Center for Open Access in Science ▪ https://www.centerprode.com/ojls.html
Open Journal for Legal Studies, 2023, *6*(1), 1-6.
ISSN (Online) 2620-0619 ▪ https://doi.org/10.32591/coas.ojls.0601.01001k

History of Telecommunication Law in Nigeria

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Received: 22 February 2023 ▪ Revised: 10 April 2023 ▪ Accepted: 14 April 2023

Abstract

The telecommunications sector is a significant contributor to the global economy and is vital to the competitiveness of the economy. Market liberalization's goal and objective encompasses both general economic growth and the advantages to consumers of lower pricing, more service options, higher service quality, and a wider selection of products. As a means of enacting regulatory changes in the telecommunications sector, telecommunications regulation is of the utmost importance. In the telecommunications sector, regulatory reform has become a crucial area. For regulatory reforms to be successful, regulatory regimes must be transparent, consistent, and all-encompassing, encompassing everything from setting up the right institutional framework to liberalizing network industries, promoting and enforcing competition law and policy, and opening both internal and external markets to trade. This article examines the historical background of telecommunications in Nigeria is traced. It examines several developments that have taken place in the Nigerian telecommunications industry. It further examines several regulatory regimes in the Nigerian telecommunications industry prior to Nigeria's independence in 1960 and post-independence till 2003.

Keywords: telecommunication history, Nigeria, Nigerian telecommunication industry, economy, laws.

1. Developments in telecommunications in Nigeria

Alexander Graham Bell developed the telephone in the nineteenth century. The telecommunications network has expanded over time to become the biggest man-made machine ever created, handling more than 1,000 billion calls yearly and covering the whole world.

The time span from the late 1960s to the present has seen the fastest increase. This is the outcome of a combination of advances in electronics, digital communication, convergence of computing and telecommunications technologies, optical fiber development, and the use of microelectronics in radio communications.

Telegraph systems, a type of early digital technology, were the first. From its conception until the early 1970s, when advances in computing started to filter into telecommunications, telephony was analog. Almost all nations had a monopoly on the supply of telecommunications up until the early 1980s, with a state-owned business often serving as the public network operator. The competitive culture of the new computing industry, which made use of the same technology to a great extent and experienced swift cost reductions and capability gains, contrasted with this monopolistic culture.

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2. Pre-independence era

The International Telecommunications Union did not foresee the necessity for global interconnectedness (ITU).[1] From colonial times until the early 1970s, British practice governed Nigeria's telecommunications standards. But the road to success in Nigeria's telecoms industry has been arduous and difficult. The colonial administration built the first telecommunications infrastructure in Nigeria in 1886,[2] but what is now the country's telecommunications industry actually got its start in 1855 when the colonial administration granted a request from its officers in Sub-Saharan African nations to build telecommunications links with the colonial officers in London.[3] The British Post Office had previously offered its services to the colonies inside the British West African areas.

3. Post-independence era: Period between 1960-1985

At the time of its independence in 1960, Nigeria had roughly 18,724 operational phone lines and a population of about 40 million.[4] Nigeria had few telephones as at the time. Within the period of 1960 and 1985, the Department of Post and Telecommunications (P&T), which was in charge of the internal network, and a limited liability corporation, the Nigerian External Telecommunication (NET) Limited, which was in charge of the external network, made up the telecommunications industry.[5] At the time, telephone penetration was still low and service quality was often subpar. The system was pricey, overcrowded, unreliable, and unwelcoming to users. Postal and Telecommunications Division of the Post and Telecommunications (P&T) was created in 1985, and it later amalgamated with Nigerian External Telecommunications (NET) to become Nigerian Telecommunications Limited (NITEL). But unlike in the UK, where a 51% part in British Telecoms was sold, NITEL was governed and financed solely by the Nigerian Federal Government until it was sold to Transnational Corporation of Nigeria Plc (Transcorp) in 2006.[6]

4. Period between 1985-1992 and privatization of telecommunications sector in Nigeria

The Federal Military Government established a Technical Committee on Privatization and Commercialization (TCPC) in July 1987 to address the subject of reforms that apply to all public firms in Nigeria, and it enacted the Privatization and Commercialization Decree No. 25 of 1988. The Decree established the required legal foundation for the government's expected programs on the commercialization and privatization of state businesses as essential components

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[1] Colin D. Long, *Telecommunications law and practice* (2nd ed.), Sweet & Maxwell, London, 1995, p. 5.

[2] Case Study: "Telecoms in West Africa", www.itlaw.strath.ac.uk/distlearn/downloads. See also: "Revising Nigeria's telecommunications Industry", www.nigeriabusinessinfo.com.

[3] Adewale, S. A. and Bamise, J. B., "The legal protection of consumers of telecommunications services". Paper presented to 2005/2006 LL.M Class of Aviation and Communications Law, Faculty of Law, Obafemi Awolowo University, Ile-Ife, Nigeria.

[4] See Adegbemile A. A., "Developments in telecommunications in nigeria and its impact on national development: Experience from around the world", 2007, 6(8), *Asian Journal of Information Technology*, pp. 554-884.

[5] *Ibid*. This is similar to what obtains in most countries of the world where a department of the government is in charge of all posts service, telephone and telegraph services. Telecommunications traditionally have been by a vertically integrated state-owned monopoly. Countries such as United Kingdom, Portugal, Belgium, Greece, Germany, Ghana e.t.c operated these Telecommunications Systems.

[6] *Ibid*.

of Nigeria's national economic transformation.[7] The Decree established the Technical Committee on Privatization and Commercialization (TCPC) and with the coming of the TCPC,[8]the status of NITEL changed. This was made possible with the tripartite performance contract agreement signed on 22 May 1992 by NITEL, Federal Government and TCPC which projected NITEL as a full fledged commercial entity.[9] NITEL was required under the agreement to be self-financing and to enhance telecommunications services. Between 1985 and 1992, NITEL was the primary basic provider of both domestic and international services, which was a significant development in the Nigerian telecommunications sector. Due to the industry's blatant inefficiency, high costs, and lack of widespread access, this monopoly has had detrimental impacts.[10] There was no convergence among the three arms of communications, and competition solely existed in terms of equipment supply.[11] Using digital exchange, fiber optics, and digital satellite earth stations, NITEL started the modernization of the telecommunications networks in 1986. The number of NITEL services has also risen to now include electronic mail, public payphones accepting prepaid cards, mobile phones, and cellular paging (e-mails).[12]

NITEL has implemented three initiatives, including reorganization, personnel training, and upgrades to the installation of cutting-edge exchange and transmission equipment and infrastructure, in order to achieve self-financing and improve its telecommunications services.[13] Although commercialization of NITEL began in 1992 and modernization of Telecommunications networks in 1986, partial deregulation of the Nigerian Telecommunications business began in 1991 under the regulatory arm of NITEL's Planning and Operation Division. In October 1991, five companies[14] were given approval to operate prepaid card public payphone in the six geopolitical zones of Nigeria.[15] Until the Nigerian Communications Commission was founded in 1992, this was the direction of the development of the country's telecoms sector.

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[7] Ehi Oshio, P. and Stewart N. F., The legal and institutional frameworks of privatization in Nigeria: A discourse, http://www.nigerialawguru.com/articles/company%20law/THE%LEGAL%20%AND%20INSTITUTIONAL%20FRAMEWORKS%20OF%20F%20PRIVATISATION%20IN%20NIGERIA20A%20DISCOURSE.pdf, accessed on 14 August 2010.

[8] Now Bureau for Public Enterprises (BPE). The current Act establishing the BPE is the Public Enterprises (Privatisation and Commercialisation) Act, *Cap. P 38 LFN 2004*, which, by Section 12, established the Bureau. By the Act, NITEL and its mobile section, Nigerian Mobile Telecommunications Limited (M-Tel) were partially privatized by the effect of Section 1 (1) and Part I of the First Schedule to the Act.

[9] The effect of this agreement is the change in the nomenclature of NITEL from Limited Liability Company (Ltd) to Public Limited Liability Company (Plc).

[10] Adegbemile A. A., "Developments in telecommunications in Nigeria and its impact on national development: Experience from around the world", 2007, 6(8), *Asian Journal of Information Technology*, p. 884.

[11] The three arms of Communications are Telecommunications, Information Technology and Broadcasting.

[12] Adegbemile A. A., "Developments in telecommunications in Nigeria and its impact on national development: Experience from around the world", 2007, 6(8), *Asian Journal of Information Technology*, p. 885.

[13] *Ibid.*

[14] The five companies are Chawaleks Telecommunications Ltd, SATCOMS Ltd, Nakaita Holdings Ltd, GPT Ltd and Murhi International Ltd.

[15] The six geo-political zones in Nigeria are: North-Central, North East, North West, South-South, South-West and South-East.

5. Period between 1992-2003

The Nigerian Communications Commission Act No. 75 of 1992, which founded the NCC, was passed in 1992. All telecommunications service providers are now regulated by the NCC, which was established to take over regulation of telecommunications operations from NITEL's Planning and Operation Division.

NITEL had 500,000 connections to a population of 100 million at the time of the start of deregulation in 1992.[16] The 1992 Act opened up the telecommunications sector to competition and regulation. The division of regulatory authority among the three arms of communications for a converged industry is a significant post-1992 legal framework issue.

When NCC was founded in 1992, the organization allowed private operators to participate in all sectors of telecommunications activity and compete against the then-government monopoly, NITEL.[17] However, NITEL held a monopoly over the telecommunications industry until 1999. Upon taking office in 1999, the President Olusegun Obasanjo Administration immediately got to work completely dereglementing the telecommunications industry, particularly by issuing licenses to Global System for Mobile Communications (GSM) service providers. The GSM Services were made available for purchase in August 2001, and numerous GSM operators have received licenses.[18]

The private consumer and business demand for high-quality telecommunications services at reasonable prices and competitiveness, as well as the need for shorter wait times for telephone installation and service delivery, are the driving forces behind the deregulation of telecommunications services in Nigeria.[19]

Diversification and complexity of customer wants; technological advancements; demand for increased corporate efficiency in light of constrained budgets; economic growth and job creation; and global trend. As a result of the aforementioned, the Nigerian government's decision to deregulate the telecommunications sector has had positive and far-reaching effects that are anticipated to provide the necessary leverage and serve as a catalyst for a variety of business, economic, social, and organizational developments.[20]

Strategically speaking, this means that NITEL, the national operator, has been given exclusive access to the key areas of public switches, trunks, and international services. The goal of this is to give social services and services to rural communities the appropriate cross-subsidy and incentive. Despite this, and to avoid impeding the participation of the private sector, the government has maintained that the national career, NITEL is required to provide network access and interconnectivity to other licensed operators, charge fair and competitive tariffs for such access and interconnectivity, focus its resources and efforts on the creation of the core infrastructure, i.e., the capacity of long-distance trunks and public switches.[21]

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[16] Adegbemile A. A., "Developments in telecommunications in Nigeria and its impact on national development: Experience from around the world", 2007, 6(8), *Asian Journal of Information Technology*,, p. 884.

[17] *Ibid*., 886.

[18] Osondu, C. N., Regulatory challenges in the Nigerian GSM market. Paper Presented at the Nigerian Bar Association Annual Bar Delegates Conference, Abuja, 2004.

[19] D. A. Ariyoosu, *An examination of the legal regulations and taxation of telecommunication and electronic commerce in Nigeria* (unpublished), a thesis submitted to the Faculty of Law, University of Ilorin in partial fulfillment of the award of Doctor of Philosophy in Law, 2012.

[20] *Ibid*.

[21] *Ibid*.

It was anticipated that NITEL would gain from more traffic created by private operators through its network as well as from improved revenue production and collection.

6. Conclusion

The growth of the telecommunications market in Nigeria has continued at geometric rates, thereby sustaining the market as one of the fastest growing telecommunications markets in the world. Nigeria is now officially the largest growth market for telecommunications in Africa and the Middle East, and possesses the most vibrant fixed and mobile telephony companies in Africa.[22]

Acknowledgements

This research did not receive any specific grant from funding agencies in the public commercial, or not-for-profit sectors.

The author declares no competing interests.

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