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INTRODUCTION

Nigeria is still in the season of reform of its media industry, particularly the broadcasting sector. In recent years, the Government has concentrated attention on effecting changes in regulatory and legislative frameworks in broadcasting. Twice, the National Broadcasting Code, the main regulatory framework, was reviewed. Then, attention shifted to the main legislative instrument, the National Broadcasting Commission (NBC) Act. Activities reached a peak in June 2021 when the House of Representatives (National Assembly) conducted a Public Hearing.

While the Bill is receiving further legislative action at the National Assembly, conversations are also progressing among other stakeholders. However, it is observed that among the issues less frequently talked about is Accountability, which is very important in contemporary reform processes across the world. It is the subject matter of this edition.

The Place of Accountability in Regulatory Practice

A regulator is a public institution. Responsibilities are committed into its hand and it has obligation to give an account of the conduct of duties in course of fulfilling those responsibilities.

An accountability mechanism can be structured in a variety of ways such as the following:

- i. The regulator is made accountable to a specific public body such as the legislature or a committee of the legislature.
- ii. The regulator is required to report on a regular basis, at specific intervals. Periodic reports could focus on industry developments or trends. Annual reports usually include detailed accounts of the regulator's activities in the year, including budgets and audited financial records.
- iii. The regulator conducts stakeholder and public engagements, usually to strengthen public voice in its decision making.

What The Legislation Currently Provides

1. Section 9(1) of the NBC Act specifies conditions on which the regulators shall grant licenses. The conditions include that applicants should: be corporate bodies incorporated under the Companies and Allied Matters Act or stations owned, established and operated by Federal, State or Local Governments; demonstrate that they are not applying for licence on behalf of foreign interest; comply with the objectives of the National Mass Communication Policy; give undertaking that the licence station shall be used to promote national interest, unity and cohesion.
2. But Section 9(3) provides that compliance with the foregoing provisions in section 9(1) shall not entitle an applicant to the grant of a license.
3. Section 10(d) of the Third Schedule of the Act empowers the, regulator to revoke broadcasting licenses under certain conditions which include: “where in the opinion of the Commission the station has been used in a manner detrimental to national interest”
4. Section 20 provides that the NBC (regulator) “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 preceeding year, and shall include in such report a copy of the audited accounts of the commission for that year and Auditor General report thereon”

What the New Bill Also Provides

The new Bill creates a framework for conduct of public enquiry by the regulator. Section 19E(4) provides that where the Commission decides to hold a public enquiry, it shall publish the notice, “in the manner that it deems appropriate”.

Gaps in the Provisions of the Act and the Bill

1. Information on the licensing processes is not widely available to the public. Over the years, there have been complaints that applicants did not get feedback on the status of their applications from the regulator, even as many applicants waited without being awarded a license.
2. The ground of “national or public interest” on which the regulator may refuse licence renewal is a contested concept and explanation should be provided on specific situations when this would apply.
3. The provision on submission of annual report to the Minister is inadequate. Reporting from such a public agency should not end in the Minister's office. Reporting is an important mechanism of accountability. Annual reports and other reports by the regulator help to provide a picture to various institutions of the state of performance in the regulatory agency and the direction in which regulation is headed.
4. For the purpose of accountability, the provision that the regulator could publish notice of a public inquiry “in the manner that it deems appropriate” is inadequate. The manner of publication should be specified.



Recommendations: What The Bill Should Now Provide on Accountability Mechanisms in Regulation

- a) Some new provisions should be added to existing ones in Section 9 of the Act which deals with the Commission's power on granting of licences. These are that: the Commission should periodically publish its licensing process; provide regular feedback to licence applicants; specify situations that could warrant licence denial; ensure transparency and full independence of the regulator if taking decision on revocation of licence; and create space for appeal of regulatory decisions.
- b) Informing the public of plan to conduct public inquiry by NBC should be done through media that have extensive nationwide reach. Hence, Section 19E (4) of the bill should be reviewed to include the publishing of notice of public inquiries through such media as newspapers, radio and television with national circulation and coverage.
- c) In addition to Annual Reports provided for in Section 20 of the Act, the Commission should prepare periodic reports, submit to the Presidency and National Assembly, and disseminate to the public.

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