

# Overview of Issues in Telecommunications Regulation: Licensing

## Introductory Licensing Issues

- There are 2 aspects of licensing in telecommunications
  - Spectrum licensing; and
  - Grant of operating licences
- In both cases, licensing is an important tool for liberalisation of telecommunications industry.
- Guiding licensing principles usually include
  - Regulation of Essential Infrastructure Service
  - Establishing a Competition Framework and expanding service provisioning
- Allocation of Scarce Resources
- Generating Government Revenues
- Consumer Protection
- Regulatory Certainty

## Legal Issues in Licensing

- In context of judicial interpretation, licensing may have 2 meanings:
  - Licensing process; and
  - Licence Terms
- Both are subject to judicial challenges – Motophone, Systems Worldwide, Tariff regulation law suits.
- Primary licensing legislation in telecommunications is Communications Act No. 19 of 2003. Wireless Telegraphy Act 1990 plays a secondary role.

## Licensing Process

- All Service Providers must be licensed and there are penalties for unlicensed operations. Section 31.
- NCC is licensing authority (Chapter 4 of the Act)
- Licensing procedures are subject to NCC's discretion but they must be published from time to time and guiding principles for licensing include:
  - Transparency, fairness and non-discrimination;
  - Efficient use and management of radio frequencies;
  - Available numbers under the National Numbering Plan;
  - Need to promote fair competition and investment in the communications industry;
  - Need to provide modern, qualitative, affordable and readily available communications services in all parts of Nigeria; and

- Such other principles and considerations as the Commission may from time to time consider necessary and in the national interest.
- There are two types of Licences under the Act
  - Individual Licences
  - Class Licences

## **Licence Terms and Conditions**

- Prior to Communications Act 2003 Licence Terms and Conditions were largely embodied in Licence documents
- Such terms included:
  - Economic and Consumer Regulation issues
    - Tariff Regulation
    - Interconnection issues
    - General Competition Issues
  - Technical Regulation Issues
    - Type Approval Requirements
    - Technical issues in Interconnection
    - Numbering Plan issues
  - Suspension and Revocation of Licence
  - Universal Service and Quality of Service Obligations
- Some of these Licence terms and conditions are now embodied in the Act and may not be replicated in future licences.
- Existing Licences are indeed expected to be modified in conformity with the Act – Section 156.

## **Judicial Review**

- This is entrenched in the Act – Section 88.
- Federal High Court has exclusive jurisdiction under Section 138.
- Understanding of these issues would greatly help judicial decisions on licensing matters.