

**NATIONAL BROADCASTING COMMISSION DECREE
NO 38 OF 1992
LAWS OF THE FEDERATION OF NIGERIA**

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**NATIONAL BROADCASTING COMMISSION DECREE
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24th August 1992

The Federal Military Government hereby decrees as follows:-

1. There is hereby established a Commission to be known as the National Broadcasting, Commission (in this Decree referred to as the Commission) which shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

2. (1) The Commission shall have responsibility of -
- (a) advising the Federal Military Government generally on the implementation of the National Mass Communication Policy with particular reference to broadcasting;
 - (b) receiving, processing and considering applications for the ownership of radio and television stations including cable television services direct satellite broadcast and any other medium of broadcasting;
 - (c) recommending applications through the Minister to the President, Commander in Chief of the Armed forces for the grant of radio and television licences;
 - (d) regulating and controlling the broadcast industry;
 - (e) undertaking research and development in the broadcast industry;
 - (f) receiving, considering and investigating complaints from individuals and bodies corporate or incorporate regarding the contents of a broadcast and the conduct of a broadcasting station;
 - (g) upholding the principles of equity and fairness in broadcasting;
 - (h) establishing and disseminating a national broadcasting code and setting standards with regard to the contents and quality of materials for broadcast;
 - (i) promoting Nigerian indigenous cultures, moral and community life through broadcasting;
 - (j) promoting authenticated radio and television audience measurements and penetration;
 - (k) initiating and harmonizing Government policies on trans-border direct transmission and reception in Nigeria;
 - (l) regulating ethical standards and technical excellence in public, private and commercial broadcast stations in Nigeria;
 - (m) monitoring broadcasting for harmful emission, interference and illegal broadcasting;
 - (n) determining and applying sanctions including revocation of licences of defaulting stations which do not operate in accordance with the broadcast code and in the public interest;
 - (o) approving the transmitter power, the location of stations, areas of coverage as well as regulate types of broadcast equipment to be used; and
 - (p) carrying out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under or pursuant to this Decree.
- (2) No person shall operate or use any apparatus or premises for the transmission of sound or vision by cable, television, radio, satellite or any other medium of broadcast from anywhere in Nigeria except under and in accordance with the provisions of this Decree.

3. (1) The Commission shall consist of -

- (a) a Chairman;
 - (b) nine other members as may be appointed to represent the following interests, that is -
 - (i) law,
 - (ii) business,
 - (iii) performing arts
 - (iv) education
 - (v) social science
 - (vi) media,
 - (vii) public affairs, and
 - (c) the Director General of the Commission.
- (2) The Chairman and other members of the commission shall be persons of proven integrity, experience and specialised knowledge in the broadcasting industry or who by reason of their professional or business attainment are in the opinion of the Minister capable of making useful contribution to the work of the Commission.
- (3) The Chairman and other members of the Commission shall be appointed by the President, Commander in Chief of the Armed Forces on the recommendation of the Minister.
- (4) The Chairman and other members of the commission shall be part time members.
- (5) The supplementary provisions contained in the first Schedule to this Decree shall have effect with respect to the proceedings of the commission and the other matters contained therein.
4. (1) The Chairman and other members of the Commission shall hold office for three years renewable for one further period of three years only.
- (2) The Chairman or a member of the commission may resign his appointment at any time by notice in writing under his hand addressed to the President, Commander in Chief of the Armed Forces.
- (3) If a member of the commission dies or resigns or otherwise vacates his office before the expiration of the term for which he is appointed, a fit and proper person shall be appointed for the remainder of the term of office of the predecessor, so however that the successor shall represent the same interest and shall be appointed by the president, Commander in Chief of the Armed Forces.
- (4) A member of the Commission may be removed from office by the President, Commander in Chief of the Armed Forces, if he is satisfied that it is not in the interest of the commission or the interest of the public that the member should continue in office.
5. (1) There shall be appointed for the commission, a Director General who shall be the chief executive of the commission.
- (2) The Director General shall be appointed by the President, Commander in Chief of the Armed forces on the recommendation of the Minister.
- (3) The Director General shall be a person with wide knowledge and experience in broadcasting.
- (4) The Director General shall be responsible for the execution of the policies of the commission and its day to day administration.

- (5) The Director General shall hold office in the first instance for a period of five years and shall be eligible for re appointment for such further periods as the President, commander in Chief of the Armed forces may, from time to time, determine.
 - (6) Subject to this section, the director General shall hold office on such terms as to emolument and otherwise as may be specified in his letter of appointment and as may, from time to time, be approved by the President, Commander in Chief of the Armed forces.
 - (7) The Commission shall appoint a Secretary to the Commission who shall keep records, conduct correspondence of the commission and carry out and perform such other duties as the commission or the Director General may, from time to time, direct.
 - (8) The Commission may appoint such other employees to assist the Director General in the exercise of his functions under this Decree.
6. Subject to the provisions of this Decree, the Minister may give the Commission directive of a general character relating generally to particular matters with regard to the exercise by the commission of its functions under this Decree and it shall be the duty of the commission to comply with such directives.
 7. The Commission shall develop and submit to the President, Commander in chief of the Armed forces appropriate conditions of service covering remunerations, fringe benefits, pension scheme and other benefits for his employees.
 8. (1) Notwithstanding the provisions of the Pensions Act, service in the Commission shall be approved service for the purposes of that Act and accordingly, officers and other persons employed in the commission shall in respect of their service in the commission be entitled to pensions, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grades in the civil service of the Federation, so however that nothing in this Decree shall prevent the appointment of a person to any office on terms which preclude the grant of pensions and gratuity in respect of that office.

(2) For the purposes of the application of the provisions of the Pensions Act, any power exercisable thereunder by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.
 9. (1) The Commission shall, in the consideration of an application or a licence under this Decree, be satisfied that the applicant -
 - (a) is a body corporate registered under the Companies and Allied Matters Act and whose majority shares are owned by citizens of Nigeria;
 - (b) can demonstrate to the satisfaction of the Commission that he is not applying on behalf of any foreign interest;
 - (c) can comply with the provisions of the second Schedule to the Transition to Civil rule (Political Parties Registration and Activities) Act;
 - (d) can comply with the objectives of the National Mass Communication policy as is applicable to the electronic media, that is, radio and television;

- (e) can give an undertaking that he licensed station shall be used to promote national interest, unity and cohesion and that it shall not be used to offend the religious sensibilities or promote ethnicity, sectionalism, hatred and disaffection among the peoples of Nigeria.
 - (2) The grant of a licence by the Commission under this Decree shall be subject to availability of broadcast frequencies.
 - (3) Compliance with the requirements specified in subsection(1) of this section shall not entitle an applicant to the grant of a licence but the grant of a licence by the commission shall not be unreasonably withheld.
 - (4) In determining the grant of a licence the Commission shall consider the following, that is -
 - (a) the structure of share holding in the broadcasting organization;
 - (b) the number of share holding in other media establishments
 - (c) the distribution of those stations and establishments as between urban, rural, commercial or other categorization.
 - (5) It shall be illegal for any person to have controlling shares in more than two television stations.
- 10.** The Commission shall not grant a licence to -
- (a) a religious organization; or
 - (b) a political party.
- 11.** A request by a person for authority to own, establish or operate a radio, sound, television, cable or satellite station shall be by way of an application for a licence addressed to the Director General of the Commission and in the form prescribed in the Second Schedule to this Decree.
- 12.** The grant of licence shall be subject to the terms and conditions set out in the Third Schedule of this Decree.
- 13.** (1) The Commission shall have power with respect to any licence granted under section 9 of this Decree
- (a) to allocate broadcast frequencies generally (FM/MW for radio and VHF for television) to a licensed station;
 - (b) to approve the location of a station;
 - (c) to regulate the technical specifications of equipment and standard of transmission;
 - (d) to approve the call signal of a station;
 - (e) to approve the areas to be served by a station;
 - (f) to impose sanctions in accordance with paragraph 8 of the third Schedule to this Decree; and
 - (g) to prescribe an appropriate fee payable.

- (2) The Commission shall have the power to enter into the premises of any station and inspect or examined any apparatus of operation in the station in order to ascertain their conformity with the provisions of this Decree.
 - (3) The Commission may exercise its power under this section of this Decree through its agents.
- 14.** (1) The Commission shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Commission.
- (2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section -
- (a) such percentage of fees and levy to be charged by the commission on the annual income of licensed broadcasting stations;
 - (b) such moneys as may, from time to time, be lent or granted to the Commission by the Government of the Federation or of a State;
 - (c) all moneys raised for he purposes of the Commission by way of gifts, loans, grants in aid, testamentary disposition or otherwise,
 - (d) all other assets that may, from time to time, accrue to the commission
- (3) The fund shall be managed in accordance with rules made by the commissions and without prejudice to the generality of the power to make rules under this subsection, the rules shall in particular contain provisions -
- (a) specifying the manner in which the assets or the fund of he Commission are to be held and regulating the making of payments into and out of the fund; and
 - (b) requiring the keeping of proper accounts and records for he purpose of the fund in such form as may be specified in the rules.
- 15.** (1) The Commission may, from time to time, apply the proceeds of he fund established pursuant to section 14 of this Decree to -
- (a) the cost of administration of the Commission;
 - (b) the payments of salaries, fees and other remuneration, allowances pensions, and gratuities payable to members or employees of the commission.
- 16.** (1) The Commission may accept gifts of money or other property and upon such terms and conditions, if any, as may be specified by the person or organization making the gift provided that such gifts are not inconsistent with the objectives and functions of the commission under this Decree.
- 17.** (1) The Commission may with the consent of the Minister borrow, on such terms and conditions as the commission may determine, such sums of money as the commissions may require in the exercise of the functions conferred on it under this Decree.

18. (1) The commission shall not later than 31st October in each year, submit to the National Council of Ministers an estimate of its expenditure and income during the next succeeding financial year.
- (2) The commission shall cause to be kept proper accounts of the Commission in respect of each year and proper records in relation thereto and shall cause its accounts to be audited not less than 6 months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor General of the Federation.
19. (1) The Commission shall prepare and submit to the Minister not later than 30th June in each year, a report in such form as he may direct on the activities of the commission during the immediately preceding year, and shall include in such report a copy of the audited accounts of the commission for that year and Auditor General's report thereon.
20. (1) The commission may, with the approval of the Minister, make regulations generally for the purpose of giving effect to the provisions of this Decree.
21. (1) Section *** of the Nigerian Television authority act and section 6 (1) of the Federal Radio Corporation of Nigeria Act are hereby consequentially repealed.
- (2) The power under the Wireless Telegraphy Act and regulations made thereunder in so far as they relate to broadcasting shall, as from the commencement of the Decree, vest in the Commission without further assurance than by this Decree.
22. *****
23. In this Decree, unless the context otherwise requires -
- "Chairman" means the Chairman of the commission;
- "Commission" means the National Broadcasting commission established by section 1 of this Decree;
- "Member" means a member of the Commission and includes the Chairman;
- "Minister" means the Minister charged with responsibility for information and Ministry shall be construed accordingly;
- "Secretary" means the Secretary to the Commission;
- "Station" means a place or organization established for the purpose of distribution of radio or television programmes to the public through wireless or cable means.
24. This Decree may be cited as the National Broadcasting Commission Decree 1992.

Schedules

First Schedule Proceedings of the Commission

1. The commission shall meet for the conduct of its business at such times as the chairman may determine.

2. The commission shall have power to regulate its proceedings and may make standing orders for that purpose and subject to any such standing orders and to paragraph 3 of this Schedule, may function notwithstanding -

- (a) any vacancy in its membership or the absence of any member;
- (b) any defect in the appointment of a member; or
- (c) that a person not entitled to do so took part in its proceedings.

3. The quorum at any meeting of the commission shall be a simple majority of the members.

4. Where standing orders made under paragraph 2 of this Schedule provide for the commission to co-opt persons who are not members of the commission, such persons may attend meetings of the Commission and advise it on any matter referred to them by the commission but shall not count towards a quorum and shall not be entitled to vote at any meeting of the commission.

5. The commission may appoint one or more committees to advise it on the exercise and performance of its functions under this Decree and shall have power to regulate the proceedings of its committees.

6. (1) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be made under seal may be entered into or executed on behalf of the commission by any person generally or specifically authorised in that behalf by the commission,

(2) Any member of the commission or of a committee thereof, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the commission or a committee, as the case may be, shall not vote on any question relating to such contract or arrangement.

7. (1) The common seal of the commission shall not be used or affixed to any document except in pursuance of a resolution duly passed at a properly constituted meeting of the commission and recorded in the minutes of the meeting.

(2) The fixing of the seal of the commission shall be authenticated by the signature of the Chairman or some other members authorised generally or specifically by the Commission to act for that purpose.

(3) Any document purporting to be a document duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

Second Schedule

Form for application for a grant of licence.

1. Name of Applicant.....
2. Address.....
3. Names and Nationalities of Directors.....
4. Names and Nationalities of shareholders and share holding.....
5. Equity Structure.....
6. Type for Broadcast Licence required (Radio/TV, Cable TV, Etc.)....

7. Purpose of Licence.....
8. Duration for which Licence is required.....
9. Location.....
10. Coverage areas.....
11. Target audience/Programme Profile.....
12. Applicant's interest in any other media organisation
13. Type and make of transmitters.....
14. Effective radiating power.....
15. Type of antenna and its characteristics.....
16. Distance between studio and transmitter station.....
17. Type of link system to be used.....
18. Method of reception (Scramble or open broadcast).....
19. Type, range and standard of programmes.....
20. Proportion of Nigerian content to the foreign content.....
21. Proposal for increase of local content over licenced period.....
22. Any special effort to promote indigenous talents.....
23. Evidence of financial and technical capabilities of applicant.....

Undertaking

24. I/Wehereby give an undertaking that upon a grant of a licence I/Weshall abide by the terms and conditions upon which the licence is granted.

.....
Signed

25. An application shall be accompanied by the following:

- (a) Certificate of Incorporation,
- (b) Certified copy of Articles and Memorandum of Association,
- (c) Project Study including engineering design of system,
- (d) Evidence of the undertaking required under section 9(e) of the Decree.

Third Schedule Terms of a licence

1. A licence shall be valid for a period of five years in the first instance.
2. An application for the renewal of a licence shall be made to the Commission within a period of six months before the expiration of the licence.
3. A licence shall not be transferable and the licensed station shall not for such be changed without notifying commission of the intention and the reasons for such change.
4. The holder of a licence shall be entitled to operate only one station
5. A licence shall-
 - (a) contain a schedule of proposed programmes over a given period of time e. g quarterly,
 - (b) a local programme content which shall not be less than 40% and
 - (c) a schedule shall be accompanied by a synopsis of each of the programme plans.

6. Each station shall keep a daily log of its transmitted programmes and the station log book shall include a transmitter output power and radiating frequencies.
7. Each station shall make available for inspection by the inspectorate staff of the commission its broadcast facilities including equipments and station log books.
8. A licence may be revoked by the Commission in the following cases, that is -
 - (a) where the prescribed fee has not been paid on the due date,
 - (b) where the licence has not been put to use within a period of one year after issuance,
 - (c) where it is found that the licence was obtained in breach of the provisions of section 13 of this Decree or where it is found that the provisions of the said section are not being complied with, and
 - (d) where in the opinion of the Commission the station has been used in a manner detrimental to national interest or where a complaint from the public has been upheld after a public hearing instituted by the commission and whose decision is upheld by a majority of members of the Commission
9. The Commission may impose a lesser sanction such as a warning or the suspension of a licence as it may deem fit.

Made at Abuja this 20th day of August 1992

General I. B. Babangida,
President, Commander-in-Chief of the Armed Forces
Federal Republic of Nigeria
