

NIGERIAN POSTAL BILL, 2017

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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 Senator Gbenga Ashafa

[] 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 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

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;

Functions of the
Commission

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 Transparency
 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.

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.

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

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

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

Assignment of licences and compliance with license conditions

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

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

PART IX - RENEWAL AND REVOCATION

Processing of applications

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

- (a) whether or not the licence has been granted;
- (b) in the event of a grant, of any special or additional conditions that apply to the licence; and
- (c) in the event that the application has been refused, the reasons for the refusal.

Renewal of licence

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

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

- (a) the terms and conditions of the licence;
- (b) the provisions of this Act or regulations made pursuant to this Act; or
- (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.

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

Effect of
suspension,
surrender and
revocation of a
licence

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 Conduct of
investigation
12 investigation of a matter to which a complaint relates, inform the respondent
13 that the matter is to be investigated.

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
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.

Non-compliance

13 51. -(1) The Commission may, at anytime require a person in
14 writing to produce all such evidence and information relating to his
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.

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
30 information, evidence or documents received pursuant to the directions

Record and 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.

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.

28 (2) The register shall contain:

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

Mode of
resolution of
dispute by the
Commission

Register of
decisions

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.

PART XVIII - REVIEW OF DECISIONS

Reasons for decisions

1
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

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.

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

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

Anti-competition
practices

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 licensee 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 undue discrimination 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:

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

Membership of
the UPS Fund
Board

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

Power to open

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 of 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 Bill may be cited as the Nigerian Postal Bill, 2017.

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
2 standing orders regulating its proceedings or that of any of its Committees.

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

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

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

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

26 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.

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