

Nigerian Communications Commission Guidelines on Advertisements and Promotions

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Nigerian Communications Commission Guidelines on Advertisements and Promotions

1. Introduction

(1) The Nigerian communications Commission (the Commission) has been given powers under the Nigerian Communications Act, 2003 (the Act) and the Nigeria Communications (Enforcement Processes, etc) Regulations 2005 respectively to inter alia;

- a. Make and publish Guidelines on any matters as are necessary for giving full effect to the provisions of the Act and or their due administration.
- b. Publish Guidelines specifying inter alia minimum standards and requirements in respect of advertisements and promotions of products and services by licensees for the purposes of protecting consumers and ensuring ethical marketing and promotional standards by licensees.

(2) The Guidelines are developed to set minimum requirements and standards for advertisements and promotions by licensed telecommunications operators in Nigeria.

2. Definitions of terms

In these guidelines unless the context otherwise requires, these terms shall have the following interpretations:

“Act” means the Nigerian Communications Act, 2003 or any succeeding legislation thereto

“Advertisement” means any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence their choice, opinion or behavior.

“Commission” means the Nigerian Communication Commission

“Licensee” means any person who holds an operating licence issued by the Commission.

“Promotion” means any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence their choice, opinion or behavior in order to receive a reward or benefit.

3. **Minimum Standards and Requirements for advertisement**

The Commission shall receive written notification from the licensees for all advertisements for goods and services within a minimum of seven (7) days of the proposed or planned publication of an advertisement, in order to ensure such advertisements meet the following minimum standards and requirements:

a) **Standards and Requirements:**

- i. The licensee shall attach a detailed report of the advertisement clearly specifying the goods and/or services and the target consumers.
- ii. The licensee shall, If the goods and services on which an advertised claim or representation depends can be tested by survey or data, provide such data which must be reasonably competent and reliable, reflecting the true and accepted principles of such research.
- iii. The licensee must adhere to set standards for quality and grade of service set by the Commission.

- iv. The licensee must adhere to the set standards on telecommunications products and equipment that are manufactured, imported or sold in Nigeria.
- v. The licensee shall adhere to any other standards or requirements of a specific or general nature that may be specified from time to time by the Commission.

b) Pricing

- i. The licensee must communicate all prices and financial implications clearly and have no hidden or disguised price adjustments, discounts, unrealistic price comparisons or exaggerated claims as to worth or value. Advertising with complicated price structures and information shall not only appear in transient types of media such as radio and television but must be accompanied with detailed print media explanations, and on the licensee's website. The transient media must specifically instruct consumers to see the print mediums for details.

c) Advertorial Medium

- i. The licensee shall be required to make advertisements and advertisements for promotions only via print, radio, mail, licensee's website, text messages, electronic mail (where permitted by recipient to send such promotional material), and /or visual media, with accuracy and clarity of the goods and services being offered.
- ii. No advertisement or advertisement for a promotion shall contain any obscenities or profanities unsuitable for young

persons and children or contain any racial or prejudicial content relating to national origin, religion, sex, gender or age.

d) Comparative Advertising

- i. Advertisements must not unfairly discredit, disparage or attack other products, services, advertisements or companies, or exaggerate the nature or importance of competitive differences.
- ii. No licensee shall imitate the slogans or illustrations of another advertiser in such a manner as to mislead the consumer.

e) Internet Connections

- i. Licensees offering internet connections should state the Internet connection speed available to end-users as well as specific upload and download speed. If the connection speed quoted is only obtainable under special circumstances, then these circumstances should be clearly stated.

4. Application for Promotion

- i. Every licensee shall prior to the release of any promotion of its products and services, make an application to the Commission for approval of such promotion.
- ii. The application must be filled in the stipulated application form as provided in Schedule 1 and submitted to the Commission after paying the relevant application fees as stated in schedule 2 of these guidelines. The application form can be downloaded from the Commission's website at www.ncc.gov.ng

- iii. The licensee shall attach a detailed report of the promotion clearly specifying the goods and/or services and the target consumers.
- iv. The Commission shall cause the approval or otherwise to be communicated to the licensee within 7 days of receiving the application.
- v. All approvals granted must be registered with the Consumer Protection Council within 3 days of the launch of the promotions.
- vi. The licensee shall ensure that its network is capable of sustaining the traffic that may be generated from such promotion.
- vii. The licensee must ensure that the tariff attributed to such promotion does not exceed the tariffs approved by the Commission.
- viii. The licensee must specify the duration and date range of such promotion and the date of redemption of such promotional benefits.
- ix. All promotions must not misrepresent the licensees' opportunity to provide the goods and services at the terms presented. If supply of the goods and services are limited, or the licensee can fulfill only limited demand, this must be clearly stated in the communication for the promotion.
- x. In respect of promotions or advertisements containing promotions, the licensee must specify the duration and the date range of such promotion and the date of redemption of such promotional benefits.
- xi. Where the duration of the promotion is not time bound, but subject to attainment of a specific target (for example a raffle targeted at the first 5,000 adopters of a promotion), the promotion must state clearly the threshold to be applied.

- xii. The licensee must specify the target subscribers' clearly distinguishing those targeted at new subscribers and those targeted at existing subscribers.
- xiii. The licensee must communicate to the subscribers where such goods are available to only a particular geographical region.
- xiv. The licensee must ensure a geographical balance while offering its promotional sales to its consumers without concentration on consumers in a particular geographical location.
- xv. The licensee must communicate clearly and understandably to the subscribers all relevant terms and conditions of the promotions.
- xvi. Where a licensee communicates certain categories and / or specific products services as rewards or potential rewards for partaking in a promotion, it must ensure that the specific items and or services portrayed and /or promised are not varied.

5 Denial of Application

- i. The Commission reserves the right to reject any application for promotion.
- ii. The rejection shall be communicated to the licensee within 7 - days of receiving the application.
- iii. The Commission shall communicate to the licensee the reasons for the rejection and where the situation can be remedied or the application varied may ask the licensee to remedy the situation within a specified period.

6. Withdrawal of Approval

- a. The Commission reserves the right to withdraw any approvals for promotions from the licensee for reasons not limited to:
 - i. Network Congestion
 - ii. Poor performance in licensee's services
 - iii. Consumer complaints,
 - iv. Misrepresentation of offer by the licensee,
 - v. Contravention of specific approval,
 - vi. Variation from submitted application content and /or context

- a) Upon the withdrawal of the approval, the licensee must discontinue such sales promotions with immediate effect. The discontinuation must be communicated to the subscribers via SMS, website publication, newspaper publication or any other effective medium of communication.

7. Appeal

- a. Where a request for approval is rejected or approval is withdrawn, the licensee is entitled to request an appeal from the decision of the Commission by filing a Request for Appeal addressed to:

**The Executive Vice Chairman
Nigerian Communication Commission
423, Aguiyi Ironsi Way, Maitama,
Abuja, FCT**

- b. The Request for Appeal must be in writing and received at the Commission within seven working days after the decision is sent to the licensee. It must provide the appellant's basis for the request.

- c. An Appeal Panel shall be constituted comprising persons who did not serve at the original decision making. The licensee making the request will be given at least five working days advance written notice of the date of the appeal hearing.
- d. At the appeal hearing, the complaint will be treated as a new complaint and the matter reconsidered in its entirety.
- e. Decisions of Appeal Panels will be sent to the licensee within five working days of the appeal hearing.
- f. Decisions by the Appeal Panel shall be binding.

8. Sanctions

The Commission reserves the right to place appropriate sanctions on defaulting licensees including but not limited to:

- a. Imposition of Fines further to the provisions of Regulation 15 of Nigerian Communications (Enforcement Processes etc., Regulations 2005.
 Any violation of these guidelinesN1, 000,000 per violation
 Failure to provide information required or providing information which is false or misleading.....N1, 000, 000 per violation
 Failure to obtain prior approval of the Commission for the promotion of goods and services.....N2, 000, 000 per violation.
- b. Failure or refusal to register any promotions with the Consumer Protection Council within the specified period.....N5, 000,000.00 per violation
- c. Withdrawal, (revocation) or suspension of the Operators license.

- d. Suspension of licensee from participating or embarking on further promotional activities for such duration and based on such terms and conditions as the Commission may specify.

Schedule 1

Application fees

Application fee per promotion.....N250, 000.00

Notification fee per advertisement campaign..... N100, 000.00



Schedule 2

Application form for promotions related to Goods and Services of Licensed Telecoms Operators within the Federal republic Of Nigeria.

Application for approval (general notes)

1. Application must be completed in full. Incomplete applications will not be considered.
2. Where there are two or more concepts under the same campaign, the same form may be used but all concepts must be attached and individually allocated a reference number.

1. Operator/Licensee

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2. Licence number

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3. Number and date of registration under the Companies and Allied Matters Acts (Cap 59).

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4. Registered address

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5. Contact address, email, fax, telephone number

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6. Detailed description of Promotion

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7. Media to be utilized for Promotion (tick as appropriate)

Radio ()

Print ()

SMS ()

MMS ()

Web ()

Television ()

Cd-rom ()

8. Other formats (please detail)

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9. List of attachments submitted

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10. Commencement date

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11. Closing date

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12. Prizes to be won

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13. Conditions of participation

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14.Mode of participation

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15.Mode of Notification

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16.Mode of claiming prizes

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17.Process of selecting winners

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18.Geographical location(s)

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19.Where appropriate, state who owns the copyright of the entries

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20.State clearly whether winners will be used in post-event publicity

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21. Details of any other factors likely to influence consumers' decisions or understanding of the promotion

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DATED this Day of

Name of licensee

Signature of applicant's
representative.....

Name of representative.....

Designation.....