

Interconnectivity

Background Information and Historical Details

- Interconnectivity basically means the connection of two telecommunications systems in a manner that enables the subscribers on both systems to seamlessly access each other.
- Nigerian circumstance has incorporated into the definition, the carrying of private operators' traffic by Nigerian Telecommunications Limited (“NITEL”).
- Very first attempt at negotiation of interconnectivity agreement was in 1985 between NITEL and Mobile Telecommunications Service Limited (“MTS”).
- First formal interconnectivity agreement was negotiated and executed between NITEL and Private Telecommunications Operators (“PTOs”) in 1996.
- That Agreement was reviewed by a Ministerial Committee that was established in 1998 and duly revised the interconnectivity agreements, the revised version of which were executed by the parties in 1999.
- With the advent of Digital Mobile services, interconnectivity agreement was negotiated between NITEL and digital mobile licensees – MTN Communications Limited and Econet Wireless Nigeria Limited – in 2001.

Components of Interconnectivity Agreements

- Broadly an ideal interconnectivity agreement has two parts – commercial/legal and technical sections.
- The technical section covers such issues like
 - Points of Interconnect
 - Processes for ordering capacity and applying for interconnect
 - Grade and Quality of Service
 - Billing processes and exchange of traffic data
 - Technical specifications e.g. of physical interconnect equipment
 - Traffic forecasting and ordering for capacity
- The commercial and legal issues relate primarily to
 - Tariff rates and charges
 - Payment (and set-off) terms
 - Penalties for default (e.g. failure to pay outstanding rates and charges)
 - Intellectual property rights
 - Termination of agreement and consequential rights of the parties
 - Processes for review of agreements terms

Competition Issues

- Interconnectivity arrangement can be a tool in the hands of an organisation engaged in anti-competitive practices.
- Examples of anti-competitive practices in interconnectivity arrangements include:
 - Unfair or uneconomic tariff rates by dominant operator

- Discriminatory practices e.g. rates and provision of access and/or capacity
- Subsidised rates by a party to its subsidiary or a member of its group
- Unwarranted or frivolous disconnection of interconnection

Regulatory Control

- The competition issues are sufficient justification for some form of regulatory intervention in or oversight on interconnectivity negotiations and arrangements.
- Nigerian Communications Commission Decree No. 78 of 1992 (“**NCC Act**”) as amended empowers the industry regulator, Nigerian Communications Commission (“**NCC**”) to intervene appropriately.
- There is a reasonably long history of such regulatory interventions by NCC:
 - The 1998/98 review of interconnectivity agreement was anchored by NCC
 - NCC also brokered the interconnectivity agreement between the GSM Operators and NITEL in 2001 in respect of specific contentious issues
 - NCC is involved in the on-going negotiations for review of the Agreements
- NCC’s basic principle has however remained that
 - Interconnectivity agreements are primarily agreements between the parties; and
 - Therefore should be negotiated between the parties; and
 - regulatory intervention is only justified where agreements cannot be reached or to pre-empt anti-competitive practices.
- There are two major on-going attempts to have codified rules and regulations, at the instance of NCC, on interconnectivity:
 - Preparation and publication of Reference Interconnection terms by dominant operators; and
 - Publication of codified Interconnection Regulations and/or Guidelines
- Issues that however need to be resolved include
 - Definition of dominant operators
 - Determination of cost-oriented interconnectivity charges
 - Achieving the objectives of transparency without compromising the need for commercial confidentialities
 - Circumstances for termination of interconnection
 - Data collection and collation by NCC and mandatory submission of such data to NCC by the operators