should Now Provide Towards Secure Funding For The Regulator	10



INTRODUCTION

Funding is critical to the functioning and effectiveness of a regulatory body. Indeed, it is like oxygen to the regulator, because its existence and functioning depend on it.

Not only is funding required by the regulator, it has to be available to it in sufficient and secure manner.

What should be the sources of the regulator's funds? What funding mix will be ideal for it? What over-sight arrangements should be in place for the financing of the regulator? These and other questions form the focus of our attention this month.

The Place of Secure Funding for the Regulator

The funding requirement of the modern broadcasting regulator continues to increase in the face of several developments, including the expansion of the broadcasting landscape through the establishment of more stations, the expansion of the regulator's resources such as manpower, office structures, other facilities, general running costs, and so on.

Funding impacts efficiency. An adequately funded regulator is more likely to be able to respond in a timely manner to the multiplicity of issues arising from the industry.

Funding also affects independence. A regulator with access to well structured, well-planned and consistently available financing arrangement has a potential to withstand pressures from vested interests.

Regulatory bodies in charge of broadcasting need reliable and consistent income provided for in legislation and sufficient to carry out their functions effectively and without interference.

What the Legislation Currently Provides

The NBC Act contains provisions which address the funding of the regulator

1. Section 14 of the Act outlines funding sources of the regulator. These are: percentage of fees and levy to be charged on the annual income of licensed broadcasting stations; government loans or grants; other funds raised by way of gifts, loans, grants in aid, testamentary disposition or otherwise; other assets that may, from time to time, accrue to the Commission.
2. Section 15 also provides that the regulator (NBC) shall collect, hold in trust for, and disburse on behalf of broadcast houses, such license fees accruing from the ownership of radio and television sets.
3. Section 18 stipulates that the regulator may borrow funds for its operations, with the consent of the Minister.
4. Section 19 states that the regulator shall annually (by October 31) submit to the President its budget for the next succeeding year.

What the Current Bill Also Provides

1. The present bill creates a new revenue source for the broadcasting industry, which it calls Digital Access Fund (DAF), to be established, operated and controlled by the NBC.

The Seven (7) members of the Board of Trustees of this Fund are to be drawn from the following constituencies: Advertising, News, Law, Academia, Content Production, Entertainment and Finance.

2. The Bill also proposes a sharing formula for the proceeds of the Digital Access Fund (DAF) as follows:
 - a. 40% to Signal Distributors
 - b. 10% to Federal Radio Corporation of Nigeria (FRCN), the federal radio broadcaster
 - c. 10% to Nigerian Television Authority (NTA), the federal TV broadcaster.
 - d. 40% to the National Broadcasting Commission (NBC), the regulator.

Gaps in the Provisions of The NBC Act and The Bill

1. Section 14 of the Act fails to recognize that government appropriation from dedicated direct source is the favourable mechanism towards ensuring secure funding and independence of the regulator. It enables the regulator to develop and implement realistic short, medium and long term plans.
2. Section 15 of the Act faces a challenge in section 1(b) of the Fourth Schedule of the Constitution which empowers local governments to collect radio and television fees.
3. Section 18 of the Act, which deals with the borrowing power of the regulatory body, does not acknowledge the National Assembly as a key institution to be engaged in the borrowing process.
4. Section 19 of the Act, which requires the regulatory Body to submit its budget estimates to the President, excludes the legislature (National Assembly) from the process.
5. The membership of the Board of Trustees of the Digital Access Fund (DAF) created in the Bill, has a gap of inclusion: Where is the space for women, youth and People with Disability (PWDs) in the structure?
6. The sharing formula proposed (in the Bill) for the proceeds of the Digital Access Fund (DAF) is restrictive. Where is the space for other broadcasters such as the state government, private/commercial and community broadcasters?

Recommendations: What The Bill Should Now Provide Towards 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:
 - i) 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)
 - ii) 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.

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