

NIGERIAN POSTAL COMMISSION BILL, 2015

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SCHEDULES

# A BILL

## FOR

AN ACT TO REPEAL THE NIGERIAN POSTAL SERVICE ACT CAP N127 LFN 2004, AND ESTABLISH THE NIGERIA POSTAL COMMISSION TO MAKE COMPREHENSIVE PROVISIONS FOR THE DEVELOPMENT AND REGULATION OF POSTAL SERVICES AND FOR OTHER RELATED MATTERS

*Sponsored by Hon. Gideon L. Gwani*

[ . . . ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

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### PART I - OBJECTIVES AND APPLICATION

1. -(1) The objectives of this Act are to:

Objectives and scope of application

(a) implement the National Postal Policy as may, from time to time, be modified and amended;

(b) establish a regulatory framework for the Nigerian postal industry and for this purpose to create an effective, impartial and independent regulatory authority;

(c) promote the provision of a modern universal, efficient, reliable, affordable and easily accessible postal services with the widest range and coverage throughout Nigeria;

(d) encourage local and foreign investments in the Nigerian postal industry and the introduction of innovative services and practices in the industry in accordance with international best practices and trends;

(e) ensure fair competition in all sectors of the Nigerian postal industry and encourage participation of Nigerians in the ownership, control and management of postal organizations;

(f) encourage the development of postal-manufacturing and supply sector within the Nigerian economy and promote effective research and development effort by all postal industry practitioners;

(g) protect the right and interest of service providers and

1 consumers within Nigeria;

2 (h) ensure that the needs of the disabled and elderly persons are  
3 taken into consideration in the provision of postal services;

4 (i) ensure an efficient management including planning,  
5 coordination, allocation, assignment, registration, monitoring and use of  
6 national resources in the postal sub-sector and also promote and safeguard  
7 national interests, safety and security; and

8 (j) do such other things that are incidental to the attainment of the  
9 above stated objectives.

10 (2) This Act applies to all activities within or associated with the  
11 provision and use of all postal services and networks, in whole or in part within  
12 Nigeria.

#### 13 PART II - ESTABLISHMENT OF THE NIGERIAN POSTAL COMMISSION

Establishment  
of the Nigerian  
Postal Commission

14 2.-(1) There is established a body to be known as the Nigerian  
15 Postal Commission (in this Act, referred to as "the Commission").

16 (2) The Commission:

17 (a) shall be a body corporate with perpetual succession and a  
18 common seal;

19 (b) may sue or be sued in its corporate name

20 (c) shall be structured into departments as the Commission may,  
21 from time to time, deem appropriate for the effective discharge of its functions.

Membership of  
the Commission

22 3.-(1) The Commission shall consist of the following:

23 (a) a part time Chairman;

24 (b) the two Executive Directors of the Commission;

25 (c) three part time members; and

26 (d) the Director-General of the Commission.

27 (2) The Chairman and members of the Commission shall be  
28 appointed by the President on the recommendation of the Minister.

29 (3) Members of the Commission shall be persons with recognised  
30 qualification and experience in the field of postal matters, transport and logistic



1 management, law, accountancy, economics, finance or administration.

2 (4) The provisions of the first schedule to this Act shall have  
3 effect as to the proceedings of the Commission and other matters contained  
4 therein.

5 (5) The conflict of interest provisions contained in the second  
6 schedule to this Act shall apply to the members of the Commission.

7 4. Members of the Commission shall be appointed for a term of Tenure of office  
8 4 years in the first instance and may be reappointed for another term of 4  
9 years and no more.

10 5. Members of the Commission shall be paid such allowances Allowances of  
11 and benefits as may from time to time be determined by the Federal Government members  
12 in accordance with extant laws and regulations.

13 6.-(1) The office of a member of the Commission shall become Cessation of  
14 vacant where: membership

15 (a) his term of office expires;

16 (b) he resigns his office by a notice in writing under his hand  
17 addressed to the President;

18 (c) he is incapable of performing the functions of his office due  
19 to mental or physical illness;

20 (d) he becomes bankrupt;

21 (e) he has been convicted of a felony or any offence involving  
22 dishonesty;

23 (f) he is guilty of gross misconduct relating to his duties;

24 (g) in the case of an ex-officio member, he ceases to hold the  
25 office on the basis of which he became a member of the Commission;

26 (h) in the case of a person who possesses professional  
27 qualification, he is disqualified or suspended from practicing his profession  
28 in Nigeria by an order of a competent authority; or

29 (i) he dies;

30 (2) Notwithstanding the provisions of subsection (1) of this

1 section, the President may remove or suspend a member of the Commission if  
2 he is satisfied that it is not in the interest of the Commission or of the public for  
3 the member to continue in office.

4 (3) Where a vacancy occurs in the membership of the Commission,  
5 the President shall appoint a successor to hold office for the unexpired term of  
6 his predecessor and the successor shall be from the same geographical zone as  
7 that member whose exit created the vacancy.

8 PART III - FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the  
Commission

9 7.-(1) The Commission shall:

10 (a) have the sole and exclusive responsibility for the regulation and  
11 supervision of the postal sector;

12 (b) facilitate investments in and entry into the Nigerian market for  
13 the provision and supply of postal services, equipment and facilities;

14 (c) protect and promote the interests of consumers against unfair  
15 practices including but not limited to matters relating to tariffs and charges for  
16 and the availability and quality of postal services;

17 (d) ensure that licensees implement and operate at all times the  
18 most efficient and accurate tariff system;

19 (e) promote fair competition in the postal industry and protection of  
20 postal services and facilities providers from misuse of market power or anti-  
21 competitive and unfair practices by other service or facilities providers or  
22 equipment suppliers;

23 (f) grant and renew postal licences, in accordance with the  
24 provisions of this Act and monitoring and enforcing compliance with license  
25 terms and conditions by licensees;

26 (g) propose and effect amendments to licence conditions in  
27 accordance with the objectives and provisions of this Act;

28 (h) undertake general responsibility for economic and technical  
29 regulation of the postal industry;

30 (i) ensure efficiency and effectiveness of the postal sector;

1 (j) undertake such other activities which are necessary or  
2 convenient for the enhanced performance of the objectives of this Act and  
3 the functions of the Commission.

4 **8. Powers**

5 In carrying out its functions under this Act, the Commission shall have  
6 power to:

7 (a) fix and collect fees for grant of postal licences and for other  
8 regulatory services provided by it under this act;

9 (b) develop and monitor performance standards, and indices  
10 relating to the quality of postal services and facilities supplied to consumers  
11 in Nigeria having regard to the best international performance indicators;

12 (c) make and enforce regulations and guidelines in accordance  
13 with Part XV of the Act as may be necessary to give effect to the objectives  
14 of this Act;

15 (d) liaise with any relevant government authority or agency in  
16 the naming and numbering of streets, buildings and facilities;

17 (e) formulate and manage Nigerian inputs into the setting of  
18 international technical standards for postal services and equipment;

19 (f) encourage and promote infrastructure sharing amongst  
20 licensees and provide regulatory guidelines thereon;

21 (g) examine and resolve complaints, objections and disputes  
22 between licensed operators, consumers or any other person involved in the  
23 postal industry, using such dispute-resolution methods as the Commission  
24 may determine from time to time, including mediation and arbitration;

25 (h) prepare and implement programmes and plans that promote  
26 and ensure the development of the postal industry and the provision of postal  
27 services in Nigeria;

28 (i) design, manage and implement universal postal service  
29 strategy and programme in accordance with Federal Government's general  
30 policy and objectives thereon;

- 1 (j) advise the Minister on the formulation of the general policies for  
2 the postal industry and generally on matters relating to the postal industry in the  
3 exercise of the Minister's functions and responsibilities under this Act;
- 4 (k) implement Government's general policies in the postal industry  
5 and the execution of all such other functions and responsibilities as may be  
6 conferred on the Commission under this Act or are incidental or related thereto;
- 7 (l) advise and assist the postal industry stakeholders and  
8 practitioners with a view to the development of the industry and attaining the  
9 objectives of this Act and its subsidiary legislation;
- 10 (m) represent Nigeria at proceedings of international organisations  
11 and fora on matters relating to regulation of postal services and matters  
12 ancillary and connected thereto;
- 13 (n) conduct market research on the following and other related  
14 matters:
- 15 (i) the extent of the development of Nigerian postal industry;
- 16 (ii) public Postal Operator needs;
- 17 (iii) quantitative and qualitative characteristics of demand for  
18 postal service;
- 19 (iv) economic, operational and labour-related data on postal  
20 operators;
- 21 (v) the level of technological development of postal operators;
- 22 (vi) an analysis of the current legal framework for the postal sector;  
23 including provisions with respect to competition and consumers;
- 24 (vii) the technical and economic viability of postal service  
25 enterprises;
- 26 (viii) the quality of postal services rendered by the different service  
27 operators doing business in the postal market;
- 28 (ix) universal postal service standards;
- 29 (x) the scope of universal postal services rendered by the public  
30 postal operator;

- 1 (xi) supply and demand for universal services;  
2 (xii) standards of quality and prices in the postal market;  
3 (xiii) the level of investment in the postal sector;  
4 (xiv) development plans and the level of investment by the  
5 universal service operator, and  
6 (xv) publishing the result of the market study;  
7 (o) establish and administer appropriate pricing system for  
8 service offerings on the postal market including:  
9 (i) universal postal services provided by the public postal service  
10 operator, and  
11 (ii) services open to competition provided by all postal operators  
12 including the public operator;  
13 (p) define, delimit and design the content and scope of, measures  
14 and activities required for the provision of Universal Postal Services; and  
15 (q) participate in Universal Postal Union activities and projects  
16 aimed at developing Universal Postal Service costing and pricing  
17 methodologies.

18 9. The Commission shall at all times carry out its functions and  
19 duties and exercise its powers under this Act efficiently, effectively and in a  
20 non-discriminatory and transparent manner and in a way that is best  
21 calculated to ensure that there are provided throughout Nigeria, subject to  
22 the regulatory controls specified in this Act, all forms of postal services,  
23 facilities and equipment on such terms and subject to such conditions as the  
24 Commission may, from time to time, specify.

Transparency

25 PART IV - STAFF OF THE COMMISSION

26 10. -(1) The Director-General shall be:

- 27 (a) the chief executive and accounting officer of the  
28 Commission;  
29 (b) responsible for the execution of the policies and decisions of  
30 the Commission; and

Appointment of  
the Director-  
General

1 (c) responsible for the day-to-day management and supervision of  
2 the activities of the Commission.

3 (2) The Director-General shall be a professional with recognised  
4 qualification and experience in the field of postal matters, transport and  
5 logistics management, law, accountancy, finance or administration.

Appointment of  
Executive  
Directors

6 **11.-(1)** There shall be for the Commission, two Executive Directors  
7 to be appointed by the President on the recommendation of the Minister.

8 (2) The Executive Directors shall:

9 (a) be professionals with recognised qualification and experience  
10 in the field of postal matters, transport and logistic management, law,  
11 accountancy, finance or administration;

12 (b) perform such duties as the Commission or Director-General  
13 may from time to time assign to them; and

14 (c) hold office:

15 (i) for a term of 4 years in the first instance and may be re-appointed  
16 for another term of 4 years and no more;

17 (ii) on such terms and conditions as may be specified in their letters  
18 of appointment.

Appointment  
of Secretary

19 **12. -(1)** There shall be for the Commission, a Secretary to be  
20 appointed by the Commission.

21 (2) The Secretary shall:

22 (a) be a legal practitioner with at least 10 years post call  
23 experience;

24 (b) keep the corporate records of the Commission;

25 (c) conduct the correspondence of the Commission;

26 (d) perform such other duties as the Chairman or the Commission  
27 may from time to time assign to him.

Other Staff of  
the Commission

28 **13.-(1)** The Commission may appoint either directly, on  
29 secondment or transfer such number of employees as it considers expedient for  
30 the carrying out of its functions.

1 (2) The members of staff of the Commission shall be public  
2 officers as defined in the Constitution of the Federal Republic of Nigeria.

3 14. -(1) The Commission may make regulations relating  
4 generally to the conditions of service of the employees of the Commission,  
5 such regulations may provide for the appointment, promotion, termination,  
6 dismissal and discipline of the employees of the Commission.

Conditions of  
Service and  
Pension

7 (2) The Commission shall in consultation with the National  
8 Salaries, Incomes and Wages Commission determine and review from time  
9 to time, the remunerations and allowances, payable to the staff of the  
10 Commission.

11 (3) The Conflict of Interest provisions contained in the Second  
12 Schedule to this Act shall apply to all employees of the Commission.

13 (4) Service in the Commission shall be approved service for the  
14 purposes of the Pension Reform Act and accordingly, officers and other  
15 persons employed in the Commission shall in respect of their services in the  
16 Commission, be entitled to pensions, and other retirement benefits as are  
17 enjoyed by persons holding equivalent grades in the Civil Service of the  
18 Federation.

19 (5) Nothing in this Act shall prevent the appointment of a person  
20 to any office on terms which preclude the grant of pension and gratuity in  
21 respect of that office.

#### 22 PART V - FINANCIAL PROVISIONS

23 15. -(1) The Commission shall establish and maintain a Fund  
24 (hereinafter referred to as "the Fund") from which all expenditures incurred  
25 by the Commission shall be defrayed.

Fund of the  
Commission

26 (2) The Fund shall consist of:

27 (a) such monies as may be appropriated to the Commission from  
28 time to time by the National Assembly;

29 (b) fees charged by the Commission under this Act or regulations  
30 issued pursuant to this Act or under any licence issued under the provisions

1 of this Act;

2 (c) such monies as may be received by the Commission by way of  
3 gifts, loans, grants, aids;

4 (d) all other assets that may, from time to time, accrue to the  
5 Commission;

6 (e) 2.5 percent of the annual turnover of the respective licensees;

7 (f) fines and administrative charges; and

8 (g) all other monies which may from time to time accrue to the  
9 Commission.

10 (3) The proceeds of the Funds of the Commission shall subject to  
11 the provisions of section 17 of this Act be applied:

12 (a) to meet the administrative and operating costs of the  
13 Commission;

14 (b) for the payment of salaries, wages, fees, allowances, retirement  
15 benefits including pensions and any other remuneration payable to the  
16 Commissioners and staff of the Commission;

17 (c) for the purchase or acquisition of property or other equipment  
18 and other capital expenditure and for maintenance of any property acquired or  
19 vested in the Commission under this Act or any order, rules and regulation  
20 made pursuant to this Act;

21 (d) for purposes of investment; and

22 (e) for or in connection with all or any of the functions of the  
23 Commission under this Act or under any order, rule or regulations made  
24 pursuant to this Act.

25 (4) Any excess of the Commission's revenue for any year over the  
26 approved expenditure for that year shall be remitted to the Consolidated  
27 Revenue Fund.

Power to borrow  
and accept gifts

28 16.-(1) The Commission may, with the approval of the Minister,  
29 borrow by way of loan or over draft such monies as the Commission may  
30 require in the exercise of its functions.



1                   (2) The Commission may accept gifts or grants of money or aids  
2                   or other property from national, bilateral and multi-lateral organisations and  
3                   upon such terms and conditions, if any, as may be agreed upon between the  
4                   donor and the Commission provided that such gifts are not inconsistent with  
5                   the objectives and functions of the Commission under this Act.

6                   **17.-(1)** The Commission shall not later than 30th September in  
7                   each financial year prepare and present to the National Assembly through  
8                   the Minister for approval, a statement of estimated income and expenditure  
9                   for the following financial year.

Budget and  
Expenditure

10                   (2) Notwithstanding the provisions of subsection (1) of this  
11                   section, the Commission may, in any financial year, submit supplementary  
12                   or adjusted statements of estimated income and expenditure to the President  
13                   through the Minister for appropriation.

14                   **18.-(1)** The financial year of the Commission shall commence  
15                   on 1st January of each year and end on 31st December of the same year.

Financial Year  
and Audit of the  
Commission's  
Account

16                   (2) The Commission shall keep proper records of its accounts for  
17                   each year and shall cause its accounts to be audited within 6 months from the  
18                   end of each financial year by auditors whose appointment shall be approved  
19                   by the Commission and are on the list of auditors approved from time to time  
20                   by the Auditor-General for the Federation.

21                   **19.-(1)** The Commission shall prepare and submit to the  
22                   President annually, through the Minister, not later than 6 months after the  
23                   end of its financial year, a report on the activities of the Commission for the  
24                   preceding financial year and shall include therein the Commission's audited  
25                   accounts for the year under review together with the auditor's report therein;  
26                   and

Annual Reports  
to the President

27                   (2) In addition to any report which the Commission is required  
28                   by this Act to submit to the Minister, the Commission shall, subject to  
29                   subsection (2) of section 23 of this Act, either at its own instance or at the  
30                   request of the Minister submit to the Minister such other reports as the

|                                  |    |  |
|----------------------------------|----|--|
|                                  | 1  | Minister may require.  |
| Exemption from Taxation          | 2  | 20. The provisions of any enactment relating to the taxation of                  |
|                                  | 3  | companies or trust Funds shall not apply to the Commission                       |
|                                  | 4  | PART VI - RESPONSIBILITIES OF THE MINISTER AND                                   |
|                                  | 5  | FORMULATION OF POLICY  |
| Responsibilities of the Minister | 6  | 21. The Minister shall:  |
|                                  | 7  | (a) formulate, determine and monitor, the general policy for the                 |
|                                  | 8  | postal sector in Nigeria to ensure, amongst other things, the utilisation of the |
|                                  | 9  | sector as a platform for the economic and social development of Nigeria;         |
|                                  | 10 | (b) be responsible for the negotiation and execution of international            |
|                                  | 11 | postal treaties and agreements, on behalf of Nigeria, between sovereign          |
|                                  | 12 | countries and international organisations and bodies;                            |
|                                  | 13 | (c) represent Nigeria, in conjunction with the Commission and the                |
|                                  | 14 | designated postal operator at proceedings of international organisations and     |
|                                  | 15 | fora on matters relating to postal industry;                                     |
|                                  | 16 | (d) establish the broad policy framework for universal service with              |
|                                  | 17 | respect to basic and advanced postal services;                                   |
|                                  | 18 | (e) formulate and review broad structural and institutional                      |
|                                  | 19 | frameworks for the postal industry;  |
|                                  | 20 | (f) support the applications by postal sector operators seeking for              |
|                                  | 21 | exemption from the use of any Form which exemption is allowed and Risk           |
|                                  | 22 | Assessment Report and other similar requirements from the appropriate            |
|                                  | 23 | institution to expedite the timely delivery of express cargo or courier items;   |
|                                  | 24 | and  |
|                                  | 25 | (g) upon being satisfied that express or courier items have been                 |
|                                  | 26 | inspected by relevant law enforcement agencies at designated sheds, bonded       |
|                                  | 27 | warehouses and other such inspection centres, support the application by         |
|                                  | 28 | postal sector operators to the appropriate authorities from law enforcement      |
|                                  | 29 | agencies, state and local Government operators.                                  |
| Formulation of Policy            | 30 | 22.-(1) Prior to the formulation or the review of the general policy             |

1 for the Nigerian postal sector, the Minister may, if he deems fit and proper  
2 cause the Commission on his behalf to first carry out a public consultative  
3 process on the proposed policy formulation or modification.

4 (2) In formulating and determining the policy or amendments  
5 thereto, the Minister shall take into consideration the findings of the  
6 consultative process referred to in subsection (1) of this section.

7 23.-(1) Subject to the provision of subsection (2) of this section,  
8 the Minister shall in writing, from time to time, inform the Commission on  
9 the general policy direction of the Federal Government for the postal sector.

Independence of  
the Commission

10 (2) In the exercise of his responsibilities under this Act, the  
11 Minister shall at all times ensure that the independence of the Commission,  
12 regarding the discharge of its functions and operations under this Act, is  
13 protected and not compromised in any manner whatsoever.

14 PART VII - LICENCES

15 24. Subject to the provisions of this Act, the Commission shall  
16 be responsible for granting licences for the carrying on of postal services  
17 under this Act and for the period specified in the licences.

Power to grant  
licence

18 25. -(1) A person, unless registered as a company and holds a  
19 licence under this Act, shall not:

Operation of  
postal services

20 (a) operate a postal system or facility; or

21 (b) provide and operate courier service in Nigeria.

22 (2) Notwithstanding the provisions of subsection (1) of this  
23 section, a company operating a courier service may apply to the  
24 Commission within six months of the commencement of this Act to be  
25 licensed under the provisions of this Part.

26 26.-(1) The Commission shall, from time to time, determine and  
27 publish, for the information of the general public, the criteria for  
28 qualification and the list of persons qualified to be licensed to operate postal  
29 services with the applicable terms and conditions.

Commission to  
publish criteria

30 (2) The Commission shall also publish the list of persons that are

1 exempted from licencing or entitled to enjoy benefits from licences issued.

2 (3) The Commission shall in the formulation of licensing  
3 procedures, issuance of licences and preparation of licence conditions and  
4 terms have consideration for:

5 (a) transparency, fairness and non-discrimination;

6 (b) the promotion of competition and investment in the postal  
7 industry;

8 (c) the requirement of the provision of modern, qualitative,  
9 affordable and readily available postal services in all parts of Nigeria; and

10 (d) such other principles and considerations as the Commission  
11 may, from time to time, consider necessary in the national interest.

12 (4) In determining the criteria for qualification and licensing, the  
13 Commission shall, at all times ensure that the existing licensees as at the date of  
14 such determination do not suffer any disadvantage except as may be permitted  
15 under this Act or regulations made under this Act.

Modification of  
particulars,  
standards, of  
licence etc.

16 27. The Commission may, whenever necessary modify such  
17 particulars, standards or requirement generally or in relation to a particular case  
18 or category for the purpose of giving effect to this Act.

#### 19 PART VIII - LICENSE CONDITIONS

Register of  
licenses

20 28. The Commission shall keep a register of all licences issued  
21 under this Act.

Declaration by  
the Commission  
on licences

22 29.-(1) The Commission may, from time to time, make written  
23 declarations that a licence or category of licences is subject to such terms,  
24 conditions and durations or enjoys such benefits, as the Commission may from  
25 time to time determine.

26 (2) Any declaration on the conditions of licence shall be consistent  
27 with the objectives of this Act and relevant to the particular undertaking, matter  
28 or activity.

Affected licensee

29 30. -(1) The Commission shall, before making a declaration under  
30 section 29 of this Act, give the affected licensees written notice of its intention

1 to do so together with a draft copy of the declaration, and the licensees may  
2 make written submissions to the Commission in respect thereof within the  
3 time period specified by the Commission but not less than thirty days from  
4 the date of the service of the notice.

5 (2) The Commission shall, in deciding on the next course of  
6 action, take into consideration any submission made by the affected  
7 licensees and of the provisions of this Act.

8 31. The Commission shall register every declaration as soon as  
9 practicable and shall further maintain a register of all such declarations.

Commission to  
register  
declaration

10 32.-(1) The Commission may modify the conditions of a licence  
11 as considered appropriate.

Commission to  
amend, licence  
etc. condition or  
declaration

12 (2) Prior to making modifications under this section, the  
13 Commission shall:

14 (a) give notice of the modifications; and

15 (b) consider any representation made in accordance with a  
16 notice.

17 (3) The notice referred to in subsection (2) (a) of this section  
18 shall state:

19 (a) the proposed modifications;

20 (b) the effect of the modifications;

21 (c) the reason for the modifications; and

22 (d) the period, at least 28 days starting with the date of  
23 publication of the notice, within which representations may be made in  
24 relation to the proposed modifications.

25 (4) A notice issued under subsection (2) of this section shall be  
26 given by:

27 (a) serving a copy of the notice on the licensee; and

28 (b) publication of the notice in such manner as the Commission  
29 considers appropriate for the purpose of bringing the matters to which the  
30 notice relates to the attention of persons likely to be affected by them.

1 (5) Thirty days after making modifications under this section, the  
2 Commission shall send a copy of the modifications to the licensee.

3 (6) The Commission may at any time revoke any licence condition  
4 or declaration pertaining to a licence.

5 (7) The procedures set out in sections 28, 29 and 30 of this Act shall  
6 apply in respect of any amendment, modification, variation or revocation of a  
7 licence condition or declaration.

Assignment of  
licences and  
compliance with  
license conditions

8 **33.-(1)** The grant of a licence shall be personal to the licensee and a  
9 licence shall not be operated, assigned, sub-licensed or transferred to any other  
10 person without the prior written approval of the Commission.

11 (2) A licensee shall at all times comply with the terms and  
12 conditions of the licence and the provisions of this Act or regulations made  
13 under this Act.

14 PART IX - RENEWAL AND REVOCATION

Processing of  
applications

15 **34.** The Commission shall, within 90 days of receiving an  
16 application for a license under this Act, inform the applicant by written notice:

17 (a) whether or not the licence has been granted;

18 (b) in the event of a grant, of any special or additional conditions  
19 that apply to the licence; and

20 (c) in the event that the application has been refused, the reasons for  
21 the refusal.

Renewal of  
licence

22 **35. -(1)** The licensee may apply for the renewal of a licence at least  
23 6 months prior to its expiration and the renewal fee, to be determined by the  
24 Commission, shall be payable upon approval of the application.

25 (2) The Commission may refuse an application for the renewal of a  
26 licence if the licensee has failed to comply with:

27 (a) the terms and conditions of the licence;

28 (b) the provisions of this Act or regulations made pursuant to this  
29 Act; or

30 (c) any instrument issued, made or given by the Commission in

1 connection with the licence, its terms and conditions.

2 (3) Where the Commission has no intention of renewing the  
3 licence, the Commission shall:

4 (a) inform the licensee by notice in writing not later than 3  
5 months from the date of receipt of the application for renewal of the licence  
6 of its intention not to renew the license; and

7 (b) publish such intention at least 30 days before the expiry of the  
8 licence.

9 (4) The Commission shall give the affected licensee a reasonable  
10 opportunity to make written submissions to it within a time period specified  
11 in the notice and such time period shall not be less than 14 days from the date  
12 of receipt of notice.

13 (5) The affected licensee may within the time period specified in  
14 the notice forward a written submission to the Commission for  
15 consideration.

16 36.-(1) A licensee may, by a written notice, surrender his licence  
17 to the Commission at any time in accordance with the requirements set out in  
18 the individual licence.

Surrender of  
licence

19 (2) The surrender shall take effect on the date the Commission  
20 receives the licence or where a later date is specified in the notice, on the date  
21 specified in the notice.

22 (3) The surrender of a licence shall be irrevocable unless it is  
23 expressed to take effect on a later date and before that date the Commission,  
24 by notice in writing to the licensee, allows the surrender to be withdrawn.

25 37.-(1) The Commission may, by declaration suspend or revoke  
26 a licence granted under this Act in any of the following circumstances where  
27 the:

Suspension or  
revocation of  
licence

28 (a) Licensee has failed to pay any amount or fine required by or  
29 imposed on the Licensee under this Act;

30 (b) Licensee has failed to comply with the provisions of this Act

1 or regulations made pursuant to this Act or the terms and conditions of the  
2 licence;

3 (c) Licensee has contravened the provisions of any other law  
4 relevant to the postal industry;

5 (d) Licensee has failed to comply with any instrument issued, made  
6 or given by the Commission;

7 (e) Licensee has ceased to be a person qualified to hold the licence;

8 (f) Licensee is adjudged to have committed any fraud or intentional  
9 misrepresentation at the time of applying for the licence;

10 (g) suspension or revocation is in the public interest.

11 (2) Notwithstanding any other provisions contained in this Act, a  
12 licence may be suspended or revoked under subsection (1) of this section only  
13 after:

14 (a) the Commission has, by written notice, informed the licensee of  
15 the breach of the provision of subsection (1) of this section and demanded that  
16 the breach be rectified, if it is capable of rectification, within 60 days from the  
17 date of the notice; and

18 (b) the licensee has failed to rectify the breach within the time-  
19 frame stipulated in paragraph (a) of this subsection.

20 (3) Prior to the suspension or revocation of a licence under  
21 subsection (1) of this section, the Commission shall inform the licensee by  
22 written notice, as soon as practicable, of its intention to suspend or revoke the  
23 licence and the Commission shall give reasons for the decision taken in this  
24 respect.

25 (4) The licensee concerned shall be given a reasonable opportunity  
26 to make written submission to the Commission within a time period specified  
27 in the notice and such time period shall not be less than 14 days from the date of  
28 the notice.

29 (5) The affected licensee may, within the time period specified in  
30 the notice, forward a written submission and the Commission shall consider



1 the submission in making its final determination and declaration on the  
2 suspension or revocation of the licence.

3 (6) Subject to subsections (4) and (5) of this section, the  
4 suspension or revocation of the licence shall take effect on the expiration of  
5 30 days from the date on which the notice of the Commission's declaration  
6 under subsection (3) of this section in respect of the suspension or  
7 revocation is served on the licensee.

8 (7) Where the suspension or revocation of a licence has taken  
9 effect, the Commission shall, as soon as practicable, cause the suspension or  
10 cancellation to be published in at least two widely circulated national daily  
11 newspapers.

12 (8) Any delay or failure to publish the notice of suspension or  
13 revocation shall not in any manner affect the validity of the suspension or  
14 revocation.

15 **38.-(1)** In the event of a suspension of a licence, the Commission  
16 shall determine and communicate to the licensee the duration of the  
17 suspension and the penalties that shall be imposed in consequence of the  
18 suspension, which may include closure of the business place.

Effect of  
suspension,  
surrender and  
revocation of a  
licence

19 (2) In determining the duration of and penalties consequent upon  
20 suspension of a licence, the Commission shall take into consideration,  
21 amongst other factors, the gravity of the breach that necessitated the  
22 suspension and any mitigating circumstances or conduct thereof.

23 (3) Where the revocation of licence under section 37 of this Act  
24 or the surrender of an individual licence under section 36 of this Act, has  
25 taken effect or where the individual licence has expired, the licensee shall  
26 immediately lose the right to provide any service in respect of which the  
27 licence was granted.

28 (4) Notwithstanding the provisions of subsection (1) of this  
29 section and without prejudice to specific licence conditions, the  
30 Commission may authorize the licensee in writing to continue with

1 provision of any facility or service for such period as the Commission may  
2 specify in the authorisation for the purpose of:

3 (a) winding up the licensee's affairs;

4 (b) relocating the licensee's consumers, to some other licensee as  
5 the Commission may determine and on such terms and conditions as the  
6 Commission may specify;

7 (c) making or effecting such other arrangements as the Commission  
8 may specify for the continued provision of services to the licensee's customers;  
9 and

10 (d) carrying out such other ancillary and related activities as the  
11 Commission may consider necessary.

12 (5) Notwithstanding the provisions of subsection (1) of this section,  
13 the licensee whose licence has expired shall be entitled to continue with the  
14 provision of a service as if his licence has not expired upon proof being  
15 submitted to the Commission that the licensee has applied for the renewal of  
16 the licence in accordance with the requirement of section 35 of this Act and that  
17 such application is awaiting determination by the Commission.

18 (6) Any person who contravenes the provisions of subsection (3) of  
19 this section commits an offence and is liable on conviction to the punishment  
20 prescribed in section 103 of this Act.

21 PART X - DIRECTIONS

Directions by the  
Commission in  
relation to licences

22 39. (1) The Commission may, from time to time, issue directions in  
23 writing to any person regarding the compliance or non compliance with any  
24 licence conditions or provisions of this Act or regulations made under this Act  
25 including the remedy of a breach of any licence condition or the provisions of  
26 this Act or regulation made under this Act.

27 (2) The Commission shall, before issuing a direction under  
28 subsection (1) of this section, issue a notice in writing to the person specifying  
29 the nature of compliance required and the person shall be granted an  
30 opportunity to be heard or may submit a written submission within the

1 specified time in the notice on the reasons for his conduct or activity.

2 (3) The Commission shall, after the expiry of the notice specified  
3 in subsection (2) of this section, take into consideration any reasons  
4 provided by the person before making a decision in relation to the relevant  
5 conduct or activity of the person.

6 (4) After due consideration of any reasons, provided by the  
7 person, the Commission may issue a direction under subsection (1) of this  
8 section requiring the person to take specific action directed towards  
9 ensuring that the person does not contravene or continue to contravene any  
10 of the conditions of his licence or any of the provisions of this Act or  
11 regulation made under this Act.

12 (5) The Commission shall give the person written notice of its  
13 direction not later than 30 days from the date the decision was made on the  
14 direction and the person shall comply with the direction issued by the  
15 Commission.

16 40. The Commission may modify, vary or revoke a direction on  
17 a license and the procedure set out in section 39 of this Act shall apply in  
18 respect of any modification, variation or revocation of a direction.

Modification of  
directions on  
licenses

19 41. Without prejudice to any other provision of this Act or a  
20 licence condition, a person who fails to comply with a direction of the  
21 Commission shall be liable to the payment of a fine to the Commission in  
22 such amount as the Commission may at its discretion impose from time to  
23 time.

Non-compliance  
with directions

24 42. The Commission shall maintain a register of all directions  
25 issued by the Commission, including any written instruments modifying,  
26 varying or revoking a direction, in accordance with Part 14 of this Act.

Register of  
directions

#### 27 PART XI - INQUIRIES AND INVESTIGATIONS BY THE COMMISSION

28 43.-(1) The Commission may hold a public inquiry on any  
29 matter of a general nature that relates to the administration of this Act or  
30 regulations made pursuant to this Act for the purpose of the objects of this

Public Inquiry

1 Act, provided that the Commission shall hold a public inquiry in all instances  
2 that it is mandatorily required to hold an inquiry under this Act or regulations  
3 made under this Act.

4 (2) Subject to the provisions of subsection (1) of this section, the  
5 Commission may hold a public inquiry:

6 (a) in response to a written request from a person; or

7 (b) on its own initiative,

8 only if it is satisfied that the matter is of significant interest to either the public  
9 or to current or prospective licensees under this Act.

10 (3) The Commission may combine two or more inquiries into a  
11 single inquiry and an inquiry under this Part shall be conducted as and when the  
12 Commission deems fit.

13 (4) The Commission may, for the purposes of an inquiry, exercise  
14 any or all of its powers under this Act.

15 (5) Where the Commission decides to hold a public inquiry, the  
16 Commission may publish in the manner it deems appropriate notice of the:

17 (a) fact that it is holding the inquiry;

18 (b) period during which the inquiry is to be held;

19 (c) nature of the matter to which the inquiry is to be held;

20 (d) period, of at least 21 days, within which, and the form in which,  
21 members of the public are invited to make submissions to the Commission  
22 about the subject matter of the inquiry;

23 (e) matters that the Commission would like the submissions to deal  
24 with; and

25 (f) address or addresses to which the submissions may be sent.

26 (6) The Commission may not publish at the same time or in the  
27 same manner the notice of all matters referred to in subsection (5) of this  
28 section.

29 (7) The Commission shall consider any submissions received  
30 within the time limit as specified in the notice and the submissions made by the

1 members of the public shall be in the form and of the nature as specified in  
2 the notice.

3 44.-(1) Notwithstanding the provisions of section 43 of this Act, Private Inquiry  
4 an inquiry or a part of an inquiry may be conducted in private if the  
5 Commission is satisfied that the:

6 (a) documents or information that may be given, or a matter that  
7 may arise during the inquiry or a part of the inquiry, is of a confidential  
8 nature; or

9 (b) inquiry or part of the inquiry or a matter, or part of a matter, if  
10 conducted in public would not be conducive to the due administration of this  
11 Act.

12 (2) If an inquiry takes place in public and the Commission is of  
13 the opinion that the:

14 (a) evidence or other material presented to the inquiry; or

15 (b) material in written submissions lodged with the Commission  
16 is of a confidential nature, the Commission may direct that:

17 (i) the evidence or material should not be published, or

18 (ii) its disclosure be restricted;

19 (3) A person shall not without satisfactory reasons acceptable to  
20 the Commission fail to comply with a direction under subsection (2) of this  
21 section.

22 (4) If an inquiry or part of an inquiry takes place in private, the  
23 Commission:

24 (a) shall give a direction as to the persons who may be present at  
25 the inquiry or part of the inquiry; and

26 (b) may give a direction restricting the disclosure of evidence or  
27 other material.

28 (5) Notwithstanding the provisions of section 43 of this Act, a  
29 person who without reasonable excuse fails to comply with a direction given  
30 under subsection (4) of this section shall be liable to the payment of a fine to

1 the Commission in such amount as the Commission may prescribe in  
2 regulations issued pursuant to this Act.

Publications of  
report of inquiry

3 **45.-(1)** The Commission shall publish a report of any inquiry it  
4 conducts within 30 days of the conclusion of the inquiry which shall:

5 (a) contain a basis of the decision or order;

6 (b) be properly recorded in writing; and

7 (c) be accessible to the public at reasonable times and places.

8 (2) The Commission shall not include in the report any material:

9 (a) that is in the Commission's opinion of a confidential nature;

10 (b) the disclosure of which is likely to prejudice the fair trial of a  
11 person; and

12 (c) which would involve the unreasonable disclosure of personal  
13 information about any individual including a deceased person.

14 (3) Civil proceedings shall not lie against a person in respect of any  
15 loss, damage or injury of any kind suffered by another person because of any of  
16 the following acts:

17 (a) the making of a request under section 45 of this Act; or

18 (b) the making of a statement or giving of a document or  
19 information to the Commission in relation to an inquiry under this section.

20 (4) The Commission shall maintain a register of all reports made  
21 pursuant to an inquiry under this Part in accordance with the provisions of Part  
22 14 of this Act.

23 **PART XII - INVESTIGATIONS FOR PURPOSES OF ADMINISTRATION**

Investigation

24 **46.** Notwithstanding the provisions of any other law, the  
25 Commission may investigate any matter pertaining to the administration of this  
26 Act or regulations issued under this Act where the Commission has grounds to  
27 believe that an infringement, civil or criminal, of the provisions of this Act or  
28 regulations, was, is or will be committed.

Complaint

29 **47.-(1)** The Commission may conduct an investigation on any  
30 matter under this Act upon a written complaint by a person and the complaint

1 shall specify the person against whom the complaint is made.

2 (2) Where a complaint has been made to the Commission under  
3 this section, the Commission may make inquiries of the respondent for the  
4 purpose of deciding whether the Commission should, in its discretion,  
5 investigate the matter.

6 (3) Where the Commission decides not to investigate, or not to  
7 investigate further, a matter to which a complaint relates, it shall not later  
8 than 60 days from the date of receipt of the complaint and in such manner as  
9 it thinks fit, inform the complainant and the respondent of the decision and  
10 the reasons for the decision.

11 48.-(1) The Commission shall, before embarking on an  
12 investigation of a matter to which a complaint relates, inform the respondent  
13 that the matter is to be investigated.

Conduct of  
investigation

14 (2) An investigation under this Part shall be conducted as the  
15 Commission thinks fit and the Commission may, for the purposes of an  
16 investigation, obtain information from such persons as it thinks fit.

17 (3) Subject to the provisions of subsection (4) of this section, a  
18 complainant or respondent may, at the Commission's discretion be given an  
19 opportunity to appear before the Commission in connection with an  
20 investigation.

21 (4) The Commission shall not, as a result of the investigation,  
22 make a finding that is adverse to a complainant or a respondent unless it has  
23 given the complainant or respondent an opportunity to make written  
24 submission about a matter to which the investigation relates within a period  
25 of time of not less than 21 days.

26 (5) The Commission shall consider the submission made by the  
27 complainant or the respondent under subsection (4) of this section before  
28 making its decision.

29 (6) The Commission may, after concluding an investigation,  
30 prepare and publish a report which shall cover:

- 1 (a) the conduct of the investigation concerned;
- 2 (b) any findings that the Commission has made as a result of the
- 3 investigation;
- 4 (c) the evidence and other material on which those findings were
- 5 based;
- 6 (d) the basis for the decision; and
- 7 (e) other relevant matters.

8 PART XIII - INFORMATION GATHERING BY COMMISSION

Information  
gathering

9 49. -(1) This section applies to any person who is subject to this Act  
10 and who the Commission has reason to believe:

- 11 (a) has any information, including but not limited, to accounts and
- 12 records or any document that is relevant to the exercise of the Commission's
- 13 powers and functions under this Act or regulations made under this Act; or
- 14 (b) is capable of giving any evidence which the Commission has
- 15 reason to believe is relevant to the exercise of the Commission's powers and
- 16 functions under this Act or regulations made under this Act.

17 (2) The Commission may, by a written notice, direct any person  
18 who is subject to this Act to:

- 19 (a) give the Commission within the period and in the manner and
- 20 form specified in the notice, any information required by the Commission;
- 21 (b) produce to the Commission, within the period and in the manner
- 22 specified in the notice, any document, whether in a physical form or in an
- 23 electronic form; or
- 24 (c) make copies of documents and present the copies made to the
- 25 Commission within the period and in the manner specified in the notice.

26 (3) The Commission shall allow the person so directed under  
27 subsection (2) of this section a reasonable time to give and to produce any  
28 information or documents specified in the notice.

29 (4) Any person who is required to provide information under  
30 subsection (2) of this section shall ensure that the information provided is true,



1 accurate and complete and such person shall provide a representation to that  
2 effect, including a representation that he is not aware of any other  
3 information which would make the information provided untrue or  
4 misleading.

5 50. Notwithstanding the provisions of section 39 of this Act, a Non-compliance  
6 person who fails to comply with a direction under this Part or fails to  
7 disclose or omits to give any relevant information, evidence, document, or  
8 provides information, evidence, or document that he believes or has reason  
9 to believe is false or misleading, in response to a direction issued by the  
10 Commission commits an offence and is liable on conviction to a fine of not  
11 less than N100,000.00 or to imprisonment for a term not exceeding 1 year or  
12 to both fine and imprisonment.

13 51. -(1) The Commission may, at anytime require a person in Evidence of  
14 writing to produce all such evidence and information relating to his compliance  
15 compliance with any of the provisions of this Act or regulations made under  
16 this Act, as the Commission may generally, or in relation to any particular  
17 case, require evidence of compliance.

18 (2) The Commission may take, and retain for as long as is  
19 necessary, possession of a document produced under this section and the  
20 person otherwise entitled to possession of the document is entitled to be  
21 supplied, as soon as practicable, with a copy certified by the Commission to  
22 be a true copy.

23 (3) Notwithstanding the provisions of any other law, a court or  
24 tribunal may receive the certified copy as evidence as if it were the original.

25 (4) Until a certified copy is supplied, the Commission shall, at  
26 such times and places as the Commission deems appropriate, permit the  
27 person entitled to possession of the document, or a person authorised by that  
28 person, to inspect and make copies of, or take extracts from the document.

29 52.-(1) The Commission shall maintain a record of all Record and  
30 information, evidence or documents received pursuant to the directions publication of  
information

1 given under section 49 of this Act.

2 (2) The Commission may publish information received in the  
3 course of exercising its powers and functions under this Part, if it is satisfied  
4 that the publication is consistent with the objectives of this Act provided that  
5 the Commission shall consider the commercial interests of the parties to whom  
6 the information relates before publishing the information.

7 PART XIV - REGISTER

Register

8 53.-(1) The Commission shall maintain a register, in both physical  
9 and electronic forms of all matters that are required to be registered under this  
10 Act and regulations made under this Act.

11 (2) The Commission may, at its discretion, summarize the contents  
12 of a material for inclusion in the register and exclude therefrom aspects of the  
13 material if it considers such exclusion necessary on justifiable grounds,  
14 including grounds of public interest or safety.

15 (3) In addition, the Commission shall maintain a separate register  
16 containing any:

- 17 (a) special or additional conditions specified in a licence;  
18 (b) written notice varying, revoking or imposing any special or  
19 additional conditions specified in a licence;  
20 (c) written notice by the licensee surrendering his licence;  
21 (d) written notice by a Commission suspending or cancelling a  
22 licence; and  
23 (e) written notice approving the transfer of a licence.

Access to Register  
by the public

24 54.-(1) Members of the public at all reasonable times and places  
25 shall have access to the register to inspect and make a copy of, or take extracts  
26 therefrom at their own cost and expense.

27 (2) Where a person requests that a copy of a register be provided in  
28 an electronic form, the Commission may provide the relevant information:

- 29 (a) on a data processing device; or  
30 (b) by way of electronic transmission.

1 (3) The Commission shall, from time to time, publish guidelines  
2 in respect of its various registers giving details of the registers and indicating  
3 such matters including access processes and procedures for members of the  
4 public.

5 PART XV - REGULATIONS, GUIDELINES BY COMMISSION

6 55. -(1) The Commission may issue and publish regulations  
7 covering all or any of the following matters:

Regulations,  
guidelines etc,  
by Commission

8 (a) written authorisations, permits, assignments and licences  
9 granted or issued under this Act;

10 (b) fees, charges, rates or fines to be imposed under this Act or  
11 regulations issued pursuant to this Act;

12 (c) quality of Service;

13 (d) postal related offences and penalties;

14 (e) any matter for which this Act makes express provision; and

15 (f) such other matters as are necessary for giving full effect to the  
16 provisions of this Act and for their due administration.

17 (2) The Commission may also make and publish guidelines on  
18 any matter for which this Act makes express provision and such other  
19 matters as are necessary for giving full effect to the provisions of this Act and  
20 for their due administration.

21 56. -(1) The Commission shall, prior to making any regulation  
22 under this Act, conduct an inquiry in the manner specified in Part 11 of this  
23 Act on the subject matter of the proposed regulation.

Rule-making  
process

24 (2) The Commission shall, in making the regulation, take into  
25 consideration the findings of the inquiry referred to in subsection (1) of this  
26 section.

27 (3) The Commission may prior to making any guideline, at its  
28 discretion, conduct an inquiry in the manner specified in Part 11 of this Act  
29 on the subject matter of the proposed guideline and if the Commission  
30 considers it necessary to hold such an inquiry, it shall in making the

1 guideline take into consideration the findings of the inquiry.

Regulatory  
review

2 57.-(1) Subject to the provision of subsection (2) of this section, the  
3 Commission may review, as it deems necessary, rules, guidelines or  
4 regulations made under this Act that are in force at the time of the review and  
5 may in the process modify or vary, or repeal any such rules or regulations:

6 (a) which are no longer necessary in the national interest;

7 (b) which are no longer necessary to achieve the objectives of this  
8 Act or regulations issued pursuant to this Act; or

9 (c) for any other reason that the Commission deems fit.

10 (2) The provisions of section 56 of this Act shall apply in relation to  
11 any review of a regulation or guideline.

#### 12 PART XVI - NOTIFICATION AND RESOLUTION OF DISPUTES

Power to  
resolve disputes

13 58. The Commission shall have powers to resolve disputes between  
14 persons ("the parties") arising from the interpretation and application of the  
15 provisions of this Act and regulations made pursuant to this Act.

Preliminary  
action on dispute  
resolution by  
parties

16 59.-(1) Parties shall endeavour to resolve any dispute or  
17 controversy arising from the provisions of the Act through negotiation before  
18 involving the Commission.

19 (2) Where one of the parties to a dispute has provided an  
20 undertaking that is relevant to the subject matter of the dispute and the  
21 Commission in accordance with Part 14 of this Act has registered the  
22 undertaking, the parties may adopt the conditions of the undertaking for the  
23 purposes of resolving the dispute.

Notification of  
disputes

24 60.-(1) A party to a dispute may, in writing, notify the Commission  
25 of the dispute and the Commission may only resolve a dispute under this Part if  
26 it is notified in writing of the dispute and requested by either or both parties to  
27 intervene in the dispute.

28 (2) The Commission shall, upon receipt of the notification of the  
29 dispute referred to in subsection (1) of this section, as soon as practicable,  
30 convene to resolve the dispute.

1 (3) The Commission shall convene to resolve a dispute if it is  
2 satisfied that:

3 (a) an agreement cannot be reached, or will not be reached within  
4 a reasonable time;

5 (b) the notification of the dispute is not trivial, frivolous or  
6 vexatious; and

7 (c) the resolution of the dispute would promote the objects of this  
8 Act or regulations made under this Act.

9 **61.**-(1) Subject to the provisions of this Act and regulations or  
10 guidelines issued by the Commission under this Part, the Commission may  
11 resolve any dispute in such manner including the adoption of any of the  
12 Alternative Dispute Resolution methods and upon such terms and  
13 conditions as it may deem fit.

Mode of  
resolution of  
dispute by the  
Commission

14 (2) The Commission, in carrying out its functions under  
15 subsection (1) of this section shall be guided by the objective of establishing  
16 a sustained dispute resolution process that is fair, just, economical and  
17 effective.

18 (3) In the resolution of disputes under this Part, the Commission  
19 shall not be bound by technicalities, legal form or rules of evidence and shall  
20 at all times act according to the ethics of justice and the merits of each case.

21 (4) The record of proceedings and any decision taken to resolve a  
22 dispute by the Commission under this Part shall be in writing and the  
23 Commission shall provide the parties to the dispute with the records of the  
24 decision, including the reasons for arriving at the decision as soon as  
25 practicable.

26 **62.**-(1) The Commission shall register all decisions reached  
27 under this Part, in accordance with Part 14 of this Act.

Register of  
decisions

28 (2) The register shall contain:

29 (a) the names of the parties to the dispute;

1 (b) a general description of the matter pertaining to the decision;

2 (c) the date and basis of the decision.

Publication of  
guidelines for  
dispute resolution

3 **63.** The Commission shall publish guidelines setting out the  
4 principles and procedures to be taken into account in resolving disputes or a  
5 class of disputes under this Part.

Enforcement of  
decisions

6 **64.** -(1) The decision of the Commission shall be binding on the  
7 parties.

8 (2) A decision made by the Commission under this Part may be  
9 registered in court and enforced by the court as if the decision is a judgment of  
10 such court provided that the Commission has issued a certificate to a party for  
11 leave to proceed to the court for the enforcement of the decision.

12 PART XVII - AGREEMENTS AND UNDERTAKINGS

Registration of  
agreements

13 **65.** -(1) A party to a written agreement made pursuant to this Act  
14 shall apply to the Commission for the registration of the agreement, where this  
15 Act or regulations made pursuant to this Act requires such registration.

16 (2) The Commission shall register the written agreement where the  
17 Commission is satisfied that the agreement is consistent with:

18 (a) the objects of this Act;

19 (b) any regulation or instrument made under this Act; and

20 (c) any relevant provisions of this Act.

21 (3) A person who fails to register an agreement within the time  
22 authorized by this Act or if no such time is stipulated, within 30 days of the  
23 execution of the agreement, shall be liable to pay the amount specified by the  
24 Commission by regulations for such defaults until compliance.

25 (4) The Commission shall maintain a register of all agreements  
26 required to be registered under this Act in accordance with Part XIV of this Act.

27 (5) The register shall contain:

28 (a) the names of the parties to the agreement;

29 (b) a general description of the matter pertaining to the agreement;

30 and

1 (c) the date of the agreement, but not the terms and conditions of  
2 the agreement.

3 66. -(1) A person may provide an undertaking to the Commission Undertakings  
4 regarding any matter for which this Act makes express provision for the  
5 furnishing of such undertaking.

6 (2) An undertaking provided by a person under subsection (1) of  
7 this section shall set out the terms and conditions of the undertaking and may  
8 include the effective date of the undertaking and the date of its expiry.

9 67. -(1) Undertakings given by any person to the Commission in Registration of  
10 accordance with the requirements of this Act shall be deemed as duly undertakings  
11 registered and shall remain valid and enforceable at all times.

12 (2) The Commission shall maintain a register of all existing  
13 undertakings, in accordance with Part IX of this Act.

14 68.-(1) The Commission may make and publish rules in respect Rules of  
15 of undertakings and the rules shall bind the party making the undertakings undertakings  
16 and all other persons relying on such undertakings as if they were  
17 respectively signed by each person and contained agreements on the part of  
18 each person for himself and for his successors to observe all the provisions  
19 of the rules.

20 (2) The Commission may direct a person referred to in  
21 subsection (1) of this section to comply with the rules made under  
22 subsection (1) of this section and any registered undertaking issued under  
23 this Part.

24 69. A person providing an undertaking may apply to withdraw Withdrawal of  
25 the undertaking at any time by notifying the Commission in writing and the undertakings  
26 undertaking shall only be withdrawn upon such terms and subject to such  
27 conditions as the Commission may specify.

28 70. The Commission or a directly affected person may apply to a Enforcement of  
29 court for the enforcement of an undertaking against the person providing the undertakings  
30 undertaking if an undertaking has not been complied with.

## 1 PART XVIII - REVIEW OF DECISIONS

Reasons for  
decisions

2 71.-(1) A person who is aggrieved or whose interest is adversely  
3 affected by any decision of the Commission made pursuant to the exercise of  
4 the powers and functions of the Commission under this Act or regulations  
5 made under this Act may make a request in writing to the Commission for a  
6 statement of the reasons for the decision.

7 (2) The Commission shall, upon the receipt of a written request by  
8 an aggrieved person, provide a copy of a statement of reasons for the decision  
9 and any relevant information taken into account in arriving at the decision.

10 (3) The Commission is not required to publish or to disclose to an  
11 aggrieved person a statement of reasons or a part of a statement of reasons  
12 where the publication or disclosure is likely to:

13 (a) reveal a matter that is, in the opinion of the Commission, of a  
14 confidential character;

15 (b) prejudice the fair trial of a person; or

16 (c) involve the unreasonable disclosure of personal information  
17 about any individual (including a deceased person).

18 (4) In this Part, "decision" includes any action, order, report or  
19 direction.

Review of a  
decision by the  
Commission

20 72.-(1) An aggrieved person may at any time within, but not later  
21 than 30 days after the date of receipt of the Commission's statement of reasons  
22 specified in sub-section (2) of section 71 of this Act, request the Commission in  
23 writing for a review of the Commission's decision and specify in the request the  
24 reasons and basis for the request.

25 (2) Upon the receipt of the aggrieved person's written request, the  
26 Commission shall meet to review its decision taking into consideration the  
27 submission of the aggrieved person under subsection (1) of this section.

28 (3) The Commission may, in carrying out the review of its decision  
29 under this Part, use and exercise any of the powers conferred on it under the  
30 provisions of this Act.



1                   (4) The Commission shall not later than 60 days from the date of  
2 receipt of the aggrieved person's written submission, conclude its review of  
3 the decision and inform the aggrieved person in writing of its final decision  
4 on the matter and the reasons for its decision thereon.

5                   73. -(1) Subject to the provisions of subsections (2) and (3) of  
6 this section, an aggrieved person may appeal to the Court for a judicial  
7 review of the Commission's decision or other actions.

Judicial Review  
of a decision

8                   (2) The decision or direction of the Commission that is the  
9 subject matter of an application for judicial review shall remain binding and  
10 valid until it is expressly reversed in a final judgment or order of the court.

11                   (3) A person shall not apply to the court for a judicial review  
12 unless that person has first exhausted all other remedies provided under this  
13 Act.

#### 14                   PART XIX - MONITORING AND REPORTING

15                   74.-(1) The Commission shall monitor all matters relating to the  
16 performance of all licensees and publish annual reports thereon at the end of  
17 each financial year of the Commission.

Monitoring and  
reporting

18                   (2) In performing its functions under subsection (1) of this  
19 section, the Commission shall:

20                   (a) use any of its powers under this Act and in particular but  
21 without limitation, its powers of investigation and information-gathering  
22 contained in Parts XII and XIII of this Act;

23                   (b) have regard to the established industry performance  
24 indicators as the Commission considers appropriate.

25                   (3) Matters upon which the Commission shall monitor and  
26 report include:

27                   (a) the operation and administration of this Act and rules and  
28 regulations made under this Act;

29                   (b) the efficiency in which licensees provide facilities and  
30 services;

- 1 (c) the quality of services;
- 2 (d) industry statistics generally, including but not limited to, the
- 3 provision of services, traffic patterns, industry operators;
- 4 (e) the tariff rate and charges paid by consumers for services;
- 5 (f) the development of industry self regulation;
- 6 (g) the adequacy and availability of services in all parts of Nigeria;
- 7 (h) any deficiencies in the scope or operation of this Act and
- 8 regulations made under this Act;
- 9 (i) other matters as deemed appropriate by the Commission.

10 (4) The Commission shall publish report in under this section

11 manner it deems appropriate.

12 PART XX - GENERAL COMPETITION PRACTICES

Power of the  
Commission to  
regulate  
competition  
practice in the  
postal sector

13 75. The Commission shall have the power to determine, pronounce

14 upon, administer, monitor and enforce compliance by all persons with

15 competition laws and regulations, whether of a general or specific nature, as it

16 relates to Nigerian postal market.

Anti-competition  
practices

17 76. -(1) A licence shall not engage in any conduct which has the

18 purpose or effect of substantially lessening competition in any aspect of the

19 Nigerian postal market.

20 (2) The Commission may, from time to time, publish guidelines or

21 regulations clarifying the meaning of 'substantial lessening of competition' in

22 the Nigerian postal market and such guidelines may include references to:

- 23 (a) the relevant economic market;
- 24 (b) global trends in the relevant market;
- 25 (c) the impact of the conduct on the number of competitors in a
- 26 market and their market shares;
- 27 (d) the impact of the conduct on barriers to entry into the market;
- 28 (e) the impact of the conduct on the range of services in the market;
- 29 (f) the impact of the conduct on the cost and profit structures in the
- 30 market; and

1 (g) any other matters which the Commission is satisfied are  
2 relevant.

3 (3) A licensee shall not enter into any understanding, agreement  
4 or arrangement, whether legally enforceable or not, which has the tendency  
5 of limiting competition and which provides for:

6 (a) rate fixing;

7 (b) market sharing;

8 (c) boycott of another competitor;

9 (d) boycott of a supplier of apparatus or equipment; or

10 (e) boycott of any other licensee.

11 (4) A licence shall not, at any time or in any circumstance, make  
12 it a condition for the provision or supply of a product or service in a postal  
13 market that the person acquiring such product or service in the postal market  
14 is also required to acquire or not to acquire any other product or service  
15 either from himself or from another person.

16 (5) The Commission shall have power to:

17 (a) investigate and determine upon its own initiative or upon  
18 receipt of a complaint by any person, whether any licensee is engaged, has  
19 been engaged or is likely to engage in any anti-competitive activity; and

20 (b) require and compel the disclosure of any information by any  
21 licensee.

22 (6) Where the Commission finds that a licensee is engaged, has  
23 been engaged or is likely to engage in any anti-competitive activity, the  
24 Commission shall have the power to issue a direction requiring such  
25 licensee to desist from such practices or methods of competition.

26 (7) Failure to comply with a direction issued pursuant to  
27 subsection (3) of this section shall constitute an offence punishable in the  
28 case of a:

29 (a) first offender, by a fine not exceeding two million Naira;

30 (b) second time offender, by a fine not exceeding ten percent of

1 the annual turnover of the licensee; and

2 (c) third time offender, by the revocation of the relevant licence.

3 (8) A direction shall not be issued nor a penalty imposed where the:

4 (a) licensee is able to demonstrate to the satisfaction of the  
5 Commission that it has not engaged or has not been engaged or is not likely to  
6 be engaged in any anti-competitive activity; or

7 (b) licensee has ceased the anti-competitive practice.

8 (9) For the purpose paragraph (b) of subsection 7 of this section,  
9 "annual turnover" shall mean the annual turnover for the financial year of the  
10 licensee preceding the year in which the offence was committed.

Dominant  
position

11 77.-(1) The Commission may determine that a licensee is in a  
12 dominant position in any aspect of the Nigerian market.

13 (2) The Commission may publish guidelines and issue regulations  
14 providing clarifications on how the Commission shall apply the test of  
15 "dominant position" to licences.

16 (3) The guidelines and regulations referred to in subsection (2) of  
17 this section may specify the matters which the Commission may take into  
18 account, including:

19 (a) the relevant economic market;

20 (b) global technology and commercial trends affecting market  
21 power;

22 (c) the market share of the licence;

23 (d) the licence's power to make independent rate setting decisions;

24 (e) the degree of product or service differentiation and sales  
25 promotion in the market; and

26 (f) any other matter which the Commission is satisfied are relevant.

27 (4) The Commission may direct a licensee in a dominant position in  
28 the postal market to cease a conduct in that market which has or may have the  
29 effect of substantially lessening competition in any postal market and to  
30 implement appropriate remedies.

1                   78. Notwithstanding the provisions of section 75 of this Act, all  
2 appeals from disputes arising from the exercise of the Commission's powers  
3 therein shall lie with the Competition Tribunal set up under the Federal  
4 Competition and Consumer Protection Act before any resort can be had to  
5 judicial review.

6                   PART XXI - TARIFF RATE REGULATION

7                   79. -(1) Licensees shall not impose any tariff or charges for the  
8 provision of any service under this Act until the Commission has approved  
9 such tariff rates and charges except as otherwise provided in this Part.

Approval of  
tariffs and charges  
by the Commission

10                   (2) The Commission shall review and fix minimum tariff for  
11 competitive products, cost coverage plus a reasonable contribution to  
12 overhead costs, from time to time in the interest of efficient and reliable  
13 service.

14                   (3) The Licensees referred to in subsection (1) of this section  
15 shall provide services at the tariff rates and charges as approved by the  
16 Commission and shall not depart from the approved tariff rates and charges  
17 without prior written approval of the Commission.

18                   (4) The Licensees referred to in subsection (1) of this section  
19 shall publish the tariff rates and charges for their services to their customers,  
20 including the modifications to such tariff and charges, as may be approved  
21 from time to time by the Commission.

22                   (5) The tariff established by a licensee referred to in subsection  
23 (1) of this section shall be on the basis of such principles as the Commission  
24 may, from time to time, stipulate in its guidelines or regulations.

25                   (6) The principles referred to in subsection (5) of this section  
26 include those requiring that:

27                   (a) tariff rates shall be fair and, for similarly situated persons, not  
28 discriminatory

29                   (b) tariff rates shall be cost-oriented and, in general, cross-  
30 subsidies shall be eliminated;

1 (c) tariff rates shall not contain discounts that unreasonably  
2 prejudice the competitive opportunities of other providers;

3 (d) tariff rates shall be structured and levels set to attract  
4 investments into the postal industry; and

5 (e) tariff rates shall take account of the regulations and  
6 recommendations of the international organisations of which Nigeria is a  
7 member.

Commission's  
intervention in  
the setting of  
tariff rates

8 **80.** Notwithstanding the provisions of this Act, the Commission  
9 may intervene in such manner as it deems appropriate in determining and  
10 setting the tariff rates for any non-competitive services provided by a provider  
11 mentioned in this Act as the public interest may require.

Tariff rates, rules  
and regulations

12 **81.-(1)** The Commission may, from time to time, make rules and  
13 regulations on the determination and publication of tariff rates for respective  
14 services by licensee in accordance with the provision of subsection (1) of  
15 section 79 of this Act.

16 (2) The rules and regulations which may be made by the  
17 Commission under subsection (1) of this section may include but are not  
18 limited to:

19 (a) rules pertaining to the tariff rates and charges and variation of  
20 rates for specified or classes of services;

21 (b) rules pertaining to the publication or disclosure of tariff rates for  
22 specified or classes of services; or

23 (c) tariff rate models that may be applicable to specified licences or  
24 classes of licences or specified or classes of services.

25 (3) Tariffs for activities under this Act shall be regulated according  
26 to one or more methodologies adopted by the Commission for regulating postal  
27 tariff and such tariff methodologies shall:

28 (a) allow a licensee to efficiently recover the full cost of its business  
29 activities, including a reasonable return on the capital invested in the business;

30 (b) provide incentives for the continued improvement of the

1 technical and economic efficiency with which the services are provided;

2 (c) provide incentives for the continued improvement of quality  
3 of services;

4 (d) give the customer economically efficient signals regarding  
5 the cost of their consumption on the licensee business;

6 (e) avoid due determination between consumers and consumer  
7 categories; and

8 (f) phase out or substantially reduce cross subsidies.

9 **82.** Notwithstanding any other provision of this Act, the  
10 Commission shall prescribe and enforce appropriate financial penalties  
11 upon any Licensee that exceeds the tariff rates duly approved by the  
12 Commission for the provision of any of its services.

Penalty for  
Operating  
unapproved  
tariff, charges etc.

13 **PART XXIII - UNIVERSAL SERVICE OBLIGATION**

14 **83.**-(1) The Nigerian Postal Service is designated as “the Public  
15 Postal Operator” which shall be charged with the responsibility of providing  
16 universal postal services in Nigeria.

The Nigeria  
Postal Service  
designated as the  
Public Postal  
Operator

17 (2) The Public Postal Operator designated under this Part shall  
18 be a limited liability company in accordance with the provisions of the  
19 Companies and Allied Matters Act, 2004.

20 (3) The Commission shall consider, design, determine and  
21 ensure a system which shall promote the widespread availability and usage  
22 of network of basic postal services to all segments of the population on a  
23 continuing basis with specific standard of quality at affordable prices.

24 (4) The Commission shall from time to time, make regulations  
25 under this Part which shall include:

26 (a) the scope of service required to be rendered under this Part;

27 (b) the standards of the services;

28 (c) remunerations for services rendered;

29 (d) bonus or dividends;

30 (e) penalties as may be applicable for the provision of universal

1 postal products and services;  
2 (f) the disposal of undeliverable postal articles;  
3 (h) the articles that may or may not be transmitted as postal articles;  
4 (i) the classification of postal articles for the purpose of postal  
5 charges.

6 (5) The Commission may also make rules, guidelines and  
7 regulations, for the implementation of the Universal Postal Service  
8 Regulations as may be agreed and ratified in accordance with the requirement  
9 of any law in force in Nigeria in respect of the transmission of postal matters.

Universal Postal  
Service Fund

10 **84.** -(1) There is established under this Part, a Universal Postal  
11 Service Fund in this Act referred to as “the UPS Fund”) which shall be  
12 controlled and managed in accordance with the provisions of this Part.

13 (2) The UPS Fund established pursuant to subsection (1) of this  
14 section shall consist of:

15 (a) monies as may be specifically made available to the UPS Fund,  
16 from time to time through the annual budgetary process appropriated by the  
17 National Assembly;

18 (b) contributions to the Fund by Licensees which shall be 2.5  
19 percent of their annual turnover;

20 (c) gifts, loans, aids and assistance from donor agencies; and

21 (d) such other monies which may from time accrue to the UPS  
22 Fund.

23 (3) The proceeds of the UPS Fund shall be applied:

24 (a) to the payment of compensation and incentives to the public  
25 postal operator;

26 (b) to the cost of administration of the UPS Fund Board; and

27 (c) for the deployment of Postal Services to the unserved and  
28 undeserved areas by the Public Postal Operator.

Establishment of  
the Universal  
Postal Service  
Fund Board

29 **85.** -(1) There is established for the UPS Fund a Board (in this Act  
30 referred to as “the UPS Fund Board”).



1 (2) The UPS Fund Board established under subsection (1) of this  
2 section shall:

3 (a) supervise and provide broad policy direction for the  
4 management of the UPS Fund;

5 (b) make appropriate recommendations to the Federal  
6 Government and its Agencies on Universal Service development policy.

7 (3) The UPS Fund Board shall be constituted by the President on  
8 the recommendations of the Minister.

9 (4) The UPS Fund Board shall, in carrying out its functions and  
10 duties under this Act, collaborate and consult at all times with the  
11 Commission and be subject to the provisions of this Act.

12 86. -(1) The UPS Fund Board shall consist of:

Membership of  
the UPS Fund  
Board

13 (a) the Minister, who shall be the Chairman;

14 (b) the Chairman of the Commission, who shall be the Vice-  
15 Chairman;

16 (c) the Director-General of the Commission;

17 (d) a representative of the Ministry not below the directorate  
18 cadre;

19 (e) a representative of the Federal Ministry of Finance not below  
20 the directorate cadre;

21 (f) a representative of the National Planning Commission not  
22 below the directorate cadre;

23 (g) a representative of the private sector; and

24 (h) the Chief Executive Officer of the Public Postal Operator.

25 (2) A member of the UPS Fund Board other than an ex-officio  
26 member shall be appointed:

27 (a) by the President on the recommendation of the Minister;

28 (b) for a term of 4 years and may be reappointed for another term  
29 of 4 years; and

30 (c) on such terms and conditions as may be indicated in his letter

1 of appointment.

2 (3) The organisations that are represented on the UPS Fund Board  
3 may at any time, at their discretion or at the instance of the UPS Fund Board,  
4 replace any member who is representing their organisations with another  
5 person.

Proceedings of  
the UPS Fund  
Board

6 87. -(1) The UPS Fund Board shall make standing orders for the  
7 regulation of its meetings and proceedings and may establish standing or ad-  
8 hoc committees to assist it in exercising its functions under this Act.

9 (2) The UPS Fund Board may establish committees and co-opt  
10 other persons including representatives of organisations that are in the UPS  
11 Fund Board's opinion, capable of assisting the Commission and the UPS Fund  
12 Board in the discharge of their functions under this Act, provided that such  
13 committees shall, at all times, be chaired by a member of the UPS Fund Board.

14 (3) Decisions of the committees established by the UPS Fund  
15 Board shall not be binding and valid until adopted and agreed upon by the UPS  
16 Fund Board.

Secretariat of  
the Universal  
Postal Service  
Fund

17 88. -(1) There shall be for the UPS Fund a secretariat responsible  
18 for the day to day administration of the UPS Fund established pursuant to  
19 section 84 of this Act.

20 (2) The functions of the secretariat are to:

21 (a) evaluation of project performance and effecting such actions as  
22 may be necessary to ensure that the Fund meets the objectives for postal  
23 expansion and provision of service;

24 (b) enforcing standards for quality of service set by the Board in  
25 rural and under served areas;

26 (c) evaluation of the effectiveness of the Universal Postal Service in  
27 meeting policy goals as set by the Federal Government and the UPS Fund  
28 Board;

29 (d) liaising with UPS Fund Board and the Universal Service Fund  
30 Managers appointed pursuant to the provision of section 89 of this Act.

1 (3) There shall be for the UPS Fund a Head of the Secretariat,  
2 known as the Secretary UPSF to be appointed by the UPS Fund Board.

3 (4) The UPS Fund Board shall ensure that the secretariat is  
4 staffed with suitably qualified and experienced personnel.

5 **89.**-(1) The UPS Fund Board shall appoint an independent and  
6 competent investment management firm as Universal Postal Service Fund  
7 Manager (in this Act referred to as 'the UPS Fund Manager') whose  
8 responsibilities are:

Universal Postal  
Service Fund  
Managers

9 (a) maintaining the UPS Fund's financial accounts and records;  
10 (b) estimating the amount needed annually to sustain the rate of  
11 network expansion determined by the Commission as appropriate to meet  
12 policy objectives;

13 (c) determining, in consultation with the Commission, the  
14 amount of annual revenue required to ensure that the UPS Fund remains  
15 fiscally sound and calculation of the corresponding rate of assessment;

16 (d) disbursing monies upon approval by the UPS Fund Board;  
17 (e) prudently investing monies in the UPS Fund or cash reserves  
18 under directions from the UPS Fund Board and establishing cash  
19 management procedures to ensure maximum return on investments while  
20 meeting short-term cash requirements for disbursements;

21 (f) regularly reporting on financial performance of the Fund to  
22 the UPS Fund Board; and

23 (g) assisting the Secretariat in evaluating the effectiveness of the  
24 UPS Fund in meeting policy goals as set by the Federal Government and  
25 UPS Fund Board.

26 (2) The UPS Fund Board shall determine the terms of  
27 engagement and the remuneration package, for the UPS Fund Managers.

28 **90.** The UPS Fund Board may make regulations on the  
29 contributions to be made by licensees under this Act to the UPS Fund and  
30 any other matter related to or incidental to the UPS Fund; and operation of

Regulations on  
contributions to  
the UPS Fund

1 the UPS Fund.

2 PART XXIII - PUBLIC POSTAL OPERATOR

Obligations of  
Public Postal  
Operator

3 91. Subject to the provisions of this Act, the Public Postal Operator  
4 designated under subsection (1) of section 83 of this Act shall:

5 (a) take necessary steps to implement the minimum quality  
6 objective for the Universal Postal Service as may be defined, from time to time,  
7 by the Board;

8 (b) offer products and services corresponding to the pricing  
9 conditions as may be defined, from time to time, so as to ensure access to the  
10 Universal Postal Service;

11 (c) expand access to collection and delivery of Universal Postal  
12 Service products and services to geographical areas in which postal service is  
13 non-existent;

14 (d) develop products and services that meet the criteria for  
15 accessible, affordable, good quality Universal Postal Services;

16 (e) authenticate internet based receipts;

17 (f) publish and disseminate the list of products and services  
18 provided as part of the Universal Postal Service, including their prices;

19 (g) participate in projects on Universal Postal Service costing and  
20 pricing; and

21 (h) participate in Universal Postal Union and restricted union  
22 activities.

Executive powers  
of the Public  
Postal Operator

23 92.-(1) The Public Postal Operator shall have and exercise power to  
24 the exclusion of any other person to:

25 (a) collect, accept, process, convey and deliver postal articles  
26 weighing up to 1kg including such postal articles addressed to different  
27 recipients with each weight class 'not more than 1kg' whether enclosed in an  
28 envelope, sack, collector or any form of container;

29 (b) collect, accept, process, convey and deliver postal articles with  
30 tariff of less than five times the rate of postage applicable to the particular

1 weight class or as may be revised from time to time by regulations made  
2 pursuant to this Part;

3 (c) issue postage stamps for the prepayment of postal charges;

4 (d) produce philatelic products, pre-stamped envelopes, pre-  
5 stamped postcards, aerogrammes and international reply coupons;

6 (e) provide and maintain private letters boxes and bags for mail  
7 delivery, letter posting boxes and to establish post offices throughout  
8 Nigeria and the use of post office or postal service on such boxes, equipment  
9 and offices;

10 (f) authorize the use of franking meter machine to record prepaid  
11 postage charges by any person;

12 (g) authenticate documents and internet mail related documents;

13 (h) issue and pay domestic and international postal and money  
14 orders; and

15 (i) provide Slogan Die publicity services.

16 (2) In this section "postal articles" includes any letter, postcard,  
17 newspaper, book, document, pamphlet, pattern or sample packet, parcel or  
18 package or other article whatsoever transmissible by post.

19 **93.** The exclusive power conferred on the Public Postal Operator  
20 by subsection (1) of section 92 of this Act shall not extend to:

Exceptions to  
powers

21 (a) letters sent through a messenger on purposes concerning the  
22 private affairs or business of the sender or receiver;

23 (b) letters concerning goods or merchandise sent by common  
24 carriers to be delivered with the goods without conferring any reward, profit  
25 or advantage for receiving or delivering of the letter;

26 (c) letters from merchants, owners of vessels of merchandise or  
27 the cargo or loading therein, sent by the vessels of merchandise, or by any  
28 person employed by the owners for the carriage of the letters, according to  
29 their respective directions and delivered to the respective persons to whom  
30 they are directed without paying or receiving fees or reward, advantage or

1 profit for the same in any way;

2 (d) letters sent between individuals on private journey or travel  
3 without reward for the letters to be delivered to the party to whom they are  
4 directed; and

5 (e) letters carried to the premises of a provider of electronic mail  
6 service for the purposes of transmission by electronic mail.

Mandatory  
postal services

7 **94.** The Public Postal Operator, shall in addition to the services  
8 exclusively reserved under section 92 of this Act, provide:

9 (a) basic postal services that include acceptance, conveyance,  
10 transportation and delivery of postal articles nationwide, including but not  
11 limited to packets, parcels and goods under terms and conditions as may be  
12 determined from time to time by regulations made by the Commission;

13 (b) basic financial services, that may include but not limited to  
14 money transfer (acceptance and payment) travellers cheques, savings,  
15 operation of giro account, Bank deposits and withdrawals either directly or on  
16 agency basis;

17 (c) other information communication technology services; and

18 (d) such other financial services as may be determined from time  
19 by the Board.

Cross  
subsidization  
of tariff, etc.

20 **95.** -(1) The Public Postal Operator shall not cross subsidize the  
21 prices of any service it offers in the market for unreserved postal services from  
22 the sales revenue of reserved postal services.

23 (2) The tariffs applicable to reserved postal services shall be set by  
24 the Public Postal Operator in accordance with guidelines issued by the  
25 Commission.

26 (3) The Public Postal Operator shall, from time to time, review  
27 tariffs relating to reserved services as may be provided in guidelines issued by  
28 the Commission.

29 (4) In setting and reviewing the tariffs for reserved postal services,  
30 the Public Postal Operator shall ensure that the tariffs are based on the cost of

1 providing efficient services in accordance with the terms and conditions of a  
2 licence and shall further ensure that the tariff do not include:

3 (a) surcharge prevailing solely as a result of its right to provide  
4 exclusive reserved postal services;

5 (b) anti-competition discounts likely to be prejudicial to licences  
6 for unreserved postal services;

7 (c) variation in rates that create any disadvantage for individual  
8 users within the same class of service in relation to users of postal services of  
9 the same type; and

10 (d) any other considerations.

11 PART XXIV - SERVICE DELIVERY CONDITIONS

12 96. -(1) The Commission shall, from time to time, determine the  
13 manner in which Universal Postal Service is to be provided.

Conditions for  
service delivery

14 (2) The Commission shall in exercising the function under  
15 subsection (1) of this section, take into account:

16 (a) the objectives of this Act;

17 (b) measurable quantity and quality service standards for postal  
18 services and customer satisfaction as one of the key factors;

19 (c) speed, reliability and security of the service;

20 (d) accessibility to and affordability of the Universal Postal  
21 Service;

22 (e) accountability for handling of claims and complaints;

23 (f) important operational and economic considerations and  
24 feasibility of meeting service delivery and the conditions for Universal  
25 Postal Service;

26 (g) the needs and requirements of the general public and the  
27 surrounding environment including the existing circumstances and future  
28 expectations of a prevailing information and communications available  
29 society; and

30 (h) any applicable international standards, conventions,

1 protocols and agreements, including but not limited to Universal Postal Union  
2 and postal regulations as may be agreed to and adopted by Nigeria from time to  
3 time.

4 (3) The Commission shall make regulations:

5 (a) in respect of the required service delivery conditions under  
6 subsection (2) of this section;

7 (b) establishing clear technical specifications to be met by the  
8 Universal Postal Service provider;

9 (c) establishing performance monitoring, control, supervision,  
10 measurement and evaluation mechanism for the Universal Postal Service  
11 provider and its services; and

12 (d) mapping out operating procedures for these basic services,  
13 along with a long term sustainable financing mechanism.

14 (4) Without prejudice to the generality of subsections (1), (2) and  
15 (3) of this section, the Public Postal Service Operator shall adhere to basic  
16 principles with respect to service delivery, accordingly:

17 (a) all customers shall be treated equally and offered the same  
18 services under the same terms and conditions;

19 (b) there shall be no discrimination against any customer in the  
20 delivery of universal postal service; and

21 (c) service delivery may not be disrupted or suspended, except in  
22 cases of force majeure, existing law or court order.

Sanctions for  
violation of  
service conditions

23 **97.** -(1) Subject to the procedure contained in subsection (2) of this  
24 section, the Commission shall have powers to sanction the Public Postal  
25 Operator for violation of universal service conditions.

26 (2) Prior to exercising the powers vested in subsection (1) of this  
27 section, the Commission shall give the Public Postal Operator reasonable  
28 opportunity to make written submission and the Commission shall consider the  
29 submission made in making its final determination and declaration on the  
30 sanction to be imposed.



1 PART XXV - NATIONAL POSTCODE SYSTEM AND  
2 TECHNICAL STANDARDS

3 98. -(1) The Commission is solely and exclusively vested with  
4 the control, planning, administration, management and assignment of the  
5 National Post Code System (hereinafter referred to as 'the Post Code  
6 System').

Administration  
and Planning of  
the National  
Code System

7 (2) The Commission shall develop a Post Code System for  
8 effective and efficient mail delivery taking into account the subsisting  
9 numbering plan prior to the commencement of this Act.

10 (3) In developing the Post Code System, the Commission may  
11 liaise with any relevant government authority or agency in the naming and  
12 numbering of streets and houses and may further divide the entire country  
13 into post code zones and areas.

14 (4) The Commission shall maintain and manage the integrated  
15 post code database and make post code information available to the public  
16 for a fee as it may prescribe, in a non-discriminatory manner.

17 (5) Notwithstanding the provisions of subsection (1) of this  
18 section, the Commission may enter into a PPP arrangement to carry out any  
19 of its obligations under this section.

20 99.-(1) Subject to the provision of subsection (2) of this section,  
21 the Commission shall specify and publish for the information of the general  
22 public, technical code and specifications in respect of postal services.

Technical Code  
specifications  
and publication

23 (2) The technical code and specifications prepared by the  
24 Commission under this section shall include:

25 (a) list of prohibited or restricted postal articles;

26 (b) requirements for transit and delivery times;

27 (c) terms and conditions of carriage including liability and  
28 restriction or exemption clauses, amount and condition of payment of  
29 compensation;

1 (d) requirements for operational offices, infrastructure and  
2 warehouses;

3 (e) requirements for information on its products and services;

4 (f) provision of register of daily shipment indicating weight of each  
5 postal item, destination, acceptance and delivery terms;

6 (g) provision for mail bags, waybills, labels, receipts, and proof of  
7 delivery;

8 (h) requirement for safe and efficient system of custody and  
9 transportation of postal articles; and

10 (i) requirements for examination of postal articles before, during or  
11 after transmission.

12 (3) Prior to specifying and publishing any technical code and  
13 specifications under this Act, the Commission shall first conduct an inquiry in  
14 the manner specified in Part XI of this Act on the proposed code or  
15 specification, provided that such prior inquiry may not be required with regard  
16 to technical code or specifications that are mandatorily prescribed by  
17 international organizations to which Nigeria is a member such as the Universal  
18 Postal Union.

19 (4) In making the technical code and specifications, the  
20 Commission shall take into consideration the findings of the inquiry under  
21 subsection (3) of this section.

22 PART XXVI - OFFENCES, PENALTIES AND TRIAL OF OFFENCES

Offences relating  
to licences

23 100. -(1) Subject to such exemptions as are contained in this Act, or  
24 as may be determined by the Commission from time to time, a person who  
25 operates a postal service:

26 (a) without a licence issued under this Act;

27 (b) outside the terms and conditions of the licence; or

28 (c) in contravention of the provisions of this Act or regulation made  
29 pursuant to this Act;

30 commits an offence.

1 (2) A person who for the purpose of securing a licence under this  
2 Act, makes a statement or provides information which he knows to be false  
3 or does not have reason to believe to be true, commits an offence.

4 101. -(1) A person who without lawful authority or with intent to Postal offences  
5 defraud:

6 (a) stops, dumps, intercepts or in any way not otherwise  
7 specified in any section of this Act, tampers or meddles with, or otherwise  
8 retards the delivery of any postal matter or electronic mail;

9 (b) stops, delays, intercepts, tampers or meddles with any postal  
10 matter or electronic mail with intent to steal or pilfer it; or

11 (c) secretes, destroys or defaces any postal matter, electronic  
12 mail or any part thereof or evidence of the existence of the postal matter,  
13 electronic mail or part thereof, whether or not the postal matter, electronic  
14 mail or part thereof so secreted, destroyed or defaced, contains money or  
15 other thing whatsoever;

16 commits an offence under this Act.

17 (2) A person who:

18 (a) steals any postal matter or electronic mail;

19 (b) being charged with the delivery of any postal matter or  
20 electronic mail, without lawful authority, fraudulently, wilfully or  
21 maliciously dumps it or delivers it to person or an address other than the  
22 person or address stated on the postal matter or electronic mail;

23 (c) sells, offers for sale any stamp, postal order, money order or  
24 other postal item at an amount not approved by the Public Postal Operator;

25 (d) demands for the postage or transmission of any letter, postal  
26 parcel or electronic mail, at an amount not approved by the Commission;

27 (e) without lawful authority, communicates or attempts to  
28 communicate to an unauthorized person, any information relating to the  
29 movement of any mail bag or postal matter or electronic mail;

30 (f) being the landlord, tenant, occupier or is concerned with the

1 management of any premises, causes or knowingly permits the premises to be  
2 used for any purposes which constitutes an offence under this Act;

3 (g) fraudulently, or by means of a false pretence, obtains from any  
4 employee of a postal operator or any other person, any postal matter or  
5 electronic mail which is not addressed to him with intent to defraud;

6 (h) falsely represents himself as an employee of a postal operator or  
7 that he is for the time being employed by a postal operator or authorized to  
8 render a service on behalf of the operator;

9 (i) being an employee of a postal operator with intent to defraud,  
10 receives, gives, delivers, transmits or is in possession of any postal matter by  
11 false pretence;

12 (j) being an employee of a postal operator or any other person aids,  
13 abets, counsels, procures, attempts or conspires with any other person to  
14 commit an offence under this Act;

15 (k) prints, sells, supplies, recycles, offers for sale or otherwise deals  
16 in any postage stamp or any postal matter;

17 (l) prints, sells, supplies, recycles, offers for sale counterfeit  
18 postage stamps, postal matter, postage payment imprints;

19 (m) removes cancelled stamps or makes from bonafide postage  
20 stamp or postage payment imprints for purposes of falsification or re-use;

21 (n) being an employee of the Public Postal Operator or any other  
22 person authorized by the Public Postal Operator to sell postage stamps or other  
23 postal items, without lawful excuse fraudulently, wilfully or maliciously,  
24 refuses to do so or fraudulently, wilfully or maliciously does any act that causes  
25 a scarcity of postage stamps or postal items;

26 (o) lawfully or unlawfully obtains a postal service and then  
27 abandons or gives up the service without settling any debt or charge incurred by  
28 him on the service;

29 (p) engages in any conduct designed to perpetrate postal fraud  
30 schemes;

1 (q) refuses to supply or convey information where disclosure or  
2 submission is required under the provisions of this Act or any other written  
3 law;

4 (r) refuses to submit to inspection or obstructs or resists  
5 inspection activities by law enforcement agencies or the Commission;

6 (s) arranges for, permits, or transmits banned or prohibited  
7 article or item under this Act, subsidiary legislation or any other written law;

8 (t) without lawful authority offers or is engaged in any of the  
9 services exclusively reserved for the Public Postal Operator;

10 (u) colludes with a licensed operator to undercut price, dump  
11 items and does not comply with the provisions of this Act and regulations  
12 made under this Act;

13 (v) patronises an unlicensed operator; or

14 (w) being a licensed operator partners with unlicensed operators  
15 to transact postal or express business.

16 commits an offence under this Act.

17 **102.** A person who, being an employee of the Public Postal  
18 Operator or is for the time being under duty to discharge any function  
19 assigned to him by the Public Postal Operator:

Breach of  
official duty

20 (a) negligently and fraudulently fails to perform or discharge  
21 that duty;

22 (b) performs that duty fraudulently, negligently, perversely or  
23 recklessly; or

24 (c) commits an act or omission in breach of that duty,

25 commits an offence under this Act.

26 **103. -(1)** A person who commits an offence under this Act is  
27 liable on conviction, where no penalty is otherwise specified, in case of:

Penalties

28 (a) an individual, to imprisonment for a term of not less than one  
29 year or a fine of not less than one hundred thousand Naira or to both;

30 (b) a body corporate, to a fine not exceeding ten times the initial fee

1 for the relevant license.

2 (2) Notwithstanding the provision of subsection (1)(b) of this section,  
3 where an offence under this Act is committed by a body corporate, firm or other  
4 association, any:

5 (a) director, manager, secretary or other similar officers of the body  
6 corporate;

7 (b) partner or officer of the firm;

8 (c) person concerned in the management of the affairs of the  
9 association; or

10 (d) person who was purporting to act in any such capacity as  
11 aforesaid;

12 shall be severally liable for the offence and shall be prosecuted and punished  
13 for the offence in like manner as if he had himself committed the offence in an  
14 individual capacity, unless he proves that the act or commission constituting  
15 the offence took place without his knowledge, consent or connivance.

16 (3) In addition to the penalties specified in this Part of this Act, any  
17 article, property, facility, equipment, vehicle or other things used in the  
18 commission of or in connection with the offence shall be forfeited to the  
19 Federal Government.

Jurisdiction

20 **104.** The Federal High Court shall have exclusive jurisdiction over all  
21 matters, suits and cases arising from this Act or any regulations made under this  
22 Act and all references to "court" or "judge" in this Act means the Federal High  
23 Court or a judge of the Federal High Court.

Power to  
control property  
of accused

24 **105.** -(1) Where at any stage of a hearing or trial, the court is satisfied  
25 that a prima facie case has been established against a person, the court may, on  
26 such terms and conditions as may be just:

27 (a) prohibit any disposition of property, movable or immovable, by or  
28 on behalf of that person, whether or not the property is owned or held by that  
29 person or by any other person on his behalf except to such extent and in such  
30 manner as may be specified in the order; and

1 (b) where necessary or expedient, vest in the court or otherwise  
2 acquire the custody of any property, movable or immovable, of the person,  
3 for the preservation of the property, pending the determination of the  
4 proceedings.

5 (2) Failure to comply with the requirement of an order made under  
6 this section constitutes an offence under this Act punishable on conviction,  
7 in case of:

8 (a) an individual, to imprisonment for a term of not less than two  
9 years but not more than five years or a fine of not less than two hundred  
10 thousand Naira;

11 (b) a group of persons, not being a body corporate, to the same  
12 punishment as specified in paragraph (a) of this subsection for each of the  
13 persons in the group; or

14 (c) a body corporate, to a fine of an amount equal to two times the  
15 estimated value of the property affected by the non-compliance or one  
16 hundred million Naira whichever is higher.

17 (3) An application may be made to the court for the disposal or  
18 confiscation of any property seized under this Act:

19 (a) in the case of perishable property, at anytime; and

20 (b) in any other case, not earlier than twelve months after the  
21 property has been seized.

22 (4) The court may, if satisfied that there is need for the disposal or  
23 confiscation of the property specified in an application under subsection (4)  
24 of this section, make such order and on such terms and conditions as it may  
25 deem necessary for the disposal or confiscation of the property.

26 (5) The disposal of a property under this section shall be by public  
27 auction.

28 PART XXVII - SPECIAL POWERS OF COMMISSION

29 106. -(1) The Commission may in writing authorise any of its  
30 officials or appoint external inspectors on its behalf to exercise the powers of

Power of  
investigation

1 monitoring and enforcement vested in the Commission under this Act.

2 (2) The Commission may direct its authorised officials or appointed  
3 inspectors to investigate the activities of a licensee or other person to ensure  
4 compliance with the provisions of this Act and its regulations in accordance  
5 with the information-gathering, monitoring, enforcement and other related  
6 powers conferred on the Commission under this Act.

7 (3) In exercising any of the powers specified in subsection (2) of this  
8 section and notwithstanding any other provision of this Act, an authorised  
9 official of the Commission or its appointed inspector:

10 (a) shall on demand produce to the person whose activities is under  
11 investigation, the authority issued to him by the Commission; and

12 (b) may at any reasonable time and without prior notice, enter any  
13 affected person's or licensee's premises in order to:

14 (i) inspect and make copies of or extracts from books, records,  
15 documents or other information storage systems;

16 (ii) demand the production of and inspect the relevant licence, permit,  
17 certificate or authority; and

18 (iii) inspect any equipment or apparatus or other postal facilities on  
19 the premises.

20 (4) In carrying out an investigation into the activities of a person or  
21 licensee under this section, the official or appointed inspector shall have in his  
22 possession for the purposes of entering the premises of a person who is not a  
23 licensee, a warrant for that purpose obtained from a magistrate or judge prior to  
24 the entry into such premises.

Power to search

25 **107.** Notwithstanding the provisions of any other enactment  
26 conferring power to search, where any police officer or authorized officer of  
27 the Commission is reasonably satisfied that there may be found on any  
28 premises, building or any other place whatsoever, any item or information  
29 which in his opinion is or may be material to the subject matter of any  
30 investigation of an offence under this Act, he may after obtaining a warrant



1 from a magistrate or judge:

2 (a) enter, the premises, building or any other place and every  
3 part thereof; and

4 (b) search for, seize and remove any item, vehicle, facilities,  
5 equipment or information found therein; or

6 (c) seal off the premises, building or any other place and every  
7 part thereof; or

8 (d) shut down any facility or equipment found on the premises,  
9 building or any other place or part thereof.

10 **108.**-(1) The Commission, shall if there are grounds to believe Interim measures  
11 that a violation, civil or criminal, of the provisions of this Act or its  
12 regulations was, is or will be committed, take any interim measures  
13 considered appropriate or expedient pending a decision on the alleged  
14 violation, to ensure the enforceability of the ensuing decision.

15 (2) In cases where the person charged with the violation is an  
16 unlicensed postal operator, interim or preventive measures, including the  
17 sealing off of the building, premises or other place and every part thereof or  
18 shutting down and impounding the facility and equipment contained  
19 therein, shall remain in effect until a decision is taken or made.

20 (3) All interim or preventive measures taken or to be taken in  
21 connection with each case shall be commensurate with the objectives of the  
22 implementation of the measures.

23 (4) In this part, "decision" includes any action, proceeding,  
24 order, report or direction.

25 **109.** Where the Commission is of the opinion that a licensee of a Power to issue  
orders  
26 postal operator is competing unfairly, it may issue an order directing:

27 (a) the licensee to cease and desist from the activity found to  
28 constitute unfair competition;

29 (b) the licensee to take action to remedy the unfair competition;

30 (c) the licensee to pay a penalty as may be determined; or

1 (d) any anti-competitive agreement or contract null and void.

Power to intercept,  
detain, etc. of  
postal articles

2 **110.** The Commission shall have the following specific powers to  
3 direct the relevant postal operator:

4 (a) to intercept, detain, open, inspect, return, deliver to or deal in  
5 such manner as may be prescribed, where postal articles:

6 (i) have been posted contrary to the provisions of this Act or  
7 regulations made pursuant to this Act;

8 (ii) are suspected or found to be of a fraudulent nature;

9 (iii) contain goods in respect of which an offence is being  
10 committed or is being attempted to be committed; or

11 (iv) contain any fictitious postage stamp or bearing any postage  
12 stamp, the surface of which is smeared or coated with any postage stamp,  
13 which has been previously used to prepay the postage in any other postal article  
14 or for the payment of any revenue, duty or tax.

15 (b) to intercept, detain, open, inspect, return, deliver to an officer of  
16 the Government, a postal article or class or description of postal articles on the  
17 occurrence of public emergency or in the interest of public safety, peace or  
18 welfare; and

19 (c) take all necessary preventive measures in situations in which  
20 their implementation cannot be postponed.

Power to open  
postal articles

21 **111.** -(1) Where the Commission has reason to suspect that a postal  
22 article contains anything in respect of which an offence is being committed or  
23 attempted to be committed, it shall, by notice in writing, require the attendance  
24 at the office of the postal operator where the article was received for  
25 conveyance or delivery, the addressee or sender, as the case may be, and  
26 thereafter the article shall be opened by the addressee or sender or his agent.

27 (2) Where the addressee or sender or his agent fails or refuses to  
28 attend in pursuance of the notice given under subsection (1) of this section or  
29 refuses to open the article, the article shall be opened by authorized officer of  
30 the Commission in the presence of an officer of the postal operator and of any

1 other person named or referred to in the notice present.

2 (3) In all cases where an article is opened under this section, it  
3 shall be given to the addressee or sender as the case may be unless it is  
4 required for the purpose of any proceedings under this Act or any other  
5 enactment for the time being in force.

6 PART XXVIII - LEGAL PROCEEDINGS

7 112. -(1) Subject to the provisions of this Act, the provisions of  
8 the Public Officers' Protection Act shall apply in relation to any suit  
9 instituted against an official or employee of the Commission.

Limitation of  
suits against the  
Commission

10 (2) Notwithstanding anything contained in any other law or  
11 enactment, no suit shall lie against a Commissioner, the Secretary or any  
12 other official or employee of the Commission for any act done under this Act  
13 or any other law or enactment, or of any public duty or authority in respect of  
14 any alleged neglect or default in the execution of this Act or any other law or  
15 enactment, duty or authority, or be instituted in any court unless it is  
16 commenced:

17 (a) within three months after the act, neglect or default  
18 complained of; or

19 (b) in the case of a continuation of damage or injury, within six  
20 months next after the ceasing thereof.

21 (3) No suit shall be commenced against a member of the  
22 Commission, the Secretary or any official or employee of the Commission  
23 before the expiration of a period of one month after written notice of the  
24 intention to commence the suit shall have been served on the Commission  
25 by the intending plaintiff or his agent.

26 (4) The notice referred to in subsection (3) of this section shall  
27 clearly and explicitly state the cause of action, the particulars of the claim,  
28 the name and place of abode of the intending plaintiff and the relief sought.

29 113. A notice, summons or other documents required or  
30 authorized to be served on the Commission under the provisions of this Act

Service of court  
processes on the  
Commission

1 or any other law or enactment, may be served by delivering it to the  
2 Commission or by sending it by registered post addressed to the Director  
3 General of the Commission at the principal office of the Commission.

Restriction on  
execution against  
the Commission's  
property

4 **114.** In any action against the Commission, no execution or  
5 attachment of any nature thereof shall be issued against the Commission unless  
6 at least three months notice of the intention to execute or attach the  
7 Commission's property has been given to the Commission.

Indemnity of  
the Commission's  
officials

8 **115.** A member of the Commission or any official or employee of  
9 the Commission shall be indemnified out of the assets of the Commission  
10 against any liability incurred by him in defending any proceeding, whether  
11 civil or criminal, if the proceeding is brought against him in his capacity as a  
12 member of the Commission, Officer or employee of the Commission.

Limitation of  
Actions against  
the Public Postal  
Operator

13 **116.** No action shall lie or be instituted in any court against the  
14 Public Postal Operator, a member or an officer of the Public Postal Operator for  
15 any act done in pursuance of or execution of its universal postal service  
16 obligations under this Act or public duty or authority or in respect of any  
17 alleged default in the execution of its universal postal service obligations, duty  
18 or authority, unless it is commenced within twelve months after the act, neglect  
19 or default complained of or, in the case of a continuous damage or injury, within  
20 twelve months next after the ceasing thereof.

Restriction on  
execution against  
property of the  
Public Postal  
Operator

21 **117.** In any action or suit against the Public Postal Operator, no  
22 execution or attachment of process in the nature thereof shall be issued against  
23 the Public Postal Operator but any sum of money which may, by the judgment  
24 of the court, be awarded against the Public Postal Operator shall, subject to any  
25 directive by the court where notice of appeal has been given by the Public  
26 Postal Operator in respect of the said judgment, be paid from the Universal  
27 Postal Service Fund.

28 **PART XXIX - NATIONAL INTEREST MATTERS**

General duties  
of licensees

29 **118.** -(1) A licensee shall prevent the postal facility that he owns or  
30 provides or the postal service that he provides from being used in, or in relation

1 to, the commission of any offence under any law in operation in Nigeria.

2 (2) A licensee shall, upon written request of the Commission or  
3 any other authority, assist the Commission or other authority where  
4 necessary in preventing the commission or attempted commission of an  
5 offence under any written law in operation in Nigeria or otherwise in  
6 enforcing any law in Nigeria, including the protection of public revenue and  
7 preservation of national security.

8 (3) A licensee, shall not be liable in criminal proceedings of any  
9 nature for any damage including punitive damages, loss, cost or expenditure  
10 suffered or to be suffered (whether directly or indirectly) for any act or  
11 omission done in good faith in the performance of the duty imposed under  
12 subsections (1) and (2) of this section.

13 **119.** The Commission may determine that a licensee or category Capability  
14 of licensees shall implement the capability to allow authorised interception  
15 of postal articles and such determination may specify the technical  
16 requirements for authorised interception capability.

17 **120.** Upon the occurrence of any public emergency or in the Emergency  
18 interest of public safety, the Commission may: provisions

19 (a) suspend the licence of any licensee, take temporary control of  
20 any service or postal facilities owned or provided by a licensee in any  
21 manner as the Commission deems fit;

22 (b) withdraw either totally or partially the use of any service or  
23 postal facilities from any licensee, person or the general public.

24 **121.** The Commission may direct a licensee or category Disaster plan  
25 licensees to develop, in consultation with the authorities specified by the  
26 Commission, a disaster plan for the survivability and recovery of any  
27 services or postal facilities in case of a disaster, crisis or civil emergency.

28 **122.-(1)** The Commission shall support the smooth operation of Interconnection  
29 interconnection, including capacity sharing, between the Public Postal  
30 Operator and other postal operators, so as to enhance mutual accessibility

1 among postal operators, ensure fair and non-discriminatory terms of  
2 interconnection and protect the interest of users.

3 (2) Without limiting the measures that it may take in fulfilment of  
4 the responsibility under subsection (1) of this section the Commission may:

5 (a) issue guidelines on the establishment of interconnection  
6 agreements between operators and settlement of interconnection disputes;

7 (b) facilitate negotiations for interconnection agreements between  
8 operators; and

9 (c) settle or arbitrate any dispute that may arise between the  
10 operators.

11 PART XXX - MISCELLANEOUS

Repeal of Cap  
N127 LFN 2004

12 123. -(1) The Nigerian Postal Service Act, Cap N127 LFN 2004 is  
13 repealed.

14 (2) Without prejudice to the provisions of the Interpretation Act,  
15 nothing in this Act shall invalidate or otherwise prejudicially affect anything  
16 done or purported to be done under the repealed Act.

Savings

17 124.-(1) As from the commencement of this Act, all assets, rights,  
18 liabilities and obligations of the Nigerian Postal Service shall vest in the  
19 Commission.

20 (2) Notwithstanding the provisions of this Act and subject to such  
21 directions as may be issued by the Commission, any person who was an  
22 employee of the Nigerian Postal Service shall be deemed to be an employee of  
23 the Commission.

Interpretation

24 125. In this Act:

25 "access" means making available postal facilities and services from one  
26 licensee to another for the purposes of providing services and access to  
27 physical infrastructure, including but not limited to buildings;

28 "Agreement" means an agreement, whether formal or informal, oral or written,  
29 express or implied;

30 "authorized interception" means interception by the Commission or Postal

- 1 Operator permitted under this Act;
- 2 "cargo" means any goods transported by air, sea etc. and in this Act "express  
3 cargo or courier items" refer to time sensitive goods conveyed by means of  
4 transportation., including road, sea, air;
- 5 "category of licence" means a licence for any person to operate specified  
6 postal services and may include conditions to which the conduct of the  
7 service shall be subject;
- 8 "Commission" means the Nigerian Postal Commission established under  
9 section 2 of this Act;
- 10 "consumer" means any person who uses a postal service;
- 11 "courier service" means door-to-door, time-sensitive and secured service;
- 12 "cross subsidization" means the practice of using surplus revenues  
13 generated from one product or service to support another service which is  
14 priced at a rate that is less than full compensation;
- 15 "direction" means a direction issued by the Commission;
- 16 "dominant position" means a postal operator that has the largest market  
17 share of the postal industry in terms of coverage, products and services;
- 18 "equipment" means any equipment or apparatus used or intended to be used  
19 for postal purposes and that is part of or connected to or comprises postal  
20 system;
- 21 "false pretence" has the meaning assigned to it under section 419 of the  
22 Criminal Code;
- 23 "fictitious or "counterfeit" postage stamp means any facsimile or imitation  
24 or representation whether on paper or otherwise, of any stamp or stamped  
25 impression, for denoting any rate of postage in any part of Nigeria;
- 26 "Instrument" includes a direction, determination or declaration;
- 27 "intercept" means the rural or other acquisition of the contents of any postal  
28 article;
- 29 "lawful authority" means the official procedure as it relates to dealing in  
30 postal services;

- 1 "letter" means a communication in writing which is directed to a specific  
2 person or address or relates to the personal, private or business affairs of an  
3 individual or any employer and includes a packet containing such  
4 communication and electronic mail;
- 5 "licence" means an authorization granted by the Commission to an operator for  
6 the provision of postal services;
- 7 "Licensee" means a person who holds a licence granted under this Act;
- 8 "logistic services" means services which include haulage, conveyance,  
9 despatch or delivery of items or goods weighing not less than 50kg;
- 10 'Mandatory Postal Services' means postal services that are required to be  
11 provided by the Public Postal Operator under Section 102 of this Act;
- 12 "Minister" means the Minister for the time being charged with the  
13 responsibility for postal services;
- 14 'Ministry' means the Federal Ministry for the time being charged with the  
15 responsibility of postal services;
- 16 "monitoring" refers to the function of comprehensive and continuous review of  
17 the operations and adequacy of postal networks, facilities and service and the  
18 reasonableness of charges imposed for services;
- 19 "operator" means a person that operates postal services or a postal services  
20 provider in accordance with this Act;
- 21 "person" includes natural and artificial person such as a body corporate or  
22 partnership and where an individual is required to represent a corporate body or  
23 partnership in any circumstance pursuant to this Act its subsidiary legislation,  
24 it shall be sufficient if in the case of:
- 25 (a) corporate body, it is represented by its competent officer; and  
26 (b) partnership, it is represented by a partner in the partnership or a  
27 competent employee of the partnership;
- 28 "postage stamp" means any label, stamp or stamp impression for denoting any  
29 rate of postage payable in respect of postal articles and includes adhesive  
30 postage stamps and stamps printed, embossed, impressed or otherwise



1 indicated on any envelope, wrapper, postcard or other articles whether such  
2 postage stamp is issued by the public postal authority or by the Government  
3 of any foreign country;

4 "postal articles" include any letter, postcard, newspaper, book, document,  
5 pamphlet, patent or sample packet, parcel or package or other article  
6 whatsoever transmissible through postal operators;

7 "Postal facilities" include a house, building, premises, room, vehicles,  
8 vessel carriage or place used for the purpose of providing postal service and  
9 every letter box, post office provided by the public postal operator for the  
10 receipt of postal articles;

11 "postal matter" includes a letter, stamp, postal order, money order, mailbag,  
12 seal or any other postal item;

13 "PPP" means Public Private Partnership;

14 "President" means the President of the Federal Republic of Nigeria;

15 "Private Postal Operator" means any postal operator other than the Public  
16 Postal Operator;

17 "Public Postal Operator" means the Nigerian Postal Service Limited  
18 designated for the provision of universal service under subsection 83(1) of  
19 this Act;

20 "publication" of any information by the Commission pursuant to this Act or  
21 its subsidiary legislation, except otherwise specified in any particular  
22 section of this Act, shall be deemed as sufficiently effected if it is published;

23 "publication" of any information by a licensee pursuant to this Act or its  
24 subsidiary legislation, except otherwise specified in any particular section  
25 of this Act, shall be deemed as sufficiently effected if it is:

26 (a) officially sent to the Commission;

27 (b) made publicly and readily available to any member of the  
28 public at the licensee's offices that deal with or relate howsoever with its  
29 consumers; and

30 (c) as the Commission may specify;

- 1 "Register" means any of the registers established or maintained by the  
2 Commission for the purposes of this Act;
- 3 "Reserved Postal Service" means postal services within the exclusive power of  
4 the public postal operator under section 102 of this Act;
- 5 "Service Delivery Conditions" means basic principles with respect to service  
6 delivery;
- 7 "Transactions" means delivery of goods, including parcels, documents,  
8 merchandise and cargo;
- 9 "UPS Fund Board" means the Board established under section 85 of this Act;
- 10 "UPS Fund" means Universal Postal Service Fund;
- 11 "UPU" means the Universal Postal Union;
- 12 "Unlicensed Postal Operator" means a person who operates a postal, service  
13 without being licensed under this Act.

short title

14 **126.** This act may be cited as the Nigerian Postal Commission Bill, 2015.

0

## FIRST SCHEDULE

## Section 3(5)

## SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION

*Proceedings of the Commission*

1. Subject to the provisions of this Act, the Commission may make standing orders regulating its proceedings or that of any of its Committees.

2. The Chairman shall preside at every meeting of the Commission and in his absence, the Director General shall preside at the meeting and in the absence of the Chairman and Director General, the members present at that meeting shall appoint one of their members to preside at the meeting.

3. The quorum for any meeting of the Commission shall be a simple majority of the members for the meantime constituting the Commission.

4. The Commission shall meet to transact its business pursuant to this Act whenever it is summoned by the Chairman and if so required by notice given to him by not less than four other members of the Commission specifying, amongst others, an agenda for the meeting, the Chairman shall summon a meeting of the Commission that shall be held within fourteen days from the date on which the notice is served on him to discuss the items specified in the notice; provided that the Commission shall for the purposes of this Act meet not less than four times in each calendar year.

5. A member of the Commission who directly or indirectly has an interest of a personal nature (including but not limited to financial interests) in any matter being deliberated upon by the Commission, or is personally interested in any contract made or proposed to be made by the Commission, shall so soon after the facts of the matter of his interests have come to his knowledge disclose his interest and the nature thereof at a meeting of the Commission.

6. A disclosure under sub-paragraph 5 of this paragraph shall be

1 recorded in the minutes of meetings of the Commission and the member  
2 concerned:

3 (a) shall not, after the disclosure, take part in any deliberation or  
4 decision of the Commission or vote on the matter; and

5 (b) shall be excluded for the purpose of constituting a quorum at any  
6 meeting of the Commission for any deliberation or decision, with regard to the  
7 subject matter in respect of which his interest is so disclosed.

8 *Committees*

9 2. -(1) Subject to its standing orders, the Commission may appoint  
10 such number of standing or ad hoc committees as it thinks fit to consider and  
11 report on any matter with which the Commission is concerned.

12 2. A Committee appointed under subparagraph (1) of this paragraph  
13 shall consist of such number of persons, who may not necessarily be members  
14 of the Commission as may be determined by the Commission, provided that the  
15 appointment of a non-Commission member as a Committee member shall be  
16 subject to such terms and conditions as the Commission may determine.

17 *Miscellaneous*

18 3. -(7) The fixing of the seal of the Commission shall be authenticated  
19 by the signature of the Secretary and that of the Chairman or any other Member  
20 of the Commission generally or specifically authorised by the Commission to  
21 act for that purpose.

22 8. Any contract or instrument which, if made by a person not being a  
23 body corporate, would not be required to be under seal may be made or  
24 executed on behalf of the Commission, by any person generally or specially  
25 authorised by the Commission to act for that purpose.

26 9. Any document purporting to be a contract, instrument or other  
27 document duly signed or sealed on behalf of the Commission shall be received  
28 in evidence and shall, unless the contrary is proved, be presumed without  
29 further proof to have been so signed or sealed.

30 10. Subject to the provisions of this Act, the validity of any

1 proceedings of the Commission or of any of its Committees shall not be  
2 affected by:

3 (a) any vacancy in the membership of the Commission or  
4 Committee;

5 (b) any defect in the appointment of a member of the Commission  
6 or Committee; or

7 (c) reason that any person not entitled to do so took part in the  
8 proceedings of the Commission or Committee.

9 **11.** A member of the Commission or Committee shall not be  
10 personally liable for any act or omission done or made in good faith while  
11 engaged on the business of the Commission.

12 **SECOND SCHEDULE**

13 **Section 14(3)**

14 **CONFLICT OF INTEREST**

15 **1.** Subject to the provisions of this Schedule, a member of the  
16 Commission or staff of the Commission shall not have a direct or indirect  
17 financial interest or investment in any Nigerian postal company throughout  
18 the tenure of his office or his employment with the Commission.

19 **2.** Subject to paragraphs 3 and 4 of this Schedule, a member of the  
20 Commission or staff of the Commission shall on an annual basis present a  
21 written declaration affirming the non-existence of any such interest as is  
22 specified in paragraph 1 of the Schedule and shall pledge to disclose and  
23 inform the Commission of any such relationship or interest that arises or is  
24 likely to arise during his tenure or employment with the Commission.

25 **3.** Members of the Commission and staff of the Commission as at  
26 the commencement date of this Act shall be entitled to a maximum of six  
27 months from the said commencement date within which to divest  
28 themselves of their direct or indirect financial interests or investment in any  
29 Nigerian postal company, if any.

30 **4.** All newly appointed members of the Commission and staff of

1 the Commission shall after the commencement of this Act be entitled to a  
2 maximum of six months from their respective dates of appointments within  
3 which they may divest themselves of their direct or indirect financial interests  
4 or investments in any Nigerian postal company, if any.

5 5. Each member of the Commission and staff of the Commission  
6 shall declare on appointment or at the commencement of employment and  
7 annually thereafter, for as long as he serves the Commission, any interest or  
8 investment that he:

9 (a) knowingly has; or

10 (b) knows any member of his immediate family to have in any aspect  
11 of the Nigerian postal industry.

12 6. If any member of the Commission or staff of the Commission  
13 contravenes the provisions of paragraphs 1 and 2 of this Schedule, or gives  
14 false information under paragraphs 5 of this Schedule, he shall on conviction  
15 be liable to a fine not exceeding N100,000.00 or imprisonment not exceeding 1  
16 year or both.

17 7. Subject to paragraph 8 of this Schedule, the Commission may,  
18 from time to time, waive the application of the provisions specified in  
19 paragraphs 1 and 2 of this Schedule to any member of the Commission or staff  
20 of the Commission if the Commission determines that the financial interest of  
21 the member of the Commission or staff of the Commission is not of a material  
22 nature or is minimal.

23 8. The Commission, in determining whether or not the interest of a  
24 member of the Commission or staff of the Commission is not of a material  
25 nature will consider factors including but not limited to the following:

26 (a) the revenues, investments, profits and managerial efforts of the  
27 company or other entity in regard to its postal activities compared with other  
28 aspects of the company's or such entity's businesses;

29 (b) the extent to which the Commission regulates and oversees the  
30 activity of such company or entity;

1 (c) the degree to which the economic interests of such company or  
2 other entity may be affected by an action of the Commission; and

3 (d) the perceptions held or likely to be held by the public regarding  
4 the relevant holding or interest and issues at stake.

5 9. The Commission may at any time review and reverse its  
6 determination under paragraph 7 of this Schedule and direct the application  
7 of the prohibitions contained in these provisions.

8 10. In any case in which the Commission exercises the waiver  
9 authority or the review thereof as specified in paragraphs 7 and 8 of this  
10 Schedule, the Commission shall so soon thereafter publish the details  
11 thereof and such publication shall include information regarding the identity  
12 of the person who has been granted the waiver or whose waiver grant has  
13 been reviewed, the position held by such person and the nature of the  
14 financial interest which is the subject of the waiver or the review thereof.

15 11. For the purposes of this Schedule:

16 (a) "Company" includes partnerships;

17 (b) "Immediate family" means a person's spouse and children who  
18 are under the age of 18 years.

#### EXPLANATORY MEMORANDUM

*(This note does not form part of the above Act but is intended  
to explain its purport)*

This Bill repeals the Nigerian Postal Service Act, Cap N127, LFN, 2004, and enacts the Nigerian Postal Commission Act to provide for the establishment of the Nigerian Postal Commission, the introduction of private sector participation in the provision of postal service and the regulation of the postal sector and for other matters connected therewith.

