ANALYSIS OF THE NATIONAL BROADCASTING COMMISSION (AMENDMENT) BILL, 2023 (HB 620).

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An analysis of the National Broadcasting Commission (Amendment) Bill, 2023 (HB. 620), sponsored by Hon. Benjamin Okezie Kalu and seven other co-sponsors*, assessing the financial structure of the Commission*

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1. BACKGROUND OF THE BILL

The National Broadcasting Commission (NBC) was established by the NBC Act of 1992, Cap N11, Laws of the Federation of Nigeria 2004, as the statutory regulatory body overseeing Nigeria's broadcasting industry. Among its numerous functions, the Commission is responsible for licensing, monitoring, and regulating the broadcast sector, including both public and private operators. Section 14 of the NBC Act provides for the establishment of a fund for the Commission and outlines the sources of its financing namely, levies from licensees, government subventions, and other financial inflows[1]. The fund is intended to support the Commission's administrative and regulatory activities and is to be managed in accordance with rules set by the NBC[1] *(Section 14(3))*. However, there is no express legal requirement for these funds to be remitted to the Federation Account.

According to Section 162(1) of the 1999 Constitution (as amended), all revenues collected by the Federation including those generated by government agencies, must be paid into the Federation Account[2]. In response, the National Broadcasting Commission Act (Amendment) Bill, 2023 (HB 620) sponsored by Hon. Benjamin Kalu alongside other co-sponsors was introduced in the House of Representatives to align the NBC's financial management practices with constitutional provisions. Specifically, the Bill seeks to amend Section 14 of the NBC Act to mandate that all funds received by or on behalf of the Commission be paid into the Federation Account within 24 hours of receipt or by the next working day[3].

This proposed amendment is part of a broader effort to enhance financial discipline, accountability, and transparency across federal institutions. It also prompts a deeper reflection on the delicate balance between safeguarding institutional independence and ensuring robust public financial oversight within Nigeria's regulatory framework. Notably, the amendment aligns with similar reforms proposed across other statutory

bodies to enhance accountability in the collection and management of public funds[4].

2. KEY PROVISIONS OF THE BILL

The Bill primarily focuses on amending Section 14 of the National Broadcasting Commission Act (Cap. N11, LFN 2004) to ensure the remittance of all NBC revenues into the Federation Account[3]. It does not seek to alter other sections or the core regulatory functions of the Commission beyond this financial provision.

a. The bill proposes a complete replacement of the existing Section 14 with a new section that redefines the sources and management of the NBC's funds.

b. The new Section 14(1) proposes the sources of the Commission's funds, which include:

   i. Federal Government allocations (budgetary provisions, subventions, grants- in-aid, loans).

   ii. Loans, grants, or gifts from other governments, NGOs, or individuals.

   iii. All other revenues (fees, trust funds, levies, taxes, penalties, gifts, testamentary dispositions, etc.).

c. The new Section 14(2) mandates that all funds received by or on behalf of the NBC must be paid into the Federation Account within 24 hours of receipt or on the next working day.

d. The primary objective of the amendment is to align the NBC's revenue management with Section 162 of the 1999 Constitution (as amended), which requires that all revenues generated by agencies of the federal government be paid into the Federation Account. This amendment would eliminate NBC's discretion to retain or spend internally generated revenue such as fees, levies, and penalties, outside of the federal treasury framework.

3. LEGAL AND POLICY IMPLICATIONS OF THE BILL

a. Financial Centralization and Constitutional Compliance

The amendment to NBC act is relying on the constitutional requirement under Section 162(1), which mandates that revenue generated by any agency of the federal government be remitted into the Federation Account[2]. While this ensures constitutional compliance, it removes the NBC's direct control over its funds, potentially creating bureaucratic delays in accessing resources for operations. This, however, curbs the autonomy of agencies in retaining and disbursing internally generated revenue (IGR)[5].

b. Financial Control and Transparency

By compelling NBC to remit all funds, the amendment seeks to enhance fiscal transparency, accountability, and central oversight of public finances. This potentially reduces mismanagement or unilateral disbursement of funds by the Commission.

c. Operational Financial Autonomy

The proposed amendment may introduce operational constraints by limiting the NBC's ability to independently allocate funds for essential functions such as monitoring, enforcement, and infrastructure upgrades, thereby increasing its reliance on federal budgetary approvals. The Commission also could face delays in accessing appropriated funds, which may hamper timely enforcement of its regulatory functions, especially in a fast-evolving media landscape. Additionally, the lack of direct access to funds and retained earnings previously used for swift, needs-based responses, could reduce the Commission's flexibility, slow decision-making processes, and ultimately weaken its regulatory effectiveness, especially in areas like digital migration and online media regulation[6].

d. Impact on Broadcasting Industry

The amendment may create funding uncertainty for broadcasters, as the NBC's budget may become subject to broader political prioritization, potentially undermining its stability and effectiveness. The 2021 IMS report emphasized the need for secure, independent funding through a "first-line charge" mechanism, an issue this amendment fails to address[5]. Furthermore, the NBC's enforcement capacity could be weakened if fines and penalties, such as those imposed for code violations, are absorbed into general federal revenues rather than being reinvested to address sector-specific regulatory and development needs.

e. Legal Conflict

The 24-hour remittance rule may be impractical for large or irregular payments, raising compliance risks and potential legal disputes.

f. Policy Implications for Media Freedom

Centralized control of NBC funds could heighten the risk of political interference, thereby undermining the Commission's neutrality, an issue often highlighted in critiques of Nigeria's authoritarian-era broadcasting policies. This perceived lack of autonomy may also deter both foreign and domestic investors, who could see the regulator as vulnerable to political influence, ultimately discouraging investment in Nigeria's media sector[7].

4. OBSERVATIONS ON THE BILL

I. The bill is narrow in scope, addressing only financial management without reviewing broader governance, structural, or regulatory issues affecting the NBC's effectiveness.

ii. The provision requiring remittance "*within 24 hours or the next working day*" is stringent and may pose practical difficulties, especially in complex financial transactions or revenue reconciliation processes.

iii. The amendment does not provide mechanisms and timeline for ensuring timely release of funds to the NBC for its operational needs after remittance.

5. RECOMMENDATIONS

A. Safeguarding Operational Funding and Regulatory Independence

To maintain the NBC's effectiveness, the amendment should include provisions that guarantee timely and adequate disbursement of funds from the Federation Account, enabling the Commission to fulfil its core mandates without disruptions. One approach is to establish a "first-line charge" on the Federation Account for the NBC, ensuring predictable and autonomous funding.

B. Clarify Funding Streams:

The bill should explicitly address how existing levies and fees collected from broadcasters will be managed and accessed by the NBC. Also, the development of clear guidelines would prevent legal ambiguities and ensure that funds meant for regulatory purposes are not diverted or delayed.

C. Strengthen Oversight Without Undermining Autonomy

Rather than full remittance to the Federation Account, the bill should consider a hybrid model where a percentage of NBC's revenue can be retained for self-financing specific operations, subject to strict audit and oversight.

D. Implement Robust Oversight Mechanisms:

To balance accountability with operational flexibility, the

amendment could introduce periodic auditing and reporting requirements for the NBC. This would ensure transparency in fund utilization without undermining the Commission's independence

6. CONCLUSION

The National Broadcasting Commission Act (Amendment) Bill, 2023 (HB 620) is a constitutionally motivated and accountability-driven amendment aimed at streamlining public revenue management. However, without corresponding administrative safeguards, the amendment risks constraining the NBC's operational function and responsiveness to regulatory demands. Therefore, a more holistic reform agenda, balancing financial transparency with regulatory autonomy, is recommended to ensure the NBC's efficiency and independence are preserved in Nigeria's complex and evolving media landscape.

Reference

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