



**FILLING CRITICAL GAPS IN
BROADCASTING LEGISLATION IN
NIGERIA**

**THE
REGULATOR'S
INDEPENDENCE
IN THE
NBC ACT**

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We wish to express our appreciation of the rich inputs made into the conversations that generated these proposals, by representatives of the following important stakeholders.

INDUSTRY UNIONS AND ASSOCIATIONS

- i. Broadcasting Organizations of Nigeria (BON)
- ii. Nigerian Guild of Editors (NGE)
- iii. Nigeria Union of Journalists (NUJ)
- iv. Radio, Television, Theatre and Arts Workers Union (RATTAWU)
- v. National Association of Women Journalists (NAWOJ)
- vi. Nigeria Community Radio Coalition (NCRC)

MEDIA SUPPORT GROUPS

- i. International Press Centre (IPC)
- ii. Media Rights Agenda (MRA)
- iii. Media Law Centre (MLC)

OTHER CIVIL SOCIETY GROUPS

- i. African Languages Technology Initiative (ALT-I)

ACADEMICS

- i. From Journalism/Communication Research and Training Institutions

REGULATORY BODY

- i. The National Broadcasting Commission (NBC).

You have all participated in a historic effort. It is our hope that as the proposals get adopted in the public policy process, they will strengthen the regulator to perform its mandate and help actualize a broadcasting sector reform that will impact positively on media/expression space and democracy in Nigeria.

Institute For Media And Society.

INTRODUCTION

The government of Nigeria promulgated its major broadcasting law, the National Broadcasting Commission (NBC) Act, in 1992.

A key instrument of the liberalisation policy of the period the law provided for the establishment of a regulator, National Broadcasting Commission (NBC), and a regulatory framework for the broadcasting sector.

The law was amended in 1999, shortly before military rule gave way to civil governance. Despite that amendment, critical issues remain unaddressed in the legislation. Key among the issues is the independence of the regulator, which is heavily restricted by various provisions of the law.

It is globally recognised that an independent regulator is an essential requirement for the independence, freedom and development of the broadcasting industry. Indeed, international instruments (in which Nigeria has commitments) have been put in place to address, among others, the issue of independence of the regulator.

Equipped with this understanding, stakeholders in Nigeria engaged in conversations which identified the critical constraints to the regulator's independence in the NBC Act, and generated a package of proposals. Presented in the following pages are prepared amendments to specific provisions of the Act.

The intention is that these proposed amendments/proposals will go through the appropriate process and produce a new legislation which is up-to-date and appropriately positions broadcasting regulation in Nigeria.

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>1. Establishment of the National Broadcasting Commission</p> <p>There is hereby established a Commission to be known as the National Broadcasting Commission (in this Act referred to as "the Commission") which shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.</p> <p>2. Powers of the Commission</p> <p>(1) The Commission shall have responsibility of—</p> <p>(a) advising the Federal Government generally on the implementation of the National Mass Communication Policy with particular reference to broadcasting;</p> <p>(b) receiving, processing and considering applications for the establishment, ownership or operation of radio and television stations including-</p> <p>(i) cable television services, direct satellite broadcast and any other medium of broadcasting;</p> <p>(ii) radio and television stations owned, established or operated by the</p>	<p><i>The Commission shall have the responsibility of: 2(i) (b) receiving, processing applications and granting licenses, without reference to other government organs.</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>Federal, State or local government;</p> <p>(c) recommending applications through the Minister to the President, for the grant of radio and television licences;</p> <p>3. Composition of the Commission</p> <p>(1) The Commission shall consist of-</p> <p>(a) a chairman;</p> <p>(b) ten other members as may be approved to represent the following interests, that is-</p> <p>(i) Law;</p> <p>(ii) Business;</p> <p>(iii) Culture;</p> <p>(iv) Education;</p>	<p><i>Section 2 (i) © be removed.</i></p> <p><u>Constitutional Amendment</u></p> <p><i>Section 39 of the Constitution of Nigeria: should be amended to read as follows:</i></p> <p><i>Provided that the establishment ownership and operation of television and wireless broadcasting</i></p> <p><i>i. The Board members shall be designated as Commissioners and the Board as Board of Commissioners</i></p> <p><i>ii. The commission shall consist of:</i></p> <p><i>(a) a chairman</i></p> <p><i>(b) eight other members to represent the following interests, that is :</i></p> <p><i>(I) Law</i></p> <p><i>(ii) Business</i></p> <p><i>(iii) Culture</i></p>	<p><i>This is for constitutional amendment</i></p> <p><i>The State Security Service (SSS) and Federal Ministry of Information are excluded from this membership</i></p>

PROVISION OF THE ACT	PROPOSED PROVISION	REMARKS
<p>(v) Social Science;</p> <p>(vi) Broadcasting;</p> <p>(vii) Public affairs;</p> <p>(viii) Engineering;</p> <p>(ix) State Security Service;</p> <p>(x) The Federal Ministry of Information and National Orientation; and</p> <p>(c) The Director-General of the commission</p> <p>(2) The chairman and other members of the Commission shall be persons of proven integrity, experience and specialised knowledge in the broadcasting industry or who by reason of their professional or business attainment are on the recommendation of the Minister and with the approval of the President capable of making useful contribution to the work of the Commission.</p> <p>(3) The chairman and other members of the Commission shall be citizens of Nigeria who</p>	<p><i>(iv) Education</i></p> <p><i>(v) Social Science</i></p> <p><i>(vi) Broadcasting</i></p> <p><i>(vii) Public Affairs</i></p> <p><i>(viii) Engineering</i></p> <p><i>(c) The Director general of the commission</i></p> <p><i>Sub-section 3(2&3) should be amended to read as follows:</i></p> <p><i>(a) The Chairman and other members of the board of the commission shall be person of proven integrity, specialised knowledge with at least 15 years experience and capable of making useful contributions to the work of the commission</i></p> <p><i>(b) All members of the board shall be appointed by the President upon</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>shall be appointed by the President on the recommendation of the Minister.</p> <p>(4) The chairman and other members of the Commission shall be part-time members.</p> <p>(5) The supplementary provisions contained in the First Schedule to this Act shall have effect with respect to the proceedings of the Commission and the other matters contained therein.</p> <p>[First Schedule]</p>	<p><i>consultation with the groups that they represent and confirmation by the Senate of the National Assembly</i></p> <p><i>(c) A person shall not be appointed or remain in office as member of the Board of the Commission if he or she—</i></p> <p><i>i. is not a citizen of Nigeria;</i></p> <p><i>ii. is not permanently resident in Nigeria;</i></p> <p><i>iii. is a member of the National Assembly or State Assembly;</i></p> <p><i>iv. is a member or office-bearer or employee of any political party, movement or organization of a party political nature;</i></p> <p><i>v. or his or her family member has a direct or indirect financial interest in the broadcasting industry;</i></p> <p><i>vi. has been declared by a court to be mentally ill or disordered;</i></p> <p><i>vii. has at any time been convicted, whether in Nigeria or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of corruption or any other offence involving dishonesty;</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>4. Tenure of office, etc.</p> <p>(1) The chairman and other members of the Commission shall hold office for three years renewable for one further period of three years only.</p> <p>(2) <i>The chairman or a member of the Commission may resign his appointment at any time by notice in writing under his hand addressed to the President.</i></p> <p>(3) <i>If a member of the Commission dies or resigns or otherwise vacates his</i></p>	<p><i>viii. has at any time been removed from an office of trust on account of misconduct.</i></p> <p><i>(d) Membership of the Board shall reflect – or be representative of the diversity of the nation in terms of geo-political, gender and other considerations.</i></p> <p><i>The Chairman and members of the Board shall hold office for five years renewable for one further term of five years only.</i></p> <p><i>The following provision shall be added:</i></p> <p><i>The appointment date of the Board member shall be staggered in a way that ensures at all times that there is a duly constituted Board of commissioners and that there are a minimum of six(6) serving commissioners on the board at all times.</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p><i>office before the expiry of the term for which he is appointed, a fit and proper person shall be appointed for the remainder of the term of office of the predecessor, so however that the successor shall represent the same interest and shall be appointed by the President.</i></p> <p><i>(4) A member of the Commission may be removed from office 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.</i></p>	<p><i>(a) A member of the Board may be removed from office by the President (with the concurrence of the Senate) on the recommendation of the Board on account of:</i></p> <ul style="list-style-type: none"> <i>i. misconduct;</i> <i>ii. inability to perform the duties of his or her office efficiently;</i> <i>iii. absence from three consecutive meetings of the Commission without the permission of the Commission, except on good cause shown;</i> <i>iv. failure to disclose a direct or indirect financial interest in the broadcasting industry</i> <i>v. insolvency or bankruptcy</i> <i>vi. clear violation of the rules of appointment (for example by not declaring a conflict of interest</i> 	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>5. Director-General and other staff of the Commission</p> <p>(1) There shall be appointed for the Commission, a Director-General who shall be the chief executive of the Commission.</p> <p>(2) The Director-General shall be appointed by the President on the recommendation of the Minister.</p> <p>(3) The Director-General shall be a person with wide knowledge and experience in broadcasting.</p> <p>(4) The Director-General shall be responsible for the execution of the policies of the Commission and its day-to-day administration.</p> <p>(5) The Director-General shall hold office in the first instance for a period of five years and shall be eligible for re-appointment for such further periods as the President may, from time to time, determine.</p> <p>(6) Subject to this section, the Director-General</p>	<p><i>(b) In considering a member's removal recommendation, the President shall inform him/her by written notice, and give him/her opportunity to make written submission within a period not less than 14 days, and he the president shall consider the submission in taking a final decision</i></p> <p><i>The Director General shall be appointed by the President on the recommendation by Industry Stakeholders and subject to the confirmation by the Senate</i></p> <p><i>The Director General shall be hold office five year renewable for one further term of five years only.</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>shall hold office on such terms as to emolument and otherwise as may be specified in his letter of appointment and as may, from time to time, be approved by the President.</p> <p>(7) The Commission shall appoint a secretary to the Commission who shall keep records, conduct correspondence of the Commission and carry out and perform such other duties as the Commission or the Director-General may, from time to time, direct.</p> <p>(8) The Commission may appoint such other employees to assist the Director-General in the exercise of his functions under this Act.</p>	<p><i>The following provisions shall be added:</i></p> <p><i>(a) A person shall not be appointed or remain in office as Director General of the Commission if he or she—</i></p> <ul style="list-style-type: none"> <i>i. is not a citizen of Nigeria;</i> <i>ii. is not permanently resident in Nigeria;</i> <i>iii. is a member of the National Assembly or State Assembly;</i> <i>iv. is a member or office-bearer or employee of any political party, movement or organization of a party political nature;</i> <i>v. or his or her family member has a direct or indirect financial interest in the broadcasting industry;</i> <i>vi. has been declared by a court to be mentally ill or disordered;</i> <i>vii. has at any time been convicted, whether in Nigeria or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of</i> 	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
	<p><i>corruption or any other offence involving dishonesty;</i></p> <p><i>viii. has at any time been removed from an office of trust on account of misconduct.</i></p> <p><i>(b) The Director General may be removed from office by the President (with the concurrence of the Senate) on the recommendation of the Board on account of:</i></p> <ul style="list-style-type: none"> <i>i. misconduct;</i> <i>ii. inability to perform the duties of his or her office efficiently;</i> <i>iii. absence from three consecutive meetings of the Commission without the permission of the Commission, except on good cause shown;</i> <i>iv. failure to disclose a direct or indirect financial interest in the broadcasting industry</i> <i>v. insolvency or bankruptcy</i> <i>vi. clear violation of the rules of appointment (for example by not declaring a conflict of interest</i> 	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>6. Power of the Minister to give directives</p> <p>Subject to the provisions of this Act, the Minister may give the Commission 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.</p>	<p><i>© In considering DG's removal from office, the President shall inform him/her by written notice, and give him/her opportunity to make written submission within a period not less than 14 days, and he (the president) shall consider the submission in taking a final decision.</i></p> <p><i>The Minister shall perform the following functions:</i></p> <ul style="list-style-type: none"> <i>a. formulating, monitoring and evaluating, through participatory process, of the general policy for the broadcasting sector in Nigeria</i> <i>b. negotiating and implementating of international broadcasting or broadcasting – related media/information treaties and agreements on behalf of Nigeria, with sovereign countries, international organizations and bodies</i> <i>c. Representing Nigeria, in conjunction with the commission at proceedings of</i> 	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>7. Conditions of service</p> <p>The Commission shall develop and submit to the President appropriate conditions of service covering remuneration, fringe benefits, pension scheme and other benefits for its employees.</p>	<p><i>international organizations and for matters related to broadcasting</i></p> <p><i>d. Notifying the Commission, in writing, from time to time, on the general policy direction of the Federal Government in respect of the broadcasting sector</i></p> <p><i>e. Ensuring that the independence of the Commission is protected at all times</i></p> <p><i>The following shall be added to section 7:</i></p> <p><i>The Board shall in consultation with the appropriate government agency responsible for fixing remunerations of public officers, review from time to time the remunerations and allowances payable to the staff of the Commission</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>9. Power of the Commission to grant licences</p> <p>(1) The Commission shall, in the consideration of an application or a licence under this Act, be satisfied that the applicant-</p> <ul style="list-style-type: none"> (a) is a body corporate registered under the Companies and Allied Matters Act or a station owned, established or operated by the Federal, State or local government; (b) can demonstrate to the satisfaction of the Commission that he is not applying on behalf of any foreign interest; (c) can comply with the objectives of the National Mass Communication Policy as is applicable to the electronic media, that is, radio and television; (d) can give an undertaking that the licensed station shall be used to promote national interest, unity and cohesion and that it shall not be used to offend the religious sensibilities or promote ethnicity, sectionalism, hatred and disaffection among the peoples of Nigeria. <p>(2) The grant of a licence by the Commission under this Act shall be subject to availability of broadcast frequencies.</p>		

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>(3) Compliance with the requirements specified in subsection (1) of this section shall not entitle an applicant to the grant of a licence but the grant of a licence by the Commission shall not be unreasonably withheld.</p> <p>(4) In determining the grant of a licence the Commission shall consider the following, that is-</p> <p>(a) the structure of shareholding in the broadcasting organisation;</p> <p>(b) the number of shareholdings in other media establishments;</p> <p>(c) the distribution of those stations and establishments as between urban, rural, commercial or another categorisation.</p> <p>(5) It shall be illegal for any person to have controlling shares in more than two of each of the broadcast sectors of transmission.</p> <p>(6) Any broadcast station transmitting from Nigeria before the commencement of this Act shall be deemed to have been licensed under this Act and, accordingly, shall be subject to the provisions of this Act.</p>	<p><i>(a) The structure of shareholding in the broadcast organisation in cases of commercial licence applicants</i></p> <p><i>The following shall be added after sub-section 9(5)</i></p> <p><i>I. The Commission shall from time to time, publish its licensing process, specifying persons or groups of persons who are eligible to apply for licenses, the procedures for licensing, etc</i></p>	<p>Community licence applicants (Community development associations) do not allocate shares</p>

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<p>14. Fund of the Commission</p> <p>(1) The Commission shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Commission.</p> <p>(2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section-</p> <p>(a) such percentage of fees and levy to be charged by the Commission on the annual income of licensed broadcasting stations owned, established or operated by private individual(s), Federal State or local government;</p>	<p><i>ii. The Commission shall within 30 days of receiving an application for license, inform the applicant by written notice, on the status of work on the application. In the event of refusal of license, written reason shall be given, and there shall be space for applicant to appeal the refusal</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>(b) such moneys as may, from time to time, be lent or granted to the Commission by the Government of the Federation or of a State;</p> <p>(c) all moneys raised for the purposes of the Commission by way of gifts, loans, grants-in-aid, testamentary disposition or otherwise;</p> <p>(d) all other assets that may, from time to time, accrue to the Commission.</p> <p>(3) The fund shall be managed in accordance with rules made by the Commission and without prejudice to the generality of the power to make rules under this subsection the rules shall in particular contain provisions-</p> <p>(a) specifying the manner in which the assets or the fund of the Commission are to be held and regulating the making of payments into and out of the fund; and</p> <p>(b) requiring the keeping of proper accounts and records for the purpose of the fund in such form as may be specified in the rules.</p>	<p><i>(b). Such moneys as may be directly appropriated to the Commission by the National Assembly from the Consolidated Fund, or granted to the Commission by the Government of the Federation or of a State</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>(4) No person shall offer for sale, sell or have in his possession with a view to selling in the course of his business, any installation, mechanism, instrument, material or other apparatus-</p> <p>(a) constructed for the purpose of; or</p> <p>(b) intended to be used for, wireless telegraphy except under and in accordance with a licence issued by the Commission in that behalf</p> <p>15. Radio and television licence fees</p> <p>The Commission shall-</p> <p>(a) collect and hold in trust for;</p> <p>(b) disburse on behalf of the broadcast houses such licence fees accruing from the ownership of radio and television sets, as the Commission may prescribe.</p>	<p><i>The commission shall:</i></p> <p>(a) <i>collect such licence fees accruing from ownership of radio and television sets: this power of collection may be exercised through the engagement of professional, reputable revenue collection agencies and companies.</i></p> <p>(b) <i>distribute the fees collected to broadcasters in the public, commercial and community sub-sectors, and the commission.</i></p> <p><u>Constitution Amendment</u></p> <p>(i) <i>Section 1(b) of the fourth schedule of</i></p>	<p>This is proposal for Constitution Amendment</p>

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>18. Borrowing power</p> <p>(1) The Commission may with the consent of the Minister borrow, on such terms and conditions as the Commission may determine, such sums of money as the Commission may require in the exercise of the functions conferred on it under this Act.</p> <p>19. Annual estimates, accounts and audit</p> <p>(1) The Commission shall, not later than 31 October in each year, submit to the President an estimate of its expenditure and income during the next succeeding financial year.</p> <p>(2) The Commission shall cause to be kept proper accounts of the Commission in respect of each</p>	<p><i>the constitution which empowers local governments to collect radio and television license fees should be removed</i></p> <p><i>(ii) The regulatory body in charge of broadcasting (NBC) should be recognised/listed as a federal executive body in the constitution</i></p> <p><i>The process of borrowing shall be in accordance with guidelines and authority established by the Finance legislations and other instruments of the federal government and consent of the National Assembly</i></p> <p><i>The Commission shall not later than 31 August each year, prepare and present to the National Assembly through the President, for approval, its Statement of estimated income and expenditure for the next succeeding financial year.</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>year and proper records in relation thereto and shall cause its accounts to be audited not less than six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.</p> <p>20. Annual reports</p> <p>The Commission shall prepare and submit to the Minister not later than 30 June in each year, a report in such form as he may direct on the activities of the Commission during the immediately preceding year, and shall include in such report a copy of the audited accounts of the Commission for that year and Auditor-General's report thereon.</p>	<p><i>i. The Commission shall not later than 30 June each year, prepare and submit the annual activities report to the President, and through the President to the National Assembly.</i></p> <p><i>ii. The Commission shall prepare and publish periodic reports during each year and disseminate to the public on the status of licences granted, renewed and sanctioned, performances of licenses and industry developments such as: ownership structures and patterns, quality of broadcasting services, industry statistics, tariff rates and charges paid by consumers for services, adequacy and availability of services in each part of Nigeria</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>SCHEDULES</p> <p>FIRST SCHEDULE [Section 3 (5).]</p> <p><i>Supplementary provisions relating to the Commission</i></p> <p><i>Proceedings of the Commission</i></p> <ol style="list-style-type: none"> 1. The Commission shall meet for the conduct of its business at such times as the chairman may determine. 2. The principal office of the Commission shall be in the Federal Capital Territory, Abuja where its general sessions shall be held. 3. The Commission shall have power to regulate its proceedings and may make standing orders for that purpose and subject to any such standing orders and to paragraph 4 of this Schedule, may function notwithstanding- <ol style="list-style-type: none"> (a) any vacancy in its membership or the absence of any member; (b) any defect in the appointment of a member; or (c) that a person not entitled to do so took part in its proceedings. 4. The quorum at any meeting of the 	<p><i>This provision should be removed</i></p> <p><i>This provision should be removed</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>Commission shall be a simple majority of the members.</p> <p>5. Where standing orders made under paragraph 3 of this Schedule provide for the Commission to co-opt persons who are not members of the Commission, such person may attend meetings of the Commission and advise it on any matter referred to them by the Commission but shall not count towards a quorum and shall not be entitled to vote at any meeting of the Commission.</p> <p style="text-align: center;">SECOND SCHEDULE [Section II.]</p> <p style="text-align: center;"><i>Form for application for a grant of licence</i></p> <p>I. Name of applicant</p> <p>2. Address</p> <p>3. Names and nationalities of directors</p> <p>4. Names and nationalities of shareholders and shareholding</p>		

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>5. Equity structure</p> <p>6. Type of broadcast licence required (radio/TV. cable TV, etc.)</p> <p>7. Purpose of licence</p> <p>8. Duration for which licence is required</p> <p>9. Location</p> <p>10. Coverage area</p> <p>11. Target audience/programme profile</p> <p>12. Applicant's interest in any other media organisation</p> <p>13. Type and make of transmitters</p> <p>14. Effective radiating power</p> <p>15. Type of antenna and its characteristics</p> <p>16. Distance between studio and transmitter station</p>		

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>.....</p> <p>17. Type of link. system to be used</p> <p>.....</p> <p>18. Method of reception (scramble or open broadcast)</p> <p>.....</p> <p>19. Type, range and standard of programmes</p> <p>.....</p> <p>20. Proportion of Nigerian content to the foreign content</p> <p>.....</p> <p>21. Proposal for increase of local content over licenced period</p> <p>22. Any special effort to promote indigenous talents</p> <p>.....</p> <p>23. Evidence of financial and technical capabilities of applicant</p> <p>.....</p> <p><i>Undertaking</i></p> <p>24. I/We hereby give an undertaking that upon a grant of a licence I/we shall abide by the terms and conditions upon which the licence is granted.</p> <p>.....</p>		

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p style="text-align: center;"><i>Signed</i></p> <p>25. An application shall be accompanied by the following-</p> <p>(a) Certificate of Incorporation;</p> <p>(b) Certified copy of Articles and Memorandum of Association;</p> <p>(c) Project study including engineering design of system;</p> <p>(d) Evidence of the undertaking required under section 9 (d) of the Act.</p>	<p><i>(b) Certified copy of Articles and Memorandum of association (for commercial licence applicants) and certified copy of Constitution (of community association,) in cases of community broadcasting license applicants</i></p> <p><i>The following should be added:</i></p> <p><i>The application form shall be reviewed (by providing separate templates) to appropriately cater for the various broadcasting sub-sectors – public, private/commercial, community, etc, and include provision for digital television broadcasts.</i></p>	<p><i>With the advent of digitization, applicants for television licence do not require transmitters, therefore the requirement to indicate the type and make of transmitters will not apply to them.</i></p>

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>THIRD SCHEDULE [Section 12.]</p> <p><i>Terms of a licence</i></p> <ol style="list-style-type: none"> 1. A licence shall be valid for a period of five years in the first instance. 2. An application for the renewal of a licence shall be made to the Commission within a period of six months before the expiration of the licence. 3. In considering an application for the renewal of a licence the Commission shall review the conduct of the licensee. 4. The Commission may not renew a licence if, having regard to the past performance of the station, it is not in the national or public interest or the interest of the broadcast industry to do so. 5. A licence shall not be transferable and the licensed station shall not be changed without notifying the Commission of the intention and the reasons for such change. 	<p><i>The following should be added:</i></p> <p><i>The Commission shall specify and publish what situations will warrant a refusal to renew a licence under the grounds of acts against national or public interest.</i></p> <p><i>A licence shall not be transferable; and the NAME – of the licensed station shall not be changed without notifying the Commission of the intention and reasons for such change.</i></p>	

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>6. A licensee shall be responsible for the contents of the station's broadcast.</p> <p>7. A licence shall-</p> <p style="padding-left: 40px;">(a) contain a schedule of proposed programmes over a given period of time e.g. quarterly;</p> <p style="padding-left: 40px;">(b) a local programme content which shall not be less than 60 per cent local and not more than 40 per cent foreign for radio and television and not less than 20 per cent local or more than 80 per cent foreign for cable satellite retransmission;</p> <p>a schedule shall be accompanied by a synopsis of each of the programme plans.</p> <p>8. Each station shall keep a daily log of its transmitted programmes and the station log book shall include a transmitter output power and radiating frequencies.</p> <p>9. Each station shall make available for inspection by the inspectorate staff of the Commission, its broadcast facilities including equipment, station</p>		

PROVISION OF THE ACT	PROPOSED AMENDMENT	REMARKS
<p>transmission log, programmes and transmission recordings which must be kept at least 3 months before being discarded.</p> <p>10. A licence may be revoked by the Commission in the following cases, that is-</p> <p>(a) where the prescribed fee has not been paid on the due date;</p> <p>(b) where the licence has not been put to use within a period of one year after issuance;</p> <p>© where it is found that the licence was obtained in breach of the provisions of section 13 of this Act or where it is found that the provisions of the said section are not being complied with;</p> <p>(d) where in the opinion of the Commission the station has been used in a manner detrimental to national interest or where a complaint from the public has been upheld after a public hearing instituted by the Commission and whose decision is upheld by a majority of members of the Commission;</p>	<p><i>(a) where the licensee has not paid any part of the prescribed fee after six months following the grant of a licence</i></p>	

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<p>(e) for false statements knowingly made either in the application form or in any statement of fact which may be required pursuant to this Act;</p> <p>(f) where the Commission discovers even after the issuance of a licence, authentic information or facts that would ordinarily preclude the granting of a licence to the licensee;</p> <p>(g) where there is wilful or repeated failure to operate substantially as set forth in the licence;</p> <p>(h) where there is wilful or repeated violation or wilful or repeated failure to observe any provision of this Act or any rule or regulation of the Commission authorised by this Act or by a treaty ratified by the Federal Republic of Nigeria;</p> <p>(i) where there is violation of or failure to observe any cease and desist order issued by the Commission;</p> <p>(j) where there is wilful or repeated failure to allow reasonable access into the premises of any station; and</p> <p>(k) where a provision of the National</p>		

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<p>Broadcasting Code has been seriously breached.</p> <p>11. The public hearing referred to in paragraph 10 (d) may be held at such places as the Commission may determine to be appropriate, and in making such determination, the Commission shall consider whether the public interest, convenience or necessity will be served by conducting the hearing at a place in or in the vicinity of the principal area to be served by the station in question.</p> <p>12. Pursuant to paragraph 11, the Commission shall serve upon the licensee or person involved an order to show cause why an order of revocation, suspension, or any order should not be issued against him and the order to show cause shall contain a statement of the matter with respect to which the Commission is inquiring and shall call upon the said licensee or person to appear before the Commission at such time and place as may be stated in the order outut not less than thirty days after the receipt of such order, to give evidence upon the matter specified therein.</p> <p>13. If, after the hearing, the Commission determines that an order of revocation, suspension</p>	<p><i>The following should be added after 10(k)</i></p> <p><i>(l). The revocation of a licence:</i></p> <p><i>i. shall follow a transparent process with clearly stated criteria that are publicly available</i></p> <p><i>ii. shall not be exercised with reference to or under the instructions of any other authority except that of the commission</i></p> <p><i>(m). there shall be a structure for appeal of regulatory decisions: a high-level committee established within the regulator to consider and decide on appeals from licences, whose decisions could further be subject to judicial review.</i></p>	

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<p>or any such other order should be issued, it shall issue such order, which shall include a statement of the findings of the Commission, the grounds and reasons for the findings and specify the effective date of the order, and cause same to be served on the said licensee or person.</p> <p>14. The Commission may impose a lesser sanction such as a warning or the suspension of a licence as it may deem fit.</p> <p>SUBSIDIARY LEGISLATION</p>		

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