



THE SENATE
FEDERAL REPUBLIC OF NIGERIA

NATIONAL TRANSPORT COMMISSION BILL, 2022
(SB.427)

A

BILL FOR

AN ACT TO ESTABLISH THE NATIONAL TRANSPORT COMMISSION AS AN
INDEPENDENT MULTI-MODAL REGULATOR AUTHORITY AND PROVIDE FOR A
LEGAL FRAMEWORK FOR THE ECONOMIC REGULATION OF TRANSPORT SERVICES
IN THE INDUSTRY; AND FOR RELATED MATTERS, 2022

FIRST READING

THURSDAY, 28TH MAY, 2020

SECOND READING

TUESDAY, 9TH JUNE, 2020

THIRD READING AND PASSAGE

WEDNESDAY, 2ND FEBRUARY, 2022

NATIONAL TRANSPORT COMMISSION BILL, 2022



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A BILL FOR AN ACT TO ESTABLISH THE NATIONAL TRANSPORT COMMISSION AS AN INDEPENDENT MULTI-MODAL ECONOMIC REGULATORY AUTHORITY, AND PROVIDE FOR A LEGAL FRAMEWORK FOR THE ECONOMIC REGULATION OF TRANSPORT SERVICES IN THE INDUSTRY; AND FOR RELATED MATTERS. (SB. 427)

{ } Commencement

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

PART I — OBJECTIVES, APPLICATION AND SCOPE OF THE BILL

- | | | |
|----|---|---|
| 1. | <p>The objectives of this Bill are to:</p> <ul style="list-style-type: none"> (a) establish the National Transport Commission as an effective, impartial and independent economic regulatory authority for the transport sector and set out the objectives, functions and powers of the Commission; (b) promote the implementation of the national transport policy; (c) provide an economic regulatory framework for the regulation of commercial and related activities in the regulated transport sector; (d) provide mechanism for monitoring compliance of government agencies and transport service providers in the regulated transport sector with relevant legislation and advise Government on matters relating to economic regulation of the regulated transport sector; (e) provide for the efficient regulation of the regulated transport sector by a multi-modal economic regulator; (f) protect the rights and interests of transport service providers and users; (g) create an enabling environment for private sector participation in the provision of transport and related services in the industry; and (h) subject to the provisions of the Federal Competition and Consumer Protection Act, ensure consumer protection and quality of services provided in the regulated transport sector. | Objectives of the Bill. |
| 2. | <p>This Bill applies to:</p> <ul style="list-style-type: none"> (a) the economic regulation in the provision or use of any federal regulated transport service or facility in a regulated transport sector in Nigeria; and (b) any public or private sector service provider using federal regulated transport infrastructure to provide transport services or facilities in a regulated transport sector in Nigeria. | Application and scope |
| 3. | <ul style="list-style-type: none"> (1) The Commission, may after consultation with the Minister, make a recommendation to the President for approval to declare a sector to be a regulated transport industry after having regards to: <ul style="list-style-type: none"> (a) the existence of a significant and non-transitory market power; (b) the non-existence of economic regulation specific to that sector; (c) the existence of significant failures in the management and operations of a transport sector as a result of lack of regulation in that sector; and (d) other relevant considerations. (2) The order or regulation which shall be published in the Federal Government Gazette, may declare: <ul style="list-style-type: none"> (a) which sector is to be deemed a regulated transport sector; and (b) the extent or the scope of the regulation. (3) A transport sector becomes regulated under this Bill only in the manner prescribed under this Bill, order or regulation made under this Bill. (4) Without prejudice to the powers of the President to issue an order under subsection (1), the Commission shall issue regulations, guidelines and notices for the implementation of such orders duly gazetted. | Power to declare a regulated transport industry |

PART II — ESTABLISHMENT OF THE NATIONAL TRANSPORT COMMISSION

4. (1) There is established an independent multi-modal transport sector economic regulator known as the National Transport Commission (in this Bill referred to as "the Commission").
- (2) The Commission:
- (a) is a body corporate with perpetual succession and a common seal;
 - (b) may sue and be sued in its corporate name; and
 - (c) may:
 - (i) enter into contracts and incur obligations,
 - (ii) acquire, hold, mortgage, purchase, sell, lease and deal with property, whether movable or immovable, real or personal, for the purpose of this Bill, and
 - (iii) do all acts and things which a body corporate may, by law do and which are necessary or convenient for the purpose of this Bill.
- (3) The common seal of the Commission shall be kept in the custody of the Commission's Secretary and Legal Adviser.
- (4) The Commission shall be structured as appropriate for the effective performance of its functions and operations.
5. (1) The Commission shall:
- (a) create an economic regulatory framework for the provision of transport services and facilities;
 - (b) ensure the implementation of government's economic regulatory policies on transport and perform other functions and assume responsibilities as are given to the Commission under this Bill or any relevant transport sector legislation;
 - (c) enforce and supervise economic regulatory provisions of all relevant legislation on a regulated transport sector;
 - (d) protect the interest of users of transport services by ensuring that prices are fair and reasonable while having regard to the level of competition in, and efficiency of, the regulated transport sector;
 - (e) facilitate effective competition, promote and protect a transparent and competitive market free of unfair business conduct and ensure that the misuse of monopoly or dominant position or non-transitory market power is prevented;
 - (f) ensure the prevention or regulation of negative activities including:
 - (i) price or rate fixing and discrimination,
 - (ii) predatory pricing,
 - (iii) conspiratorial pricing amongst some competitors or against others or against service users, and
 - (iv) hoarding and other restrictive or exclusive contracts which have or may have a negative effect within the regulated transport sector;
 - (g) examine and resolve complaints, objections and disputes referred to it on any economic regulatory matter between government agencies in a regulated transport sector and concessionaires, operators, users, shippers and consumers or any other person involved in a regulated transport sector, using such dispute resolution methods as the Commission may determine, including mediation and arbitration;
 - (h) approve, review and fix terms, conditions and maximum fees for the grant of licenses and permits for the provision of transport services and make regulations for the grant of licenses;
 - (i) monitor the performance of the regulated sectors and effect the review and setting of tariffs in cases of abuse of monopoly power or dominant position and anti-competitive behavior by public and private transport operators, service providers and operators;
 - (j) set guidelines, general policies and monitor compliance on tariffs, rates, charges or other fees

Establishment of
the National
Transport
Commission

Functions and
powers of the
Commission

- charged by public and private transport operators and service providers;
- (k) monitor the relationship between public transport service operators and their affiliates and the relationship between concessionaires and their affiliates to ensure that no party derives unfair advantages over other transport service operators;
- (l) enforce and monitor performance standards and indices relating to the quality of transport services and facilities provided to users, and consumers in Nigeria having regard to best international performance indicators;
- (m) advise the Minister on the formulation of the general economic policies for transportation industry and generally on matters relating to transportation industry in the exercise of the Ministers function and responsibilities under this Bill;
- (n) make such regulations as may be necessary under this Bill to give full effect to the provisions of this Bill;
- (o) carry out other functions and responsibilities given to the Commission under this Bill, or any other legislation; and
- (p) exercise all of the powers given to it under this Bill and do all acts and things which are necessary or convenient for performing its functions and discharging its duties under this Bill.

(2) Where there is conflict between this Bill and any sector legislation on the economic regulatory functions and powers of the Commission, the provisions of this Bill shall prevail.

(3) The Commission shall not perform its functions in such a manner as to contravene any mandatory international convention to which Nigeria is a party and shall ensure compliance with obligations under those international conventions by government agencies charged with the responsibility for those matters.

6. (1) This section applies to the Commission and prescribed agencies as set out in the Fourth Schedule to ensure that: Consultation
- (a) the regulatory and decision-making processes of the Commission and prescribed agencies are closely integrated and better informed; and
 - (b) overlap or conflicts between regulatory schemes are avoided.
- (2) The Commission may, as it deems fit, consult with a relevant prescribed agency in:
- (a) making determinations;
 - (b) conducting inquiries; or
 - (c) preparing and reviewing sector regulations and regulatory practices.
- (3) Where it is required to do so, a prescribed agency shall consult with the Commission in:
- (a) relation to any matter specified by the Commission which is relevant to the objectives or functions of the Commission under this Bill or under any other legislation; or
 - (b) respect of any matter specified by the Commission which may impact on a regulated transport sector.
- (4) A prescribed agency shall ensure that consultation occurs as early as practicable in respect of any matter pertaining to its functions under this Bill or its sector legislation.
- (5) The Commission shall, whenever it deems it appropriate and practicable to do so, consult with relevant stakeholders, the public and representatives of a relevant transport sector in the exercise of its powers with regard to a sector wide, new or revised set of regulations which is published in the Federal Government Gazette.
- (6) For the purpose of subsection (5), the Commission shall establish and identify the relevant persons, organisations and institutions to be consulted.
- (7) The Commission shall include, in its annual report, a report on the implementation of its consultation programmes carried out during the year covered by the report.

(8) The requirements under this section are in addition to any other requirement or process under any other relevant legislation or regulatory scheme to the extent that such legislation is consistent with the provisions of this Bill.

7. (1) The Minister shall have the following responsibilities and functions under this Bill:
- (a) the formulation, determination and monitoring of the general policy for the economic regulation of the transport sector with a view to ensuring, amongst others, the utilisation of the sector as a platform for the economic development of the nation;
 - (b) the negotiation and execution of international treaties or agreements on matters of economic regulation of the transport sector, on behalf of Nigeria, with other sovereign nations or international organisations and bodies; and
 - (c) the representation of Nigeria, in conjunction with the Commission at proceedings of international organisations in respect of matters covered by this Bill.
- (2) The Minister shall, in consultation with the President, and not later than three months after the coming into effect of this Bill, take such steps as are necessary to bring into effect the institutional structures of the Commission.
- (3) Nothing in subsection (2) precludes the Minister, in consultation with the President, from constituting an interim management committee to take charge of the take-off of the Commission, pending the appointment of substantive members of the Commission by the President.
- (4) Prior to formulation or review of the general policy in any area of regulatory concern, the Minister shall cause the Commission on his behalf to first carry out a public consultative process on the proposed policy formulation or modification.
- (5) The Minister and the Board shall, in formulating and determining the policy or amendments, take into consideration the findings of the consultative process under subsection (4) of this section.
- (6) The Minister shall, in writing, from time to time notify the Commission or express his views on the general policy direction of the Federal Government in respect of the transportation sector.
- (7) The Minister shall, in the execution of his functions and relationship with the Commission at all times ensure that the independence of the Commission, in regard to discharge of its regulatory functions and operations under this Bill is protected.
- (8) The Commission shall comply with, and implement the government economic policy on transport and shall at all times be independent in the performance of its functions.

Relationship of
the Commission
with the Minister

PART III — MEMBERSHIP OF THE COMMISSION

8. (1) There is established for the Commission a Governing Board (in this Bill referred to as "the Board") charged with the administration of the Commission.
- (2) The Board shall consist of:
- (a) a Chairman,
 - (b) the Director-General, who shall be the Chief Executive and Accounting Officer of the Commission,
 - (c) five Executive Commissioners, and
 - (d) six Part-time Non-Executive Commissioners to represent the six geo-political zones.
- (3) The Chairman and members of the Board shall be appointed by the President.
- (4) The Chairman and the Director-General shall not be appointed from the same geo-political zone.
- (5) The supplementary provisions set out in the First Schedule to this Bill shall have effect with respect to the proceedings of the Commission and other matters contained in that Schedule.

Membership of
the Commission

9. (1) The Director-General and Executive Commissioners shall be appointed on the basis of being persons

Qualification for

of recognised qualification, expert knowledge and cognate experience in one or more of the following membership of the Commission

- fields:
- (a) ports, roads, railway, marine, or maritime administration;
 - (b) marine or maritime transport;
 - (c) rail transport;
 - (d) road transport;
 - (e) civil, mechanical or other relevant engineering discipline;
 - (f) finance;
 - (g) law;
 - (h) transport economics or management;
 - (i) infrastructure asset management;
 - (j) regulatory matters;
 - (k) public administration; or
 - (l) business administration;

Provided that the Director-General and each Executive Commissioner appointed shall possess at least 20 years of professional experience relevant to their designated portfolios.

(2) A person shall not be appointed, or remain in office, as a member of the Commission if he:

- (a) is not a Nigerian citizen;
- (b) is a serving member of the National Assembly, a State House of Assembly or any Local Government or Area Council;
- (c) is incapacitated by any physical illness;
- (d) has been certified to be of unsound mind;
- (e) is an un-discharged bankrupt;
- (f) has been convicted in Nigeria or elsewhere of a criminal offence involving fraud or dishonesty; or
- (g) has at any time been removed from an office of trust on account of misconduct.

(3) The conflict of interests provisions contained in the Second Schedule to this Bill apply to all members of the Commission.

10. (1) Subject to subsection (2), the President shall nominate only persons qualified in accordance with section 9 for appointment as Director-General and Executive Commissioners of the Commission. Appointment and tenure of members of the Commission
- (2) The appointment of the Director-General and each Executive Commissioner of the Commission is subject to confirmation by the Senate.
- (3) Each Non-Executive Commissioner of the Commission shall serve a single term of five years only from the date of his appointment.
- (4) The tenure of the Director-General and Executive Commissioners of the Board shall be for a term of five years, which may be renewed for another term of five years and no more.
- (5) All appointments or re-appointments shall be made before the expiration of their term of office or, in the event of death or vacancy, the President shall, within one month, nominate another Commissioner in accordance with the provisions of this section for appointment to fill the vacancy.
11. The remuneration and allowances payable to the members of the Board shall be as determined by the Revenue Mobilisation Allocation and Fiscal Commission. Remuneration and allowances
12. (1) A member of the Commission may be suspended or removed from office by the President if: Suspension or removal of a member of the Commission
- (a) he is found not qualified for appointment as a member of the Commission under section 9;
 - (b) he has demonstrated inability to effectively discharge the duties of his office;
 - (c) he is guilty of serious misconduct in relation to his duties;
 - (d) he is disqualified or suspended from practicing his profession in any part of the world by an order of

a competent authority;

(e) it is in the public interest; or

(f) he is in breach of the conflict of interests rules set out in the Second Schedule to this Bill.

(2) A Commissioner or any other member of the Board may resign his office by giving one month's written notice addressed to the President through the Minister.

13. (1) There is a vacancy in the Commission if a Commissioner:

(a) dies;

(b) is removed from office in accordance with section 9 (2) or 12 (1);

(c) resigns from office; or

(d) completes the tenure of his office.

(2) A vacancy in the Commission shall be filled by the appointment of another person to the vacant office by the President in accordance with section 10 (5), as soon as is reasonably practicable, after the occurrence of such vacancy.

(3) To ensure continuity, any person appointed in accordance with subsection (2) shall hold office in accordance with section 10 (3) or (4) from the date of his appointment.

(4) Where there is vacancy in the office of the Director-General, the President shall appoint the most senior Executive Commissioner as Acting Director-General of the Commission in accordance with section 9 (1) to preside over the affairs of the Commission for a period not more than six months, pending the appointment and confirmation of a substantive Director-General of the Commission in accordance with the provisions of section 9.

(5) Where the Chairman is unable for any reason to attend meetings of the Commission, the members of the Commission shall elect one of them to preside over the meeting of the Commission.

Vacancy on the membership of the Commission

PART IV — MANAGEMENT AND STAFF OF THE COMMISSION

14. (1) The Chief Executive shall be primarily responsible for the execution of the policies and decisions of the Board and for the day-to-day management and supervision of the activities of the Commission.

The Director-General

(2) The Chief Executive shall be a person possessing professional knowledge and ability in the organisation and management of economic regulatory matters in the transportation industry, and subject to section 9 (1)-(3) of this Bill, hold office for a term of five years, which may be renewed for a further term of five years and no more, in accordance with the provisions of this Bill.

15. The Executive Commissioners shall discharge such duties as are assigned to them by the Commission or Chief Executive.

The Executive Commissioners

16. (1) There shall be appointed by the Commission, a Secretary to the Board who shall also be the Legal Adviser of the Commission with relevant and adequate professional qualifications and at least 10 years post qualification experience.

The Secretary to the Board

(2) The Secretary shall keep the records of proceedings of the Board and perform such other functions as the Board or the Chairman may assign to him.

17. (1) The Commission may appoint such other persons, as it deems necessary, as staff and employees of the Commission in line with applicable Public Service Rules.

Staff of the Commission

(2) The employment of the staff shall be subject to such terms and conditions as may be stipulated by the Commission and contained in the respective staff's employment contracts.

(3) The Commission shall develop and implement appropriate conditions of service in line with Public Service Rules, for its staff and employees with particular regard to the issue of remuneration, pension

schemes and other service benefits, sufficient for the Commission to attract and retain knowledgeable and expert manpower.

(4) Subject to subsection (3), the Commission shall pay its staff such remuneration, including allowances, as the Commission may determine, subject to the approval of the National Salaries, Incomes and Wages Commission.

(5) The conflict of interests provisions contained in the Second Schedule to this Bill applies to all staff and employees of the Commission.

(6) Upon the commencement of this Bill, relevant staff of government agencies in the regulated transport sector and the road sector with cognate experience or qualifications relating to tariffs setting, standards setting, regulation and enforcement may be absorbed by the Commission for continuation of their service career on the same cadre as they were before the absorption.

18. (1) The Commission may, by instrument under its common seal, delegate to: Delegation
- (a) a Commissioner,
 - (b) the Secretary, or
 - (c) a member of a department, unit, committee or panel appointed or designated by the Commission, any of its functions or powers under this Bill, regulation or any other relevant legislation, except the Commission's power to delegate or make regulations under this Bill.
- (2) A person who holds any delegated power under this section shall exercise the delegated power in accordance with the instrument of delegation and report to the Commission on the exercise of such powers and at such intervals as may be determined by the Commission.

PART V — FINANCIAL PROVISIONS

19. (1) The Commission shall establish and maintain a fund (in this Bill referred to as "the Fund"). Fund of the Commission
- (2) The Fund shall consist of:
- (a) subventions as may be appropriated to the Commission by the National Assembly;
 - (b) all charges, levies, subscriptions and fees collected by or for the Commission under this Bill, any regulation or subsidiary legislation issued under this Bill or under any other Bill;
 - (c) gifts, loans, grants or aid, other than from an operator or service provider in a regulated transport sector;
 - (d) a proportion of the proceeds from royalties collected by an authority empowered to collect royalty from transport service providers not exceeding 5% of what is collected from service providers, concessionaires, leases and licensees, accruing to the Commission;
 - (e) registration fees collected annually by the Commission; and
 - (f) all other assets that may be vested in, or accrue to, the Commission in the course of discharging its duties under this Bill.
- (3) The Fund shall be managed in accordance with extant Financial Regulations applicable in the Public Service and rules made by the Commission.
- (4) Notwithstanding the provisions of subsection (2) (a) of this section, the subventions, which may be appropriated to the Commission shall not exceed a period of 10 years from the commencement of this Bill.
20. Any excess of the Commission's revenue over its approved outgoings and charges for that year shall be remitted to the Consolidated Revenue Fund. Application of surplus revenue
21. (1) The Commission may, with the prior consent of, or in accordance with the authority given by the Minister for Finance, borrow such sums of money or raise capital otherwise than from the Government Borrowing powers, gifts, etc.

as the Commission may require in the performance of its functions under this Bill.

(2) The Commission may accept gifts or grants of money, aid or other property from national, bilateral and multi-lateral organisations upon terms and conditions, as may be agreed upon between the donor and the Commission provided that the conditions are not inconsistent with the objectives and functions of the Commission under this Bill.

22. (1) The Commission shall:
- (a) prepare and submit to the President through the Minister annually, and not later than six months after the end of its financial year, a report on the activities of the Commission for the preceding financial year; and
- (b) include the Commission's audited accounts for the year under review together with the auditor's report.
- (2) A copy of the annual report shall be sent to the National Assembly, the Ministry of Transportation and also published for the public.
- Annual reports
23. (1) The Commission shall, not later than 30 September in each financial year, prepare and submit to the National Assembly, through the President, its budget showing estimated income and the expenditure which the Commission proposes to incur in respect of the succeeding financial year in order to perform the functions of the Commission.
- (2) Subject to subsection (1), the Commission shall apply the money in the Fund for the:
- (a) administrative and operating costs of the Commission;
- (b) payment of salaries, wages, fees and other allowances, retirement benefits and any other remuneration payable to the Commissioners, staff and employees of the Commission;
- (c) purchase or acquisition of property, other equipment or capital expenditure or for maintenance of any property acquired or vested in the Commission;
- (d) development of personnel capacity and to enhance professionalism in the transportation sector in accordance with guidelines to be issued by the Minister from time to time; and
- (e) performance of any of the functions of the Commission under this Bill.
- Budget and expenditure
24. (1) The financial year of the Commission starts on 1 January and ends on 31 December of the same year.
- (2) The Commission shall:
- (a) keep proper records of its accounts in respect of each year; and
- (b) cause its accounts to be audited within three months from the end of each financial year by auditors whose appointment are approved by the Commission and is subject to reappointment on annual basis provided that the auditors are on the list of auditors approved by the Auditor-General for the Federation.
- Financial year and audit of Commission's accounts

PART VI — REGULATIONS

25. (1) The Commission may perform and exercise such functions and powers as may be conferred upon it by any sector legislation including the power to make determinations for or with respect to:
- (a) standards and conditions of service;
- (b) licensing;
- (c) market conduct;
- (d) policy and guidelines on tariffs and rights of access; and
- (e) other economic regulatory matters.
- (2) In performing its economic regulatory function over government agencies and service providers, the
- Regulatory functions and powers

Commission shall:

(a) monitor the government agencies and service providers to ensure they comply with applicable economic regulations; and

(b) receive and determine complaints from the public or any aggrieved party with respect to the performance or non-performance of the functions of any agency referred to in this section.

(3) In making a determination under this section, the Commission shall have regard to:

(a) the availability, quality and standards of facilities or services;

(b) the cost of the services, access or use of the facilities;

(c) any factor specified in a sector legislation; and

(d) any other factor that the Commission considers relevant.

26. The Commission shall prescribe and enforce appropriate fines on any operator or service provider of a regulated transport sector who violates any guideline or regulation made by the Commission for the provision of any regulated service. Penalty for breach of guidelines or regulations
27. (1) Notwithstanding the provisions of any other law, the Commission may make guidelines and policies and any relevant regulation on tariffs in respect of facilities and services in a regulated transport sector. Regulation of tariffs or charges by the Commission
- (2) In this section:
"prescribed tariffs" means tariff-range or particular factors used in tariff-fixing however designated for the provision, supply or sale of any prescribed facility and service within a regulated transport sector; and
"tariffs" includes fees, price, dues, charges and rates.
- (3) In performing its functions under subsection (1), where necessary, the Commission:
- (a) shall adopt an approach and methodology to meet the objectives specified in this Bill, any sector legislation, other relevant legislation and any other matter that the Commission considers appropriate; and
- (b) may regulate the tariff for prescribed facilities and services in any manner that the Commission considers appropriate.
- (4) In exercising its powers under this section, the Commission shall have regard to:
- (a) the costs of providing the services and facilities;
- (b) the desire to promote competitive rates;
- (c) any relevant benchmark, including international benchmarks for prices, cost and return on assets in comparable industries;
- (d) the decision which takes into account and clearly articulates any trade-off between costs and service standards;
- (e) the fair, reasonable and non-discriminatory tariffs; and
- (f) the fact that tariffs are cost-oriented and in general, cross-subsidies are not permitted.
- (5) Without limiting the functions of the Commission under subsection (3), the procedure for tariff regulation may include, where necessary:
- (a) specifying pricing policies or principles;
- (b) specifying an amount determined by reference to a general tariff index, the cost of production, a rate of return on assets employed or any other specified factor;
- (c) specifying an amount determined by reference to quantity, location, period or other specified factor relevant to the rate or supply of transport service and facility;
- (d) any relevant benchmark (including international benchmark) for prices, costs, return on assets in comparable transport industries and the financial implication of the policy;
- (e) monitoring the tariff levels of prescribed transport service and facility;
- (f) the cost of complying with relevant legislation applicable to the regulated transport industry; and

(g) any other factor that the Commission considers relevant and which will best meet the objectives specified in this Act and any relevant legislation.

28. (1) The Commission shall make rules and regulations on determination and publication of tariff rates for the prescribed services specified in section 28. Determination and publication of tariffs rates
(2) The rules and regulations made by the Commission under subsection (1) may include:
(a) rules about the tariff and variation of tariff for specified or class of services;
(b) rules about the publication or disclosure of tariff for specified or class of services; or
(c) range of tariff applicable to specified or class of services.
29. Notwithstanding the provisions of section 28, the Commission may intervene in such manner as it deems appropriate in determining and setting the tariff rates for any non-competitive services provided by any transport service provider, in order to meet the objectives of this Bill or for reasons of national or public interest. Commission may prescribe tariffs
30. (1) From the commencement of this Bill, and subject to the guidelines to be issued by the Commission, every transport service provider in the regulated transport industry shall: Approval of tariff or charges by the Commission
(a) file its tariffs or range of tariffs with the Commission; and
(b) not impose any tariff, rate, levy or charge for the provision of any service unless the tariff, rate, levy or charge is approved by the Commission under section 29 (2) (a) or as otherwise provided in this Bill.
(2) Every regulated transport service provider shall:
(a) provide services only at the rate approved by the Commission and shall not depart from it without a written approval by the Commission; and
(b) publish the:
(i) tariff and rates charged to users for their respective services, and
(ii) modifications of the approval by the Commission.
(3) The tariff rates fixed by transport service providers shall be on the principles of fair and competitive trading and such other principles as the Commission may stipulate in its guidelines or regulations, and shall have regard to:
(a) the particular and peculiar circumstances of the regulated transport industry, the transport service and facility for which the determination is being made;
(b) the costs of providing the transport services or facilities;
(c) the cost of complying with relevant legislation applicable to the regulated transport industry;
(d) the return on investment in the regulated transport industry;
(e) any relevant interstate and international benchmarks for tariffs, costs and return on assets in comparable industries;
(f) the financial implications of the determination for the regulated transport industry and regulated entities; and
(g) any other factor that the Commission considers relevant and will best meet the objectives specified in this Bill and any relevant legislation.
(4) In exercising its powers under this Part, the Commission shall ensure that:
(a) the costs of regulation do not exceed the benefits;
(b) the decision takes into account and clearly articulates any trade-off between costs and service standards;
(c) tariffs are fair, reasonable and non-discriminatory; and
(d) tariffs are cost-oriented and in general, cross-subsidies are not permitted.

31. (1) All operators or service providers of a regulated transport sector, if required by the Commission, shall file their tariffs or range of tariffs with the Commission.
- (2) Every operator or service provider of a regulated transport sector, if required by the Commission, shall not impose any tariff or charge for the provision of any service or use of any facility unless the tariff and charge are in line with the tariff guidelines or regulations made by the Commission under this Bill.
- (3) Every operator or service provider of a regulated transport sector shall publish:
- (a) the tariff rates charged to users and consumers for their respective services and facilities; and
- (b) the modifications of publication in line with the guidelines made by the Commission.

Filing and publication of tariffs or charges by the Commission

32. The Commission shall prescribe and enforce appropriate penalties on any transport service provider who violates the tariff duly approved by the Commission for the provision of any of its services.

Penalty for unauthorised tariffs

PART VII — LICENSING OR CERTIFICATION

33. (1) From the commencement of this Bill and subject to any sector legislation for the issuance of operational licences by government agencies vested with the ownership of transport services or facilities in a regulated transport sector in Nigeria, a person shall not operate a transport facility or provide transport service in a regulated transport sector for which the Commission has prescribed a regulatory licensing or certification regime, unless the person is granted a licence or certificate by the Commission.
- (2) The licence or certificate under this section relates only to matters concerning the economic regulatory functions of the Commission and may be issued to a person or class of persons operating a transport facility or providing transport services in a regulated transport sector only.
- (3) The Commission shall grant licence or certification to any transport operator or service provider for economic matters in the manner prescribed by the sector legislation for the purpose of transport services and facilities in that sector and every license or certificate shall be in such form and for such period, and may contain such conditions as the sector legislation may determine.
- (4) Any person who contravenes subsection (1) commits an offence and is liable on conviction to:
- (a) a fine not exceeding 10 times the initial fee for the relevant licence or certificate; or
- (b) a prohibition from providing such services or facilities for a period as the Commission may determine.
- (5) The Commission shall publish, for the general public, the transport services or facilities that require licensing or certification.
- (6) The provisions of this Part apply to existing government owned transport service providers or facilities operators and any other government agency with the power to operate and provide prescribed transport services or facilities in a regulated transport sector in Nigeria, operating a transport facility or providing transport services in a regulated transport sector.
- (7) Nothing in this Part affects the power of any government agency to grant operational licences to any person provided that the person satisfies any regulatory requirement stipulated by the Agency for such operations.
34. (1) Any application for a licence or certificate shall be lodged in the prescribed manner.
- (2) The Commission shall specify the:
- (a) kind of service in respect of which applications are invited;
- (b) form in which applications may be submitted, including any fee payable upon submission of an application;
- (c) manner in which the service or facility shall be provided;

Requirement for regulatory licensing or certification

Application for licence or certificate

(d) place where and times when any application form or relevant document may be obtained from the Commission; and

(e) period within which such applications shall be submitted.

(3) The Commission may require an applicant for a licence or certificate to submit to the Commission, within the period specified by it and at the applicant's expense, such further information as may be necessary to consider the application.

(4) The Commission, within a period not exceeding 12 weeks after receiving an application lodged in the prescribed manner:

(a) shall issue a licence or certificate subject to specified terms and conditions; or

(b) may refuse to issue a licence or certificate and give written reasons for the refusal.

(5) Where the failure to issue a licence or certificate is based on a delay occasioned by any factor, the Commission shall give reasons for the delay and issue directives as may be relevant for the issuance of the licence or certificate.

(6) In performing its functions under this section, the Commission shall, at all times, be guided by the principles of and consideration for:

(a) relevant sector legislation;

(b) transparency, fairness and non-discrimination;

(c) efficient use and management of port and land transport facilities;

(d) development of indigenous capacity in ownership and provision of transport services;

(e) the need to promote fair competition and investment in the regulated transport industry;

(f) the need to provide modern, qualitative and competitive transport services in Nigeria; and

(g) such other principles and considerations as the Commission may consider necessary and in the national interest.

35. (1) The Commission shall, before the grant of an operational regulatory licence or certificate under this Part, where it deems it relevant, refer the application to, and obtain recommendation on each application from any relevant government Agency. Application of this Part
- (2) The Commission shall ascertain that in making the recommendation under subsection (1), the guidelines and criteria for evaluation and selection issued by the relevant government agency have been strictly complied with.
36. (1) The Commission shall issue guidelines and regulations for granting of licences or certificates. Guidelines and regulations on granting of regulatory licences or certificates
- (2) Any government agency or authority, in a regulated transport sector with the responsibility of issuing licences to operators or service providers within their sector shall, where requested by the Commission, submit to the Commission detailed guidelines and criteria used for evaluation and recommendation of qualified applicants, specifying, amongst others:
- (a) the persons or class of persons who are eligible to apply for any licence issued by such an agency or authority; and
- (b) the technical standard, the procedure for technical evaluation and the applicable terms and conditions for grant of any licence issued by it.
- (3) A government agency or authority in a regulated transport sector shall ensure that any concession contract or operational licence issued by it to operators or service providers is made subject to the regulatory licences or certificates to be granted by the Commission, where such are being granted.
- PART VIII — ACCESS
37. (1) An operator or service provider of a facility or service in a regulated transport sector shall use all Access

reasonable means to meet the requirements of a person seeking access to a facility or service in accordance with the terms of the licence.

(2) Subject to such exemptions as may be determined under subsection (3), an operator or service provider of a facility or service in a regulated transport sector shall:

(a) provide access on fair and commercial terms; and

(b) shall not prevent or hinder access to any person.

(3) An operator or service provider of a facility or service in a regulated transport sector may grant priority, preferential or negotiated access to transport facilities and services on conditions that are fair, competitive and open to any third party that meets the set conditions given similar circumstances subject to subsection (4).

(4) A person seeking priority, preferential or negotiated access, may request for access on terms stated in the request for access, and the operator or service provider of a facility or service in a regulated transport sector shall make a formal proposal of terms and conditions for access for approval by the government agency responsible for the sector.

(5) The government agency responsible for the sector may refuse to grant approval if it considers that granting access would:

(a) substantially impede the existing right of access of another person;

(b) contravene any existing legislation; or

(c) give undue advantage, substantial degree of market power or adversely affect competition and fair market conduct.

38. This Part applies to channels, berths, terminals, anchorage, fairways, routes, jetties, bridges, stations, ports including dry ports, sidings, platforms, roads, rails, paths, walkways, cable cars, pipelines, tramps, tunnels, monorails, or any service facility as may be declared by the Commission. Application of this Part
39. (1) Subject to such exemptions as may be determined and published by the Commission, a service provider shall provide access to a significant infrastructure facility on fair and reasonable terms and conditions. Provision of access
(2) A service provider shall:
(a) explore all reasonable means within its disposal to meet the requirements of a person seeking access to a significant infrastructure facility; and
(b) make a formal proposal of terms and conditions for access within 10 working days of receiving a request or within such reasonable lesser period as may be determined by the Commission.
(3) The terms and conditions of access may vary according to the actual and opportunity costs to the service provider or user.
40. (1) A person who is aggrieved by the decision of a government agency:
(a) refusing approval in respect of an application for access, or
(b) the terms and conditions on which approval for access is granted, may apply in writing to the Commission for the making of a determination reviewing the decision refusing to grant approval for access or for modifying the terms and conditions on which access is to be provided. Application for determination
(2) The Commission shall make a determination on the application within a reasonable time and communicate the decision to the applicant in writing and the decision of the Commission is final.
(3) Any cost of making a determination by the Commission under this section is borne by the applicant.
41. (1) The Commission may make an order in respect of any violation of the terms of any licence, permit, concession or the provisions of this Bill directing compliance by the operator, transport service provider or government agency with the terms of the order. Enforcement of orders

(2) A person against whom an order is made shall comply with the order, which may require the person to:

- (a) refrain from any conduct in contravention of the provisions of this Bill or sector legislation;
- (b) take actions required to be taken in order to comply with this Bill or sector legislations; or
- (c) direct the suspension, withdrawal or cancellation of a licence granted to an operator or service provider of a regulated transport sector upon material default in complying with the terms of the licence or gross violation of the provisions of this Bill and other sector legislation:

(3) The Commission shall not direct withdrawal of the licence of any operator or service provider in respect of a concession, licence or operating permit with a term of more than five years without the concurrence of the government agency responsible for the regulated transport sector.

(4) A compliance order shall be:

- (a) made in writing specifying the grounds for the order; and
- (b) enforced by the government agency responsible for the regulated transport sector.

42. (1) A service provider or any person having access to a significant infrastructure facility shall not engage in any conduct having the purpose of hindering access by any other person in the reasonable exercise of a right of access. Hindering access
- (2) A person whose right of access has been hindered in contravention of subsection (1) may apply in writing to the Commission for the making of a determination in accordance with the provisions of this Bill.
- (3) If the Commission determines that there has been a contravention of subsection (1), the Commission may make a determination that a person is entitled to access on such terms and conditions as are specified in the determination.
43. (1) The Commission may conduct an inquiry under the provisions of this Bill every five years or at any reasonable time as may be deemed necessary, from the commencement of this Bill, to make a determination whether or not a facility that is declared to be a significant infrastructure facility has ceased to be such a facility. Inquiry about a significant infrastructure facility
- (2) For the purpose of this section, a facility is a significant infrastructure facility if:
- (a) there is no other alternative facility;
 - (b) it would not be economically feasible to use or develop another facility providing access to the same route;
 - (c) access to the facility would promote competition in at least one market, whether or not in Nigeria, other than a market for using the facility;
 - (d) safe access to the facility can be ensured at an economically feasible cost; and
 - (e) the Commission considers any other matter relevant.
- (3) An enquiry under this section shall be conducted in accordance with Part XII of this Bill.
44. (1) A service provider of a significant infrastructure facility may apply in writing to the Commission for the making of a determination under this Part approving the terms and conditions on which access to the facility is to be provided for the period specified in the determination. Application for determination on conditions for provision of access
- (2) The Commission shall, within 14 days of receiving an application under subsection (1), give notice in writing to the person making the application specifying:
- (a) any information that the Commission requires the person to give for the purpose of the determination; and
 - (b) a reasonable time within which the information shall be provided.

(3) The Commission shall determine whether to accept or refuse an application under this section within 21 days of receiving the application, excluding the period of time between the day on which the notice is given under subsection (2) and the day on which the required information is received by the Commission.

(4) The costs of making a determination by the Commission under this section, is borne by the service provider.

(5) Section 44 does not apply when a determination under this section is in effect unless the Commission finds that the determination deals with the matters that are in dispute.

45. (1) The Commission, for the purpose of facilitating negotiations or determining a dispute under this Part, may require a person who is or was a party to the dispute to do or refrain from doing something, including:

Commission may give directions in relation to a dispute

(a) requiring a person to give relevant information or a document to one or more persons identified by the Commission and copies to the Commission, subject to the provisions of this section;

(b) requiring a person to carry out reasonable research or investigations in order to obtain relevant information;

(c) prohibiting a person from imposing, or seeking to impose, an unreasonable procedural condition on the person's participation in negotiations;

(d) requiring a person to respond in writing to another person's proposal or request in relation to the time and place of a meeting; and

(e) requiring a person, or a representative of a person, to attend a mediation conference.

(2) For the purpose of subsection (1) (c), "an unreasonable procedural condition" includes a requirement by one party that the other party or parties to the dispute shall not disclose to the Commission information or a document provided in the course of negotiations.

(3) A person who fails to comply with any requirement made under this section commits an offence and is liable on conviction to a fine of at least \$3,000,000.00.

46. (1) This section applies if:

Confidentiality agreements

(a) the Commission makes a requirement under section 46 (1) (a);

(b) the person in control or possession of the information or document ("the disclosing party") notifies the Commission in writing that the information or document is of a confidential or commercially sensitive nature; and

(c) the Commission notifies the person that the information or document shall be required in accordance with section 46 (1) (a).

(2) Where under subsection (1) (c), the Commission notifies the disclosing party that the information or document is still required in accordance with section 46 (1) (a), the disclosing party may require the person receiving the information or document ("the receiving party") to enter into a confidentiality agreement.

(3) The terms of a confidentiality agreement may be proposed by the disclosing party and those terms shall be promptly notified to the Commission and the receiving party.

47. Where the Commission considers that the terms of the proposed confidentiality agreement are unreasonable, the Commission may request the parties to amend or delete those terms or substitute for the terms, new terms.

Unreasonable confidentiality clauses

PART IX — APPLICATION FOR DEREGISTRATION

48. (1) A person or service provider may subject to the provisions of this Bill, apply to the Commission for

Application for

deregistration.

deregistration

(2) An application for deregistration shall be lodged in writing to the Commission.

(3) The Commission shall:

(a) consider the application;

(b) make recommendations on the applicant's financial standing;

(c) where the applicant is in any way indebted to the Commission, proceed against the applicant to recover such money, moveable and immoveable property or other items in the possession of the applicant and return same to the Commission; and

(d) where the applicant is not indebted to the Commission, the Commission shall deregister the person and have the name struck out from its register.

(4) Nothing in this Bill prevents the Commission from deregistering any person or operator:

(a) that died, in the case of a natural person;

(b) that has been declared bankrupt by a court of competent jurisdiction, in the case of a corporate entity;

(c) that has wound up or dissolved, in the case of a corporate entity;

(d) in the interest of public policy; or

(e) that has failed to pay penalty for a period exceeding 60 days.

PART X — OTHER REGULATORY POWERS

49. (1) The Commission may exercise such other powers as may be conferred on the Commission by a transport sector legislation or other empowering instrument.

Oversight function
over regulated
transport industry

(2) In making a determination under this section, the Commission shall have regard to:

(a) factors specified in the empowering instrument; and

(b) any other factor that the Commission considers relevant.

50. (1) The Commission shall:

Monitoring and
reporting

(a) monitor all matters relating to the performance and compliance of all transport agencies, authorities, operators and service providers within the provisions of this Bill and other applicable sector legislation; and

(b) publish regular reports at such intervals as it may deem necessary.

(2) Matters upon which the Commission shall monitor and report include:

(a) the operation and administration of this Bill and its subsidiary legislation;

(b) the quality of services;

(c) the tariff rates and charges paid by any regulated transport sector services user, for the services rendered to the user;

(d) anti-competition practices, including cross-subsidies;

(e) the development of industry self-regulation;

(f) any deficiency in the scope or operation of this Bill and its subsidiary legislation; and

(g) other matters which the Commission considers relevant.

(3) For the purpose of discharging its duties under this section, the Commission may request an information or report on any activity of any transport agency, authority, an operator or service provider of any facility or service, or any person within the provisions of this Bill, a sector legislation or subsidiary legislation and such information or report shall be provided in the manner determined by the Commission.

(4) The Commission may publish the reports, in the manner it deems appropriate, provided that the reports are made available to the public.

(5) The Commission shall, in addition to any report which is required by this Bill to be submitted to the

President through the Minister:

(a) submit such other reports as the President or the Minister may require and at such intervals as may be required; and

(b) submit such other reports as the Commission may determine as necessary.

51. (1) Subject to the provisions of any other law, the Commission has power, in relation to the regulated industry, to determine, pronounce upon, administer, monitor and enforce compliance of all persons with competition laws and regulations, whether of a general or specific nature, as the laws and regulations relate to the regulated transport industry including prohibition on anti-competition practices. Commission's power on competition matters
(2) In relation to the Commission's power on competition matters, the Commission may, where appropriate, investigate, report and make recommendations to the relevant agencies.
52. (1) The Commission may determine that a transport service provider is in a dominant position in any aspect of the regulated transport sector. Dominant operator
(2) The Commission may publish guidelines and regulations on the determination of dominant position for transport service providers.
(3) The guidelines and regulations in subsection (2) shall specify the matters which the Commission may take into account, including:
(a) the relevant economic market;
(b) global technology and commercial trends affecting market power;
(c) the market share of the transport service provider;
(d) the provider of prescribed service's power to independently set its rates;
(e) the degree of service or product differentiation and promotion in the market; and
(f) any other matter which the Commission may consider relevant.
(4) The Commission may direct a transport service provider in a dominant position in the transport sector to cease any conduct in that market which has or may have the effect of substantially lessening competition in the transport sector and to implement appropriate recommendations.
53. (1) A transport service provider may apply to the Commission, prior to engaging in any conduct which may be construed to have the purpose or effect of substantially lessening competition in any aspect of the transport sector, for authorisation for that conduct. Authorisation for specific conduct
(2) Notwithstanding the provisions of this Part, the Commission may authorise the conduct if the Commission is satisfied that it would be in the national interest to grant such authorisation.
(3) Before granting the authorisation, the Commission may require the transport service provider to submit an undertaking regarding his or its conduct in any matter relevant to the authorisation.
54. (1) A transport service provider may withdraw an application made under section 54 (1) at any time before authorisation by the Commission. Withdrawal of application for authorisation granted by the Commission
(2) An authorisation granted by the Commission under section 54 (2) or (3) may only be withdrawn upon such terms and conditions as the Commission may specify.
(3) The Commission shall maintain a register of current authorisations of conduct under this Part in accordance with Part XVIII.
55. (1) The Commission may make regulations or rules under this Bill in respect of agreements between private sector transport service providers and the Government. Regulation relating to agreements

(2) The Commission shall only make rules under subsection (1) which are intended to prevent or mitigate:

- (a) any conduct by the parties mentioned in subsection (1) that will or is likely to lead to a substantial lessening of competition in any aspect of the regulated transport industry; or
- (b) the misuse of market power in any aspect of the regulated transport industry.

56. (1) The Commission may exercise such powers as may be conferred by sector legislation, including the power to make determination with respect to:

- (a) licensing;
- (b) standards and conditions of service;
- (c) market conduct; and
- (d) other regulatory matters.

(2) In making a determination under this section, the Commission shall have regard to:

- (a) factors specified in the sector legislation; and
- (b) any other factor that the Commission considers relevant.

(3) In performing its regulatory functions over government agencies and service providers, the Commission shall:

(a) monitor government agencies and other service providers to ensure they comply with applicable regulations; and

(b) receive and determine complaints from the public or any aggrieved party with respect to the discharge or non-discharge of the duties of any agency referred to in this section.

Regulatory powers
conferred by
sector legislation

57. (1) The Commission may make and publish regulations with respect to any matter or thing required or permitted by this Bill and sector legislation to be prescribed or necessary to be prescribed to give effect to this Act and sector legislation.

Powers to make
regulations and
guidelines

(2) The regulations under subsection (1) may, in accordance with this Bill or sector legislation:

- (a) provide for industry specific economic regulations performance standard, taking into consideration the peculiarities of the individual regulated sector;
- (b) regulate proceedings relating to appeals;
- (c) provide for written authorisations, permits, licences and concessions in the regulated transport industry;
- (d) specify fees, charges, rates or fines to be imposed;
- (e) specify a system of national service obligation for un-served areas and underserved areas;
- (f) provide for standards for quality of service;
- (g) provide for related offences and penalties;
- (h) provide for any matter which this Bill and sector legislation makes express provision; and
- (i) provide for other matters as are necessary for giving effect to the provisions of this Bill and sector legislation and for their administration.

(3) The regulations may:

- (a) be of general or limited application;
- (b) differ according to differences in time, place or circumstances;
- (c) apply, adopt or incorporate, with or without modification, the provisions of any:
 - (i) Act or provision of any subsidiary legislation under any of those Acts with respect to the regulated transport industry,
 - (ii) Act or provision of any subsidiary legislation under any of those Acts, whether wholly or partially or as amended by the regulations that are in effect or published at a particular time or from time to time, and

(iii) relevant document, standard, rule specification or method formulated by, issued, prescribed or published by any governmental authority with the statutory powers to issue such documents; and

(d) leave any matter or thing to be determined, applied, dispensed with or regulated by the Commission.

(4) The Commission may also make and publish guidelines on any matter for which this Act and sector legislation make express provision and such other matters as are necessary for giving effect to the provisions of this Bill and sector legislation and for their administration.

(5) The Commission shall ensure that regulatory decision making has regard to the relevant legislation applicable to the regulated transport industry.

58. The Commission may review, when it deems necessary, any rule, guideline or regulation made under this Bill and sector legislation that is in effect at the time of the review and may modify, vary, or repeal any such rule or regulation:
- Power to review guidelines and regulations
- (a) which is no longer necessary for the purpose of this Bill and sector legislation; or
(b) for any other reason that the Commission deems appropriate.

PART XI — DIRECTIVES

59. (1) The Commission may issue directives or orders in writing to any person regarding the compliance or non-compliance with the provisions of this Bill, sector legislation or its subsidiary legislation or any licence conditions, including the remedy for a breach of the provisions of this Bill, sector legislation or its subsidiary legislation.
- Issuance of directives
- (2) Before issuing a directive or order under this section, the Commission shall issue a notice in writing to the person, specifying the nature of compliance required and the person shall be granted an opportunity to be heard or may submit a written submission within a reasonable time specified in the notice on reasons for his conduct or activity.
- (3) After the expiration of the notice specified in subsection (2), the Commission shall take into consideration any reason provided by the person before making a decision in relation to the relevant conduct or activity of the person or failure or omission to take such steps or measures required under this Bill, a sector legislation or subsidiary legislation.
- (4) After consideration of any reason provided by the person, the Commission may issue a directive or order under this section requiring the person to take specified action or to refrain from taking any action, in order to prevent a breach or continued breach of any of the provisions of this Bill, sector legislation or subsidiary legislation.
- (5) The Commission shall give the person a written notice of its directive or order not later than 30 days from the date the decision was made, and the person shall comply with the directive or order issued by the Commission.
60. (1) The Commission may, when issuing a directive or order under this Bill, sector legislation or subsidiary legislation in relation to prescribed services, have regard to the costs associated with any service related to the prescribed services if:
- Matters to consider in issuing a directives
- (a) the related service is necessary or essential to the provision of prescribed services;
(b) the related service cannot readily be provided by another operator; and
(c) it is not feasible to charge a separate fee or price for the related service.
- (2) The Commission may, when issuing a directive or order in relation to prescribed services, have regard to services required to meet the objectives of the relevant regulated transport sector, including

the provision of:

- (a) infrastructure within the relevant regulated transport sector that is necessary for moving cargo and passengers to or from berthing facilities, rail and road transport stations, terminals, platforms, sidings, short term storage facilities or cargo marshalling facilities;
- (b) infrastructure erected in order to satisfy legal or regulatory requirements;
- (c) legal or regulatory management services that is required by law;
- (d) strategic planning for the transport facility; and
- (e) the facilitation of trade through the relevant transport facility.

61. (1) The Commission may modify, vary or revoke a directive or order. (2) The procedure set out in section 59 shall apply in respect of any modification, variation or revocation of a directive or order. Modification of directives
62. A person who fails to comply with a directive of the Commission under this Part, commits an offence and is liable on conviction to a fine not exceeding ₦20,000,000.00 and ₦2,000,000.00 for each day the contravention continues after service of the directive or order or as may be reviewed by the Commission. Non-compliance with directives
63. The Commission shall maintain a register of all directives issued by the Commission, including any written instrument modifying, varying or revoking a directive or order, in accordance with this Part. Register of directives

PART XII — INQUIRY

64. (1) The Commission may hold a public inquiry on any matter of a general nature that the Commission considers necessary or desirable for the purpose of performing its functions. Inquiry
- (2) Subject to subsection (3), the Commission may hold a public inquiry under subsection (1):
- (a) in response to a written request from a person, or
 - (b) on its own initiative:
- Provided that the Commission is satisfied that the matter is of significant interest to either the public or to current or prospective transport service providers.
- (3) The Commission shall hold a public inquiry in all instances that it is mandatorily required to hold an inquiry under this Bill and sector legislation and its subsidiary legislation.
- (4) The Commission may combine two or more inquiries into a single inquiry and an inquiry under this Part shall be conducted as and when the Commission deems fit.
- (5) The Commission may, for the purpose of an inquiry, exercise any or all of its investigation and information-gathering powers under this Bill or a sector legislation.
65. (1) Where the Commission decides to hold a public inquiry, the Commission shall publish, in a national daily newspaper and on the internet, a notice of the inquiry. Public Inquiry
- (2) The notice shall specify the:
- (a) purpose of the inquiry;
 - (b) period during which the inquiry is to be held;
 - (c) nature of the matter to which the inquiry relates;
 - (d) period, of at least 21 days, within which, and the form in which, members of the public are invited to make submissions to the Commission, including details of public hearings;
 - (e) matters that the Commission would like the submissions to deal with; and
 - (f) address or addresses to which the submissions may be sent.

(3) The Commission shall send a copy of any notice published under this section to any relevant person or body that the Commission considers should be notified.

(4) The Commission shall consider all submissions received within the time limit as specified in the notice and the submissions made by the members of the public shall be as specified in the notice.

66. (1) The Commission may determine that an inquiry or a part of an inquiry may be conducted in private if the Commission is satisfied that: Private Inquiry

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

(b) it is in the public interest; or

(c) the inquiry, part of the inquiry, a matter, or part of a matter, in public domain would not be conducive to the performance of its functions under this Bill.

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

(a) evidence or other material presented to the inquiry, or

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

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

(ii) its disclosure be restricted.

(3) A person shall not, without an excuse that is considered reasonable by the Commission fail to comply with a direction under subsection (2).

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

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

(b) may give a direction restricting the disclosure of evidence or other material presented at the inquiry or part of the inquiry.

(5) A person who, without reasonable cause, fails to comply with a direction given under subsection (4) commits an offence and is liable on conviction to a fine of at least ₦500,000.00.

67. (1) The Commission shall publish a final report setting out its findings from any inquiry it conducts and the report shall be published within 45 days of the conclusion of the inquiry. Publication of report

(2) Where it is not possible to publish the report within the time provided under subsection (1), time may be extended by 14 additional days and no more.

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

(a) that is, in the opinion of the Commission, of a confidential nature; and

(b) the disclosure of which is likely to prejudice the fair trial of a person.

(4) If, in the opinion of the Commission, a final report contains a confidential or commercially sensitive information, the Commission shall divide the report into:

(a) a document containing the confidential or commercially sensitive information; and

(b) another document containing the rest of the report.

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

(a) making a request to the Commission under section 47 (1) (a) under this Part; or

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

(6) The Commission shall maintain a register of all reports made pursuant to an inquiry in accordance with the provisions of this Part.

68. (1) Subject to the provisions of this Bill, the Commission may conduct an inquiry in such manner as the Commission considers appropriate. Conduct of Inquiry
- (2) In conducting an inquiry, the Commission is not bound by rules or practice as to evidence, but may inform itself in relation to any matter in such manner as the Commission considers appropriate.
- (3) The Commission may receive written submissions or statements during an inquiry.
- (4) The Commission:
- (a) shall hold at least one public hearing in case of a public inquiry; and
- (b) has discretion as to whether any person may appear before the Commission in person or be represented by another person.
- (5) In conducting an inquiry, the Commission may:
- (a) consult with any person that it considers appropriate;
- (b) hold public seminars and conduct workshops; or
- (c) establish working groups and task forces.

PART XIII — INVESTIGATION AND POWERS OF ENTRY

69. Notwithstanding the provisions of any other law, but subject to section 56, the Commission shall investigate any matter pertaining to the administration of this Bill, sector legislation and subsidiary legislation where the Commission has any ground to believe that an infringement, civil or criminal, of the provisions of this Bill, sector legislation and subsidiary legislation was, is or will be committed. Investigation
70. (1) The Commission may conduct an investigation on a matter referred to it upon a written complaint by a person and the complaint shall specify the person against whom the complaint is made. Complaint
- (2) Where a complaint has been made to the Commission under this section, the Commission may make inquiries of the respondent for the purpose of deciding whether the Commission should, in its discretion, investigate the matter.
- (3) Where the Commission decides not to investigate a matter to which a complaint relates, or to stop the investigation of a matter after its commencement, it shall, not later than 60 days from the date of receipt of the complaint and in such manner as it deems fit, inform the complainant and the respondent of the decision and the reasons for the decision.
71. (1) Before commencing an investigation of a matter to which the complaint relates, the Commission shall inform the respondent that the matter is to be investigated. Conduct of investigation
- (2) An investigation under this Part shall be conducted as the Commission considers appropriate and the Commission may, for the purposes of an investigation, obtain information from any person as it deems fit.
- (3) Subject to subsection (4), a complainant or respondent may, at the Commission's discretion, be given an opportunity to appear before the Commission in connection with an investigation.
- (4) The Commission shall not, as a result of the investigation, make a finding that is adverse to a complainant or respondent unless it has given the complainant or respondent an opportunity to make written submissions about a matter to which the investigation relates within a period not less than 21 days.
- (5) The Commission shall consider the submissions made by the complainant or respondent under subsection (4) before making its decision.
- (6) After concluding an investigation, the Commission may prepare and publish a report which shall cover:
- (a) the conduct of the investigation concerned;

- (b) the findings that the Commission has made as a result of the investigation;
- (c) the evidence and other material on which those findings were based; and
- (d) such other matters relating to, or arising out of, the investigation as the Commission may deem fit.

72. (1) The Commission may in writing authorise any of its officials or appoint external inspectors on its behalf to exercise the powers of monitoring and enforcement vested in the Commission under this Bill and sector legislation.
- (2) The Commission may direct its authorised officials or appointed inspectors to investigate the activities of an operator or service provider, agency or other person with regard to compliance with this Bill, sector legislation or subsidiary legislation as the Commission deems necessary for the performance of its functions under this Act and sector legislation.

Power to enter premises

- (3) In exercising any of the powers specified in subsection (2) and notwithstanding any other provision of this Bill or sector legislation, an authorised official of the Commission or its appointed inspector:
- (a) shall, on demand, produce to the person against whom he is acting, the authority issued to him by the Commission;
 - (b) may, at any reasonable time and without prior notice to any affected person, enter into any premises of an operator or service provider within a regulated transport sector and:
 - (i) request, inspect and make copies of or extracts from books, records, documents or other information storage systems, and
 - (ii) demand the production of and inspect the relevant licence, permit, certificate or authority; and
 - (c) shall obtain a court warrant prior to the entry into the premises of any affected person or premises under the meaning of this Bill.

PART XIV — COLLECTION AND USE OF INFORMATION

73. (1) This section applies to any person who is subject to this Bill and a relevant sector legislation and who the Commission has reason to believe:
- (a) has any information including accounts and records or any document that may assist the Commission in the exercise of its powers and functions under this Bill or its subsidiary legislation; or
 - (b) is capable of giving any evidence which the Commission has reason to believe is relevant to the exercise of its powers and functions under this Bill, sector legislation or subsidiary legislation.
- (2) The Commission may, by a written notice, direct any person who is subject to this Bill or a sector legislation, in relation to the information contemplated in subsection (1), to:
- (a) give the Commission any such information within the period and in the manner and form specified in the notice;
 - (b) produce to the Commission, any document, whether in a physical form or electronic media within the period and in the manner specified in the notice; or
 - (c) make copies of any such document and produce those copies to the Commission within the period and in the manner specified in the notice.
- (3) The Commission shall allow the person directed under subsection (2) a reasonable time to give or produce any information or document specified in the notice.
- (4) A person who is subject to this Bill or sector legislation and who is required to provide information under subsection (2) shall:
- (a) ensure that the information provided is true, accurate and complete; and
 - (b) provide a representation to the effect that he is not aware of any other information which would make the information provided false or misleading.

Power to obtain information and documents

74. (1) A person who fails to:
- (a) disclose or omits to give any relevant information, evidence or document, or
- (b) comply with any request made by the Commission under this Part,
- commits an offence and is liable on conviction to a fine of at least ₦500,000.00.
- (2) Notwithstanding the provisions of this Bill and subsection (1), a person who is subject to this Act or sector legislation and who provides information, evidence or document that he knows or has reason to believe is false or misleading, in response to a direction issued by the Commission, commits an offence and is liable on conviction to a fine of at least ₦500,000.00 or imprisonment for a term not exceeding one year or both, and in case of a company, to a fine of at least ₦1,500,000.00.
- (3) A person shall not:
- (a) threaten, intimidate or coerce another person, or
- (b) take, threaten to take, incite or be involved in any action that causes another person to suffer any loss, injury or disadvantage,
- because that other person complied, or intends to comply, with a request made under this section.
- (4) A person who contravenes the provision of subsection (3), commits an offence and is liable on conviction to a fine of at least ₦500,000.00 or imprisonment for a term not exceeding one year or both.
- (5) A person is not liable in any way for any loss, damage or injury suffered by another person because of the giving of any information or document in good faith to the Commission under this section.
75. A person who is subject to this Bill or sector legislation shall, if at any time called upon in writing by the Commission to do so, produce to the Commission any evidence and provide any information as the person may have relating to his compliance with any of the provisions of this Bill, a sector legislation or subsidiary legislation as the Commission may generally, or in relation to any particular case, require.
76. Notwithstanding the provisions of any other law, a person who is a member or employee of a statutory body is not in breach of a statutory duty by providing information or a copy of a document to the Commission where the person provides information or a copy of a document in compliance with a requirement under this section.
77. (1) The Commission may take and retain, for as long as is necessary, possession of a document produced under this Part and the person entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Commission to be a true copy.
- (2) Notwithstanding the provisions of any other written law, all courts and tribunals shall receive the certified copy in evidence as if it were the original.
- (3) Until a certified copy is supplied, the Commission shall, at such times and places as the Commission deems appropriate, permit the person entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.
78. (1) The Commission shall maintain a record of all information, evidence or documents received pursuant to the directions given under section 74 (2).
- (2) The Commission may publish information received in the course of exercising its powers and functions under this Part if it is satisfied that the publication is consistent with the objects of this Bill or a sector legislation, provided that the Commission shall consider the commercial interests of the parties to whom the information relates before publishing the information.
79. (1) If an information or a document is given by a person to the Commission, at the time the information or document is given, the person giving it may state that it is of a confidential or commercially-sensitive

Refusal to provide information

Evidence of compliance

Compliance not a breach of duty

Certified copies of documents by Commission

Record and publication of information

Restriction on disclosure of confidential

nature.

(2) The Commission shall not disclose the information or contents of the document to any person unless:

(a) the Commission is of the opinion that:

(i) the disclosure of the information or document would not be detrimental to the person supplying it, or

(ii) although the disclosure of the information or document would be detrimental to the person supplying it, the public benefit in disclosing it outweighs that detriment; and

(b) the Commission is of the opinion, in relation to any other person who is aware of the information or contents of the document and who might be detrimentally affected by the disclosure that:

(i) the disclosure of the information or document would not be detrimental to that person, or

(ii) although the disclosure of the information or document would be detrimental to that person, the public benefit in disclosing it outweighs that detriment;

(c) the Commission gives the person who supplied the information or document a written notice stating:

(i) that the Commission wishes to disclose the information or contents of the document, specifying the nature of the intended disclosure and setting out detailed reasons why the Commission wishes to make the disclosure, and

(ii) the reasons in paragraph (a) and setting out detailed reasons why it is of that opinion;

(d) the Commission is aware that the person who supplied the information or document in turn received the information or document from another person and is aware of that other person's identity and address, and the Commission may give that other person a written notice:

(i) containing the details required under paragraph (c), and

(ii) stating that the Commission is of the opinion that paragraph (b) relates to him and setting out detailed reasons why it is of that opinion; and

(e) no notice of appeal is lodged in respect of any notice given under subsection (2) (c) or (d) within the time permitted under section 74 (2) and (3).

(3) A person who contravenes the provisions of this section, commits an offence and is liable on conviction to a fine of at least ₦500,000.00.

(4) Subsection (2) does not prevent the Commission from:

(a) disclosing information or contents of a document to:

(i) the staff or employee employed under section 17, or

(ii) a member of a unit, committee or panel acting under delegation by virtue of section 18;

(b) using information or a document for the purposes of an inquiry or investigation; or

(c) supplying the information or document to the members of any appeal panel hearing an appeal in relation to the information or document.

(5) Where an appeal is lodged under section 92 and the appeal is:

(a) withdrawn or dismissed, the Commission may disclose any information, or the contents of any document, that was the subject of the appeal in the manner set out in the notice given under subsection (2) (c); or

(b) granted, the Commission may disclose anything that the Appeal Panel permits it to disclose under this Bill in the manner specified by the Appeal Panel.

(6) For the purpose of this section, the disclosure of anything that is already in the public domain at the time the Commission wishes to disclose it does not cause detriment to any person referred to in subsection (2) (a) or (b).

80. (1) The Commission shall not disclose to any person any document that it has obtained from any person or agency that is an exempt document under the Official Secrets Act, in the hands of that person or agency. Commission not to disclose exempt document
- (2) The provision of subsection (1) does not prevent the Commission from doing anything specified in section 80 (4).

81. (1) An operator or service provider of any facility or service, where required by the Commission, shall keep financial and business records in respect of: Financial and business records
- (a) any specific facility or service, that are separate from any financial and business records for other aspects of any business conducted by the provider of prescribed services;
 - (b) the provision of channels for use by the respective modes of transport that are separate from financial and business records for other prescribed services; and
 - (c) prescribed services that are separate from any financial and business record for other aspects of any business conducted by the provider of prescribed services.
- (2) The financial and business records shall be prepared and maintained in accordance with guidelines made by the Commission.
- (3) The provider of such facilities or services shall make the financial and business records available to the Commission when required to do so by notice in writing given by the Commission.
- (4) A requirement under subsection (3) shall identify the information or document required and specify:
- (a) when the requirement shall be complied with;
 - (b) in what form the information or copy of the document is to be given to the Commission; and
 - (c) that the requirement is made under this section.
- (5) A person who fails to comply with any requirement made under this section, commits an offence and is liable on conviction to a fine of at least ₦500,000.00.

PART XV — RESOLUTION OF DISPUTES

82. (1) The Commission has powers to resolve disputes between persons regarding any matter under this Bill, a sector legislation or subsidiary legislation. Power to resolve disputes
- (2) An attempt shall first be made by the parties to resolve any dispute between them through negotiation before the involvement of the Commission.
- (3) Where one of the parties to the dispute has provided an undertaking that is relevant to the subject matter of the dispute and the Commission has registered the undertaking, the parties may adopt the conditions of the undertaking for the purpose of resolving the dispute.
83. (1) A party to a dispute may notify the Commission of the dispute and the Commission may resolve a dispute under this Part if it is notified in writing of the dispute and requested by either or both parties to intervene. Notification of disputes
- (2) The Commission may publish guidelines setting out the principles and procedures that it may take into account in resolving disputes or a class of disputes under this Part.
- (3) Upon receipt of the notification of the dispute referred to in subsection (1), the Commission shall, as soon as practicable, convene to resolve the dispute.
- (4) The Commission shall convene to resolve a dispute if it is satisfied that:
- (a) an agreement may not be reached within a reasonable time;
 - (b) the notification of the dispute is not trivial, frivolous or vexatious; and
 - (c) the resolution of the dispute will promote the objects of this Bill, or its subsidiary legislation.

84. (1) Subject to the objectives of this Bill, sector legislation and any guideline issued by the Commission under this Part, the Commission may resolve the dispute in such manner including alternative dispute resolution processes and upon such terms and conditions as it may deem fit.
 (2) In performing its functions under subsection (1), the Commission shall always:
 (a) be guided by the objective of establishing a sustained dispute-resolution process that is fair, just, economical and effective which is not bound by technicalities, legal form or rules of evidence; and
 (b) act according to the ethics of justice and fair play and the merits of each case.
 (3) The Commission shall state in writing the terms and reasons for a determination under this Part and shall provide the parties to the dispute with a copy of its decision as soon as practicable.
 (4) The costs of the Commission in making a determination under this Part is borne by the non-prevailing party to the dispute or in a manner as may be determined by the Commission.

Resolution of disputes by Commission

85. (1) The Commission shall register all the decisions it makes under this Part.
 (2) The register shall contain:
 (a) the names of the parties to the dispute;
 (b) a general description of the matter; and
 (c) the date of the decision.

Register of decisions

86. (1) The decision of the Commission is binding on the parties and the Commission shall direct a party to a dispute to abide by the decision of the Commission.
 (2) A person who is in contravention of any decision made by the Commission under this Part, commits an offence.
 (3) The Commission may make such other orders or directives as it may deem fit for the purpose of the enforcement of its decisions.

Enforcement of Commission's decisions

PART XVI — REVIEW OF DECISIONS

87. A decision taken by the Commission on any matter brought before it is the subject of records which shall be kept by the Commission and such records shall, when required for publication or other disclosure, be made available.

Records of decisions

88. (1) A person who is aggrieved or whose interest is adversely affected by any decision of the Commission made pursuant to the exercise and performance of its functions and powers under this Act or sector legislation may request in writing to the Commission for a statement of the reasons for the decision.
 (2) The Commission shall, upon a written request by an aggrieved person, provide a copy of a statement of reasons for the decision and any relevant information taken into account in making the decision.
 (3) The Commission is not required to publish, or disclose to the aggrieved person, a statement of reasons or a part of a statement of reasons if the publication or disclosure:
 (a) discloses a matter that is, in the reasonable opinion of the Commission, of a confidential nature;
 (b) is likely to prejudice the fair trial of a person; or
 (c) involves the unreasonable disclosure of personal information about any person.
 (4) In this Part, "decision" includes any action, order, report or direction.

Request for statement of reasons

89. (1) An aggrieved person may, within 30 days after the date of receipt of the Commission's statement of reasons specified in section 85 (3), request the Commission in writing for a review of the Commission's decision and specify in the submission the reasons and basis for his request.

Review of decision by Commission

(2) Subject to subsection (4) and upon receipt of the aggrieved person's written submissions, the Commission shall meet to review its decision taking into consideration the submissions of the aggrieved person under subsection (1).

(3) In carrying out the review of its decision under this Part, the Commission may exercise any of its powers under this Bill, sector legislation or subsidiary legislation.

(4) The Commission shall, within 60 days of the request under subsection (1), conclude its review of the decision and inform the aggrieved person in writing of its final decision and the reasons.

(5) During the period for the consideration or review of a decision of the Commission and before the communication of a final decision, the Commission may make such interim orders or directives as it deems necessary regarding the decision under consideration and the aggrieved person.

90. (1) Subject to section 90 and subsections (2) and (3) of this section, an aggrieved person may apply to the court for a judicial review of the Commission's decision or other action. Judicial review of decision
- (2) The decision or direction of the Commission that is the subject matter of an application for judicial review shall be binding until it is expressly reversed in a final judgment or order of the court unless, the applicant files an application to stay the Commission's decision pending the determination of the judicial review in court.
- (3) A person shall not apply to the court for a judicial review unless that person has first exhausted the provisions of section 90.

PART XVII — RIGHT OF APPEAL

91. (1) A person who is aggrieved by a determination of the Commission may appeal against the determination in accordance with the provisions of this section. Right of appeal
- (2) A person who is aggrieved or not satisfied with a decision of the Commission may apply to the court for the determination of the matter without prejudice to the right of that person to apply to a relevant tribunal.
- (3) Any person aggrieved by the decision of the Commission on non-competition issues may appeal to the Court.
- (4) The only ground for an appeal is that the determination:
- (a) was not made in accordance with the law;
 - (b) is unreasonable having regard to all the relevant circumstances;
 - (c) there has been bias; or
 - (d) the determination is based wholly or partly on an error of fact in a material respect.
- (5) "Determination" under this section includes directions, orders, decisions or requirements made by the Commission under this Bill.

PART XVIII — REGISTER AND UNDERTAKINGS

- (1) The Commission shall maintain a register of all matters that are required to be registered under this Act, a sector legislation or subsidiary legislation. Register
- (2) The Commission may, at its discretion, summarise the contents of a material for inclusion in the register and exclude aspects of the material if it considers such exclusion necessary and justified.
93. (1) A person may, on payment of the prescribed fee, if any, to be determined by the Commission:
- (a) inspect the register; and
 - (b) make a copy of, or take extracts from, the register.
- (2) If a person requests that a copy be provided in an electronic medium, the Commission may provide Access to register by public

the relevant information:

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

(3) The Commission shall publish guidelines with regard to its various registers giving details of the registers and indicating access processes and procedures for members of the public.

94. (1) A party to a written agreement who is subject to this Bill or a sector legislation shall apply to the Commission for the registration of the agreement, if this Bill requires such registration. Registration of agreements
- (2) The Commission shall register the written agreement if the Commission is satisfied that such agreement is consistent with:
- (a) the objects and provisions of this Bill or a sector legislation; and
 - (b) any relevant instrument under this Bill or a sector legislation.
95. (1) The Commission shall maintain a register of all agreements required to be registered under this Bill, in accordance with the provisions of this Part. Register of agreements
- (2) The register shall contain:
- (a) the names of the parties to the agreement;
 - (b) a general description of the subject of the agreement; and
 - (c) the date of the agreement.

PART XIX — REGULATIONS AND GUIDELINES

96. The Commission may make and publish regulations and guidelines in respect of any matter or thing required or permitted by this Bill to be prescribed or which, in the opinion of the Commission, is necessary or convenient to be prescribed for carrying out or giving effect to this Bill. Commission's regulations and guidelines

PART XX — OFFENCES AND JURISDICTION

97. A person who contravenes or fails to comply with any provision of this Bill or other relevant legislation creating an offence shall be liable to the sanctions set out in the Bill. Offences by persons
98. If a person or corporate body commits an offence under this Bill or its subsidiary legislation, a person who at the time of the commission of the offence was a director, chief executive officer, manager, secretary or other similar officer of the company, or was purporting to act in any such capacity, or was in any manner or to any extent responsible for the management of any of the affairs of the company or was assisting in such management: Offences by persons or corporate bodies
- (a) may be charged severally or jointly in the same proceedings with the company; and
 - (b) if the company is found guilty of the offence, he is deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he can prove that:
 - (i) the offence was committed without his knowledge, consent or connivance, and
 - (ii) he had taken all reasonable precautions and exercised due diligence.
99. (1) A person who contravenes any provision of this Bill or regulation made under this Bill, where no specific penalty is prescribed in this Bill or its subsidiary legislation, is: General offences and penalties
- (a) as a first offender, liable on conviction to a fine of at least N500,000.00 or imprisonment for a term of at least one year or both; and

(b) for subsequent conviction, liable to a fine of at least N1,500,000.00 or imprisonment for a term of at least three years or both.

(2) The Commission may by regulations make provisions for offences, contraventions, and penalties and for the adjustment of fines and penalties imposed under this Bill.

100. A Commissioner, an employee or a member of a committee or panel acting under a delegation under section 18 is not personally liable for anything done or omitted to be done in good faith in the:
- (a) exercise of a power or the performance of a function under this Bill or any relevant legislation; or
 - (b) reasonable belief that the act or omission was in the exercise of a power or performance of a function under this Bill or any relevant legislation.
101. (1) A person shall not disclose any confidential or commercially-sensitive information obtained during the exercise of a power or the performance of a function under, or in connection with, this Bill or any relevant legislation.
- (2) A person shall not use an information to obtain directly or indirectly any pecuniary or other advantage for himself or any other person.
- (3) A person who, without lawful excuse contravenes subsections (1) and (2), commits an offence and is liable on conviction to a fine of at least ₦500,000.00.
- (4) A person may disclose or use such information if the:
- (a) disclosure or use is made in the exercise of a power or the performance of a function under, or in connection with this Bill or any relevant legislation;
 - (b) person has the consent of the person who supplied the information;
 - (c) disclosure or use is made in legal proceedings at the direction of the court; or
 - (d) information is in the public domain at the time it is disclosed or used.
- (5) Subsection (4) shall not interfere with any right which another person may have with regard to the disclosure or use of the information.
102. The Commission may apply to the court for an injunction or declaration or both in respect of an order or direction served by the Commission under this Bill and its subsidiary legislation.
103. A proceeding shall not be brought against the Commission in respect of a determination or direction except on the grounds that:
- (a) there was no power to make the determination or direction; or
 - (b) that the procedural requirements in relation to the making of the determination or direction have not been complied with.
104. (1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act, applies in relation to any suit or action instituted against an official or employee of the Commission in any court.
- (2) Notwithstanding the provisions of any other law, no suit shall lie or be instituted in any against the Commission, a Commissioner, staff or employee of the Commission for any act or omission done in pursuance or execution of this Bill, a sector legislation or subsidiary legislation, unless it is commenced:
- (a) within three months next after the act, neglect or default complained of; or
 - (b) in case of a continuation of damage or injury, within six months next after the damage or injury ceases.
105. (1) In an action or a suit against the Commission, no execution or attachment process of any nature shall be issued against the Commission unless at least a three months' notice of the intention to execute or attach has been given to the Commission.

(2) Any sum of money which may, by the judgment of any court, be awarded against the Commission shall, subject to any direction given by the court, where no notice of appeal against the said judgment has been given, be paid from the Fund of the Commission.

PART XXI — MISCELLANEOUS PROVISIONS

106. (1) A provision in any legislation or sector legislation of any regulated transport sector which refers to a multi-sector transport regulator or any regulator or regulatory agency with economic regulatory functions and powers to regulate that sector or do anything in that regard, shall be a reference to the Commission and the Commission shall assume the duties, functions and powers so granted.
- (2) Notwithstanding anything in any other enactment, all economic regulatory functions and powers contained in those enactments and vested in a Minister which conflict with any economic regulatory function or power of the Commission are vested in the Commission.
107. (1) The Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria 2004 is repealed.
- (2) Without prejudice to section 6 of the Interpretation Act, the repeal of the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria 2004 specified in subsection (1) shall not affect anything done under or pursuant to the repealed Act.
- (3) Upon the commencement of this Bill, the Nigerian Shippers Council as the interim economic regulator for the ports and its relevant and qualified staff, together with such number of persons employed by any other Legacy Agency as may be required by the Commission, are transferred to the Commission and deemed to form the initial staffing of the Commission in line with the provisions contained under this Bill, in so far as it affects matters under this Bill and in particular as set out in the Third Schedule to this Bill.
- (4) The service rendered by a staff or employee transferred under subsection (3) to the Commission is deemed to be service with the Commission for the purpose of determining employment related entitlements as specified in the relevant laws of employment in Nigeria.
- (5) Until such terms and conditions of service are drawn up by the Commission:
- (a) the terms and conditions of service applicable to employees of the Legacy Agency continue to apply to every person transferred to the Commission as if every such person were still in the service of the Legacy Agency; and
- (b) the Commission shall continue to contribute towards any pension scheme to which the Legacy Agency was contributing in respect of persons in the employ of the Legacy Agency prior to the transfer date.
- (6) Nothing in this section operates to:
- (a) prevent any staff or employee of the Commission from resigning or being dismissed from service; and
- (b) allow any employee of the Legacy Agency to become an employee of the Commission.
- (7) All assets, funds, resources and other movable and immovable property which before the commencement of this Bill, were vested in any Legacy Agency whose enabling legislation is repealed pursuant to the provisions of this Bill, shall be vested in the Commission.
- (8) The statutory functions, rights, interests, obligations and liabilities of any Legacy Agency established before the commencement of this Bill, which existed under any contract, rights of way, concessions or instrument are by virtue of this Bill, deemed to have been assigned to, transferred or vested in, the Commission.
- (9) Notwithstanding the enactment and operation of this Bill in relation to the relevant regulated transport sector, any licence or permit granted or in force at the commencement of this Bill in relation to the production or supply of goods, services or facilities by any person in the regulated transport

Legislation of a regulated transport sector

Repeal, savings and transitional provisions

sector, remains valid and in operation until it is amended, revoked, annulled or otherwise replaced by anything done under this Bill.

(10) Every rule, regulation, requirement, certificate, appointment, notice, direction, decision, authorisation, consent, application, request or thing made, issued, given or done under the existing legislation within any regulated transport sector, if in effect at the commencement of this Bill, continues to be in effect applies as if made, issued, given or done under this Bill until such a time that anything done under this Bill amends, overrides, revokes or replaces it in any manner.

(11) The Minister may, after the commencement of this Bill by order published in the Federal Government Gazette, make additional saving or transitional provisions in order to give better effect to the objectives of this section.

(12) On the commencement of this Bill, the Nigerian Shippers' Council established by the Nigerian Shippers' Council Act, ceases to exist and all staff, employees, property, rights, liabilities, functions and powers are, by virtue of this section, vested in the Commission.

(13) Subject to subsection (14), any act or matter made or done by the Nigerian Shippers' Council, before the commencement of this Bill, continues to have effect as if it was done by the Commission.

(14) The provisions of this Bill shall have effect with respect to matters arising from the transfer by this section to the Commission of the staff, employees, property, rights, liabilities, functions and powers of the Nigerian Shippers' Council and with respect to other matters mentioned in the Third Schedule to this Bill.

(15) A provision of any existing law with respect to the economic regulation of the regulated transport industry in Nigeria in whatever form that is inconsistent with the provisions of this Bill shall not affect matters under this Bill.

(16) The provisions of the Utilities Charges Commission Act shall not apply to anything done by the Commission pursuant to the provisions of this Bill.

108. (1) The Federal Highways Act Cap. F13, Laws of the Federation of Nigeria, 2004 (in this Act referred to as "the Principal Act") is amended as set out in this Bill.

Consequential amendment of Cap. F13, LFN, 2004.

(2) Section 2 of the Principal Act is amended:

(a) in subsection (2), by inserting after the word, "section", in line 3, the words, "at the tariff rate approved by the National Transport Commission";

(b) in subsection (3), by inserting after the word, "vehicles", in line 4, the words, "at the tariff rate approved by the National Transport Commission";

(c) by inserting after subsection (4), a new subsection "(4A)":

"(4A) Notwithstanding the provisions of this Act, the authority charged with the responsibility for federal highways shall obtain a licence from the National Transport Commission and shall operate under the economic regulation and oversight powers of the National Transport Commission";

(d) in subsection (5), by inserting after the word, "Act", in line 3, the words, "and the National Transport Commission Act".

109. In this Bill:

Interpretation

"access" means the making available of transport services and facilities by one licensee to another, by a licensee to another lawful user for the purpose of providing services, and includes access to physical infrastructure including terminals, stations, tunnels, bridges, sidings, jetties, hangers, route and cargo handling equipment;

"appeal" means an appeal under section 92 of this Bill;

"authorities" means the relevant government agencies;

"Board" means the Board of the Commission established under section 8 (1) of this Bill;

"cargo" includes any substance or article and any container or other item used to contain any substance or article;

"Chairman" means a Commissioner who is appointed to chair the Board of the National Transport Commission and includes any acting Chairman of the Commission;

"Commission" means the National Transport Commission established under section 4 of this Bill;

"Commissioner" means any person appointed under section 9 of this Bill;

"concession" means an arrangement between a government agency and a third party to provide transport services or operate transport facilities in accordance with the empowering legislation;

"concessionaire" means a holder of a concession or grant approved by a government agency to provide transport related services or to operate a transport facility under the concession agreement;

"Consolidated Revenue Fund" means the Fund established under section 80 of the Constitution of the Federal Republic of Nigeria, 1999;

"consumer" or "user" means any person who uses transport services or facilities;

"Court" means Federal High Court of Nigeria;

"determination" includes directions, orders, decisions or requirements made by the Commission under this Bill;

"directives" means a directive issued by the Commission under Part XI of this Bill;

"economic regulation" means the exercise by the Government through the Commission, both directly or indirectly, of control and influence over suppliers of services to consumers and covers both privately and publicly owned suppliers and seeks to protect the interests of public consumers;

"empowering instrument", unless otherwise specified in this Bill, means:

- (a) the relevant transport sector legislation;
- (b) a regulation made under section 3 of this Bill;

"Exclusive Economic Zone" has the meaning given to it under the Exclusive Economic Zone Act Cap. E 17, Laws of the Federation of Nigeria, 2004;

"instrument" includes a directive, determination or declaration;

"land transport" includes rail and road transportation modes;

"Legacy Agency" includes any agency, parastatal, or department of the Federal Government of Nigeria which existed before the commencement of this Bill, with powers and functions which include economic regulation, whenever the functions and powers of such an agency, parastatal or department fall within the scope of the functions and powers of the Commission and such functions or powers are substantially transferred to the Commission; provided that the agency, parastatal or department ceases to exist by virtue of a repeal or amendment to its Act, and is declared by the President to be deemed as a Legacy Agency;

"licence" means an authorisation from the Commission granting access to provide transport and related service in the regulated transport sector and "licensed" is interpreted accordingly;

"licenced service provider" means a person licenced to provide a transport and related service;

"licensee" means a holder of a licence who undertakes activities which are subject to a licence granted under this Bill;

"marine transport" means maritime transport and inland waterways;

"maritime transport" includes shipping, ports, and all forms of transportation services in Nigerian waters;

"Minister" means the Federal Minister for the time being charged with the responsibility for transportation;

"Ministry" means the Federal Ministry for the time being charged with the responsibility for maritime, rail and road transports respectively;

"Nigerian waters" includes inland waters, territorial waters or waters of the Exclusive Economic Zone

(respectively, together or any combination thereof);

"operator" means a person who is responsible for the management and operations of jetties, port terminals, stations, any transport facility for aviation, maritime, rail, road or any land transport facility pursuant to a valid concession or licence or other permit;

"owner" means the legal or beneficial owner;

"person" includes a natural or corporate body or partnership and where an individual is required to represent a corporate body or partnership in any circumstance pursuant to this Bill or its subsidiary legislation it shall be sufficient if in the case of a:

(a) corporate body, it is represented by its competent officer; and

(b) partnership, it is represented by a partner in the partnership or a competent employee of the partnership;

"port" means any place in Nigeria, navigable river or channel, inland waterways, or any such water leading into such place having facilities for ships or other vessels to moor and load or discharge including seaports, offshore cargo handling facilities, inland ports, inland dry ports, container freight stations, harbour, berths, jetties, pontoons or buoys and wharves within Nigerian waters;

"premises" includes a house or building, together with its land and outbuildings, occupied by an operator or service provider, agency or other person under this Bill or considered in an official context;

"prescribe" means a rule, direction, or order laid down, approved or given by this Bill, sector legislation, subsidiary legislation or regulations or any relevant legislation;

"prescribed agency" means a person, body or agency which is:

(a) prescribed by the enabling legislation for the purposes of this Bill; or

(b) providing prescribed services in the regulated transport industry in Nigeria within the meaning of section 26 of this Bill and includes:

(i) Nigerian Railway Corporation (NRC),

(ii) Federal Road Safety Commission (FRSC),

(iii) Federal Roads Maintenance Agency (FERMA),

(iv) Nigerian Ports Authority (NPA),

(v) National Inland Waterways Authority (NIWA), and

(vi) other agencies providing transport service of any nature in the regulated transport industry in Nigeria;

"prescribed services" means the services specified in this Bill;

"prescribed tariff" means tariff specified in this Bill;

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

"publication of any information by the Commission" under this Bill or its subsidiary legislation, except otherwise specified in any particular section of this Bill, is sufficiently effected if it is posted on the Commission's website and published in at least one widely circulating national newspaper;

"publication of any information by a licensee" under this Bill or its subsidiary legislation, except otherwise specified in any particular section of this Bill, is sufficiently effected if:

(a) officially sent to the Commission;

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

(c) the Commission so directs, published in at least one national newspaper;

"register" means any one of the registers established or maintained by the Commission for the purpose of this Bill;

"regulations" means regulations made pursuant to this Bill;

"regulated service" means any service supplied or offered for supply in a regulated transport sector and includes services which the Commission declares to be such services under section 3 of this Bill;

"regulated transport sector" means marine or maritime transport services including ports and inland

waterways, land transport including road and rail and any other transport sector which provides regulated service facilities and is:

(a) operating under a relevant legislation which is specified by that legislation as a regulated transport industry; or

(b) declared by an order under section 3 of this Bill to be a regulated transport sector;

"roads" means federal trunk roads, roads, bridges owned by the Federal Government and:

(a) land acquired or existing as a federal road or highway pursuant to any legislation, subsidiary legislation, declaration or order; or

(b) federal trunk roads within the context of item 63 of Part 1 of the Second Schedule to the Constitution of the Federal Republic of Nigeria, 1999 which are used for interstate transportation and commerce;

"road transport" means federal roads and all types of transportation services on federal road network;

"royalty" means fees or dues received by a prescribed agency from an operator in consideration for permitting such operator to render services in a regulated transport sector;

"services" includes the provision or use of facilities;

"tariffs, charges or rates" includes freight, rates, port fees, station fees, terminal dues, ports and harbours dues and charges, goods dues and pilotage dues, fees and other charges levied by transport service operators;

"terminal operations" means services provided at a port, airport, air strip, rail or road terminal or station including cargo handling, storing and delivery of cargo to vessels, aircraft, rail and vehicles, handling of passengers in anyway and services related thereto;

"transport facilities" means terminal or infrastructure and other facilities for the handling, storage and transportation of goods and passengers within a regulated transport sector;

"transport services" means any services including stevedoring, cargo handling, terminal or jetty operations, vehicle tug services, floating crane services, berthing or landing services, fire - fighting, security, radio and radar services, waste disposal, repair facilities and any other services including the carriage or storage of cargo and carriage of passengers or any transportation within a port, station, terminal, within a regulated transport sector; and

"transport service provider" includes any private person or government agency engaged in providing transport services within a regulated transport sector and includes an operator.

110. This Bill may be cited as the National Transport Commission Bill, 2022.

Citation

SCHEDULES

FIRST SCHEDULE

Section 8 (5)

SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION

1. Subject to the provisions of this Bill and section 26 of the Interpretation Act, the Commission may make standing orders regulating its proceedings or that of any of its Committees.
2. The Chairman shall preside at all meetings of the Commission and, in his absence, the members present at that meeting shall appoint one of them to preside at the meeting.
3. The quorum for any meeting of the Commission is a simple majority of the members.

4. (1) The Commission shall meet to transact its business under this Bill whenever it is summoned by the Chairman or by notice given to him signed by at least four members of the Commission specifying, amongst others, an agenda for the meeting.

(2) The Chairman shall summon a meeting of the Commission and the meeting shall be held within 14 days from the date on which the notice was served on him to discuss the items specified in the notice and the Commission shall, for the purpose of this Act, meet at least four times in each calendar year.

5. A member of the Commission who directly or indirectly has an interest of a personal nature, including financial interest in any matter being deliberated upon by the Commission or is personally interested in any contract made or proposed to be made by the Commission, shall, after the facts of the matter of his interest have come to his knowledge, disclose his interest and the nature of the interest at a meeting of the Commission.

6. A disclosure under paragraph 5 of this Schedule shall be recorded in the minutes of meetings of the Commission and the member concerned shall:

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

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

Committees

7. (1) Subject to its standing orders, the Commission may set up such number of standing or ad-hoc committees as it deems fit to consider and report on any matter with which the Commission is concerned.

(2) A Committee set up under this section shall:

(a) consist of such number of persons who may not necessarily be members of the Commission as may be determined by the Commission, provided that the appointment of a non-Commission member as a Committee member shall be subject to such terms as specified in his letter of appointment; and

(b) be presided over by a member of the Commission.

(3) The quorum of any Committee set up by the Commission shall be as may be determined by the Commission.

(4) A decision of a Committee of the Commission is of no effect until it is confirmed or ratified by the Commission.

Miscellaneous

8. The affixing of the seal of the Commission shall be authenticated by the signature of the Secretary and the Chairman or any other Commissioner generally or specifically authorised by the Commission to act for that purpose.

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

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

11. Subject to the other provisions of this Act, the validity of any proceeding of the Commission or of any of its committees is not affected by:

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

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

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

12. No member of the Commission or Committee is personally liable for any act or omission done or made in good faith while engaged in the business of the Commission.

13. Within the first 12 months from the commencement of this Bill, the Commission shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and employees of the Commission in the discharge of their duties and a copy of its code of conduct:

- (a) shall be displayed in its offices and binding on the Commission, its staff and employees; and
- (b) may be amended from time to time by the Commission.

SECOND SCHEDULE

Sections 9 (3), 12 (1)(f), and 17 (5)

CONFLICT OF INTERESTS

1. Subject to the provisions of this Schedule, no member or staff of the Commission shall have a direct or indirect financial interest or investment in any part of the Federal regulated transport sector or be engaged in any activity whether for remuneration or otherwise, for the benefit of any party involved in any business related to the regulated transport sector in Nigeria throughout the tenure of his office or employment with the Commission unless such an interest is formally disclosed to the President through the Minister and the President is satisfied that the interest or activity is passive and does not interfere with the person's impartial discharge of his duties.

2. A person who holds the office of a Commissioner for a period of two years after he ceases to be a Commissioner for any reason shall not acquire, hold, or maintain, directly or indirectly, any interest, office, employment, or consultancy arrangements either for remuneration or otherwise, connected with any part of the regulated transport sector in Nigeria or engage in any activity (whether for remuneration or otherwise) for the benefit of any party involved in any business related to the regulated transport sector in Nigeria, and if such a person acquires any such interest involuntarily or by way of succession or testamentary disposition, he shall divest himself from such interest within a period of three months of such interest being acquired.

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

4. All appointed members of the Commission and staff of the Commission, after the commencement of this Bill, are entitled to a maximum of six months from their respective dates of appointments within which to divest themselves of their direct or indirect financial interests or investments, if any, in any part of the regulated transport sector in Nigeria.

5. Each member or staff of the Commission shall declare, on appointment or at the commencement of employment and annually thereafter, for as long as he serves the Commission, any interest or investment that he knowingly has or knows any member of his immediate family to have, in any aspect of regulated transport sector.

6. A member, staff or employee of the Commission is considered to have a conflict of interest for the purposes of this Act if he has or acquires any pecuniary or other interest that conflicts with the proper discharge or performance by that person of his duties or functions as a member, staff or employee of the Commission.

7. A member, staff or employee of the Commission is deemed to have breached the conflict of interest rules of the Commission if he:

- (a) fails, without reasonable cause, to make declaration of his interests as required, or
- (b) knowingly makes a declaration that is false or misleading in material particulars thereby affecting the decision of the Commission in any of the circumstances under this paragraph, and that person commits an offence under this Bill, the effect of

which may include the termination of his appointment or employment.

8. Where a member or staff of the Commission contravenes the provisions of paragraphs 1, 2 and 3 of this Schedule, or gives false information under paragraph 5 of this Schedule, he commits an offence and is liable, on conviction, to a fine of at least ₦5,000,000.00 or imprisonment for a term not exceeding two years or both.

9. Subject to paragraph 8 of this Schedule, the Commission may waive the application of the prohibitions specified in paragraphs 1 and 2 of this Schedule to any member, staff or employee of the Commission if the Commission, upon receiving such declaration from such member, staff or employee determines that the financial interest of the relevant person is not of a material nature or is minimal.

10. The Commission, in determining whether or not the interest of a member, staff or employee of the Commission is minimal or not of a material nature, shall consider:

- (a) the revenue, investments, profits and managerial efforts of the relevant company or other entity in regard to its transport activities compared with other aspects of the company's or such entity's businesses;
- (b) the extent to which the Commission regulates and oversees the activity of such company or entity;
- (c) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and
- (d) the perceptions held or likely to be held by the public regarding the relevant person's financial interest or investment in that company or other entity.

11. The Commission may at any time review and reverse its determination under paragraph 7 of this Schedule and direct the application of the prohibitions contained in this Schedule to the affected member or the transferred staff or employee of the Commission and the Commission shall not be under any obligation to disclose the reasons or basis for its review to the affected member, staff or employee.

12. In any case in which the Commission exercises the waiver authority or the review as specified in paragraphs 10 and 11 of this Schedule, the Commission shall publish the details and such publication shall include:

- (a) an information regarding the identity of the person who has been granted the waiver or whose waiver grant has been reviewed;
- (b) the position held by such person; and
- (c) the nature of the financial interests which are the subject of the waiver or review.

13. For the purpose of this Schedule:

"company" includes partnerships and undertakings;

"immediate family" means a person's spouse, a partner living with that person as if they were married to each other and children who are under the age of 18.

THIRD SCHEDULE

Section 107 (3) and (14)

TRANSITIONAL AND SAVINGS PROVISIONS RELATING TO THE COMMISSION

Transfer of Property and Undertakings from the Abolished Nigerian Shippers' Council to the National Transport Commission

1. On the commencement of this Bill, the Nigerian Shippers' Council established by the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004 ceases to exist.

2. All assets, property, rights, debts, liabilities, obligations, functions and powers, that immediately before the commencement

date of this Act, were vested in the Nigerian Shippers' Council are, by virtue of this section, vested in the Commission as specified in the transition plan under this Act.

3. Subject to paragraph 4 of this Schedule, any act, or matter made or done by the Nigerian Shippers' Council under the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004, before the commencement of paragraph 1 of this Schedule, shall continue to have effect as if it was done by the Commission.

4. The provisions of this Bill shall have effect with respect to matters arising from the transfer, by this paragraph, to the Commission of all staff or employees, assets, property, rights, debts, liabilities, obligations, functions and powers of the Nigerian Shippers' Council, established by the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004, and with respect to the other matters mentioned in this Schedule.

5. The Commission is a substitute party as applicable to any proceeding pending before any court or tribunal to which the abolished Nigerian Shippers' Council was a party immediately before the commencement date.

6. The Commission is a substitute party to any contract or arrangement as applicable, entered into by or on behalf of the abolished Nigerian Shippers' Council and in effect immediately before the commencement date.

7. Any recourse, reference or record, to the abolished Nigerian Shippers' Council in any Act, order in-council, rule, regulation, order, agreement, instrument, deed, document or other legislation, as it relates to any period after the commencement date and if not inconsistent with the context or subject matter, shall be construed as a reference to the Commission.

Allocation of Property Subject to Encumbrances

8. Unless an allocation statement under this Schedule or transition plan otherwise provides where under this Schedule, property and rights vest in the Commission or liabilities become the liabilities of the Commission:

(a) the property and rights so vested shall be subject to the encumbrances, if any, to which they were subject immediately before the vesting; and

(b) the rights to which the abolished Nigerian Shippers' Council were entitled in respect of those liabilities, immediately before they ceased to be liabilities of the abolished Nigerian Shippers' Council, shall vest in the Commission.

Nigerian Shippers' Council Instrument

9. Each instrument relating to the abolished Nigerian Shippers' Council's property continues to have effect according to its tenure and after the commencement date as if a reference in the instrument to the abolished Nigerian Shippers' Council were a reference to the Commission.

Taxes

10. No duty or other tax is chargeable under any Act or in respect of anything done under this Act or in respect of any act or transaction entered into or an instrument made, executed, lodged or given for the purpose of or connected with the transfer of property, rights or liabilities of the Nigerian Shippers' Council.

Transfer of Employees of the abolished Nigerian Shippers' Council to the Commission and the terms of Employment under the Commission

11. On the commencement of this Bill, the transferred staff or employees of the abolished Nigerian Shippers' Council are deemed to be staff and employees of the Commission.

12. A transferred employee is to be regarded as:

(a) being in continuous service in his new position with effect on and from the commencement date;

(b) having the same terms and conditions as those that apply to the person in relation to his employment with the abolished

Nigerian Shippers' Council, immediately before the commencement date;

(c) having accrued an entitlement to benefits in connection with the employment with the Commission that is equivalent to the entitlement that the person had accrued as an employee of the abolished Nigerian Shippers' Council, immediately before the commencement date;

(d) the service of a transferred employee with the Commission is to be regarded for all purposes as having been continuous with the service of the transferred employee immediately before the commencement date as an employee of the abolished Nigerian Shippers' Council; and

(e) no transferred employee of the abolished Nigerian Shippers' Council shall be made to enjoy rights and privileges that are less than the ones enjoyed as an employee of the Nigerian Shippers Council.

13. The superannuation entitlements of any person who is a transferred employee are deemed not to be affected by that person becoming a transferred employee.

14. Nothing in this paragraph prevents:

(a) any of the terms and conditions of employment of a transferred employee from being altered by or under any law, award or agreement with effect from the commencement date; or

(b) a transferred employee from resigning or being dismissed at any time after the commencement date in accordance with the existing terms and conditions of his employment with the Commission.

FOURTH SCHEDULE

Section 6 (1)

PRESCRIBED AGENCIES

Prescribed agencies are those agencies that provide prescribed services in the regulated transport industry in Nigeria within the meaning of section 26 of this Bill, and shall include:

(a) Nigerian Railway Corporation (NRC);

(b) Federal Road Safety Commission (FRSC);

(c) Federal Roads Maintenance Agency (FERMA);

(d) Nigerian Ports Authority (NPA);

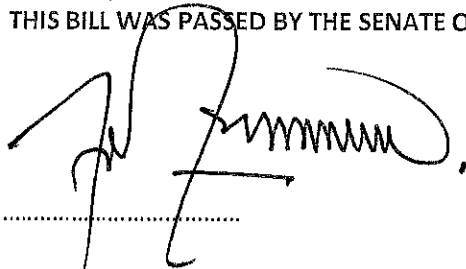
(e) National Inland Waterways Authority (NIWA); and

(f) other agencies providing transport services of any nature in the regulated transport industry in Nigeria.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the National Transport Commission as an independent multi-modal economic regulatory authority in the transport industry sectors to promote the implementation of the national transport policy and provide for an efficient economic regulation of the transport sector.

THIS BILL WAS PASSED BY THE SENATE ON WEDNESDAY, 2ND FEBRUARY, 2022



.....
President,
Senate of the Federal Republic of Nigeria



.....
Clerk,
Senate of the Federal Republic of Nigeria