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Uchenna Jerome Orji, Telecommunications Law and Regulation in Nigeria*. Newcastle upon Tyne, UK: Cambridge Scholars Publishing, 2018, 640 pages, £80.99 (hardcover). ISBN: (10): 1-5275-0675-4; ISBN: (13): 978-1-5275-0675-6*

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Uchenna Jerome Orji's book takes on the Herculean task of discussing and analysing the full range of laws, regulations, and policies that govern the Nigerian telecommunications industry. Developed as an expansion of his PhD thesis (Orji, 2017), the volume contains eleven chapters, an author's Preface, and a Foreword by Prof. Umar Garba Danbatta, CEO of the Nigerian Communications Commission (NCC).

Chapter 1 provides an introduction to telecommunications and its regulation. Orji traces the early history of telecommunications regulation in the United States and the United Kingdom, and the general principles that governed the early regulation of the industry in those countries. He discusses *ex ante* and *ex post* regulatory approaches, and common regulatory institutional designs, highlighting both advantages and disadvantages of various approaches and designs. This first chapter also outlines elements required to ensure a regulator's independence and discusses telecommunications as a field of law.

In Chapter 2, Orji presents an overview of the Nigerian telecommunications industry, covering both historical and contemporary elements, with this historical account is divided into four periods:

- the British colonial era, 1886-1960
- and early post-colonial years, 1960-1985
- the onset of commercialisation and liberalisation, 1985-1999
- the full liberalisation of the market, 1999-2017

A key element of this chapter is its discussion of the government's protracted process of privatising the state-owned Nigerian Telecommunications Limited (NITEL) between 2001 and 2014, before its eventual acquisition by the private-sector NATCOM Consortium in 2015. In the discussion, Orji links excessive government interference in NITEL's privatisation process to the eventual depreciation of NITEL's commercial value from over USD1 billion to its USD252 million value when acquired by NATCOM.

In Chapter 3, Orji examines legal and policy frameworks, including the legal basis for the industry's regulation under the Constitution of the Federal Republic of Nigeria (1999). He analyses several frameworks, including the Wireless Telegraphy Act (1998), the National Policy on Telecommunications (2000), the National Policy for Information Technology (2001), the National Space Policy (2001), the Nigerian Communications Act (2003), the National Information Technology Development Agency Act (2007), the draft National Information and Communication Technology Policy (2012), the Commercial Frequency Management Policy (2013), and the National Broadband Plan 2013-2018 (2013).

In this chapter, Orji also discusses the sector's key policy and regulatory institutions, including the industry regulator (the NCC), the Federal Ministry of Communication, and the National Frequency Management Council. Orji analyses the NCC's regulatory mandate and powers, and the mechanisms for holding the NCC accountable, i.e., executive supervision, legislative oversight, and judicial review. He argues that judicial review provides the best means of holding the NCC accountable. Orji also points to the need to reform the President's absolute power to remove a Commissioner of the NCC, through introduction of checks and balances to be provided by the legislature or judiciary, so as to guarantee the independence of the NCC to act in the best interests of the public and the industry. In reviewing the powers of the Minister of Communications Technology, Orji uses the 2010 case of *Mobitel Ltd v. The Minister of Information and Communication* to highlight limits of the Minister's powers over the direction of the NCC, pointing to how these limitations promote the NCC's regulatory independence in line with international best practice as mandated by the World Trade Organisation (WTO) Telecommunications Reference Paper (WTO, 1996).

In Chapter 4, Orji examines the licensing regime, under the Nigerian Communications Act (2003), which provides for individual, class, and spectrum assignment licences. The objectives of licensing, the duties of licensees and the legal effect of revoking or suspending a licence are analysed. Orji also discusses the application of the "use or lose" principle in the management of Nigeria's spectrum resources.

Chapter 5 examines the regulation of infrastructure deployment. Orji points to a general duty of care as the core legal principle that governs installation of telecommunications facilities. He links this principle with the obligations of operators to comply with environmental standards. Orji also discusses the challenges affecting deployment infrastructure in Nigeria, including the problem of multiple and conflicting layers of regulation by government authorities, e.g., the existence of conflicting environmental standards set by the NCC and the National Environmental Standards and Regulations Enforcement Agency (NESREA); overlapping regulation of telecommunications infrastructure by urban planning authorities at state and local government levels; lack of uniformity in the administration of "right of way" permits by authorities at different tiers of government; and the existence of multiple layers of taxation. Orji proposes national harmonisation of regulations on the installation of telecommunications infrastructure and the harmonisation of applicable industry taxes into a single regime.

Chapter 6 covers consumer protection. Among other things, Orji highlights the need for improved regulatory measures to protect consumers against unsolicited communications, drawing on examples from jurisdictions such as the United States and the European Union. The chapter also highlights the inadequacy of the data protection principles under the NCC's Consumer Code of Practice Regulations (2007), given that the principles do not specify the rights of consumers during the processing of their personal data.

Chapter 7 examines competition regulation in the industry, including measures to address anti-competitive practices, dominance, and the control of mergers and acquisitions. One of the key takeaways from this chapter is the apparent overlap between the merger regulation powers of the NCC and the Nigerian Securities and Exchange Commission (SEC). Orji suggest streamlining of the merger regulation mandates of the SEC and NCC, through an institutional arrangement such as a Memorandum of Understanding, in order to reduce the potential for a future regulatory conflict.

In Chapter 8, Orji looks at the regulation of interconnection and network access, including the provisions of the Nigerian Communications Act in respect of the special obligations of dominant operators. A key element in this chapter is its

discussion of the regulation of co-location and infrastructure-sharing, both of which can reduce the costs of network deployment and limit unnecessary duplication of network infrastructure.

Chapter 9 examines universal access and service, and situates these concepts within the context of the human rights to freedom of information and freedom of expression under Article 19 of the 1948 UN Universal Declaration of Human Rights, the 1966 International Convention on Civil and Political Rights, and the right to ICT access under Article 9 of the 2006 UN Convention on the Rights of Persons with Disabilities. The chapter also discusses the recognition of a human right to broadband/internet access in countries such as Costa Rica, Estonia, Finland, France, Germany, Greece, and Spain. In addition, Orji examines the challenges impeding universal access to broadband in Nigeria, including: the unharmonised administration of right-of-way permits; long delays in obtaining right-of-way permits; the high civil engineering costs incurred during network infrastructure deployment; a lack of infrastructure-sharing; and vandalisation of fibre optic infrastructure.

In Chapter 10, Orji focuses on the environmental protection and public health regime that applies in the industry, and analyses issues such as the siting and abandonment of masts and towers, and prevention of environmental pollution from telecommunication facilities. Orji illustrates the challenges of multiple and conflicting environmental regulations and charges being applied to telecommunication facilities by state environmental protection authorities. He notes that this has been a source of friction between the national environmental regulatory authority, NESREA, and state environmental protection authorities, while also increasing regulatory uncertainty and the compliance burden of operators. Orji recommends harmonisation of federal and state environmental regulations and standards, and amendment of the Constitution to grant the federal government ultimate power over the environmental regulation of telecommunications at both federal and state levels.

In Chapter 11, Orji discusses dispute resolution in the sector, and highlights the impediments to using judicial review to challenge the regulatory decisions of the NCC—due to the absence of a specified timeframe within which the NCC must provide a statement of the reasons for its decision to an aggrieved party. He proposes specification of such a timeframe for the NCC to adhere to, so as to prevent delays that could impede judicial review of an NCC decision.

This volume is a truly comprehensive compendium of Nigeria's telecommunications policies, laws and regulations, and it is current, touching on several very recent developments. Moreover, this book is written in straightforward language that makes it easy for the reader to follow the author's thoughts. The book also has a comprehensive table of contents, a rich index, and listings of all the legal cases, statutes, regulations and international instruments covered, all of which add to its

value as a reference resource. This book is recommended to students, academics, legal practitioners, regulators, and policymakers who are researching or working in the field of telecommunications law and regulation in Nigeria, or in other developing countries.

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