

13 December, 2010

The Director General  
National Environmental Standards and Regulations Enforcement Agency (NESREA)  
No 4, Aro Ago Street,  
Off Mohammed Buhari Way,  
Garki II, Abuja

Dear Madam,

**RE: BASE TRANSMISSION STATIONS, ENUMERATION, VERIFICATION AND CERTIFICATION EXERCISE**

We write on behalf of the Members of ALTON (Telecommunications Service Providers and Telecommunications Facilities Operators, TSPs/TFOs) in relation to the Notice given by NESREA informing TSPs/TFOs of its intention to commence the above exercise and the appointment of Project Monitoring and Audit Company Limited (PMAC) as the National Project Coordinator to oversee the conduct of same. NESREA's Notice further informed TSPs/TFOs that whilst the administrative responsibilities would be borne by NESREA, TSPs/TFOs shall be responsible for the financial cost of the exercise including negotiation of Site Specific costs with PMAC.

We respectfully remark that the Base Transceiver Station (BTS) or site Enumeration, Verification and Certification ("*Enumeration*") Exercise intended by NESREA is indeed a distinct and separate exercise from the Environmental Audit (EA) Exercise that is currently in progress. The former seeks to authenticate site location and other information about BTS sites provided by TSPs/TFOs whilst the latter seeks to ascertain the impact, if any, which a BTS site may have on the environment with a view to prescribing Impact Mitigation Measures (IMM) that will address such environmental impact. It is evident that the *Enumeration* and EA exercises are mutually exclusive.

ALTON is open to the proposal by NESREA to conduct the *Enumeration* exercise and our Members are willing to cooperate with NESREA and its agents to ensure the success of the exercise. We do have concerns however with the attempt by NESREA to extract funding from TSPs/TFOs for the exercise. We respectfully draw attention to the impropriety of the same which cannot stand administrative due process or judicial scrutiny as an entity cannot be required to fund an inquiry into its own activities. Doing so would compromise or completely erode the independence of the administrative authority, (NESREA in this case)



and compromise the exercise. We therefore urge NESREA to reconsider its proposal for TSP/TFO funding of the exercise.

**Indeed, it would be recalled that in response to concerns raised by ALTON during the review of the Draft National Environmental (Standards for Telecommunications Facilities) Regulations 2010 (Section 7), NESREA had stated that Operators will not be required to pay for services that involve monitoring and inspection of BTS, like the intended Enumeration exercise. NESREA is encouraged to heed its commitment and carry out the Enumeration exercise in a manner that is in accord with international best practices and good governance. We commit to cooperating fully with NESREA in this regard.**

Without prejudice to the *Enumeration* exercise requested by NESREA, we note that verification of project site and related information is an integral part of the work of the environmental consultants engaged by the proponent for an EA exercise. Accordingly, information provided by TSPs/TFOs would have been verified and corrected in the course of the just concluded *Field Study and Reporting* process of the EA Exercise. Any outstanding issues would be sorted in the subsequent *Review* process. In this manner, the EA exercise inherently certifies project site information provided by the proponents.

ALTON recalls in relation to the EA that:

- NESREA had directed TSPs/TFOs to undertake EA of Base Stations using only NESREA-accredited consultants.
- NESREA duly provided TSPs/TFOs with a list of its accredited consultants.
- As directed by NESREA, TSPs/TFOs appointed only NESREA accredited consultants who have now completed the *Field Study and Reporting* aspect of the EA Exercise.
- NESREA determined the format in which the report will be submitted and NESREA-accredited consultants engaged by TSPs/TFOs abided by it.

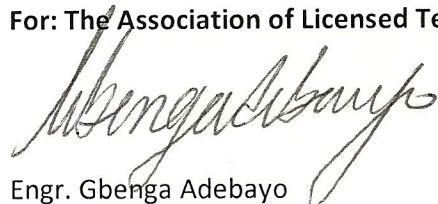
Our Members are desirous of concluding the EA Exercise as soon as possible and remain committed to cooperating with NESREA to do so. We respectfully invite NESREA to establish the *Audit Panel* and announce dates for the *Review* to proceed so that the EA Exercise can be concluded without further delay.



Do remain assured of our cooperation and esteemed regards.

Yours faithfully,

**For: The Association of Licensed Telecommunication Operators of Nigeria (ALTON)**



Engr. Gbenga Adebayo  
**Chairman**



Kazeem Oladepo  
**Executive Secretary**

cc: The Honourable Minister, Federal Ministry of Environment,  
The Honourable Minister & Attorney General, Federal Ministry of Justice.  
The Honourable Minister of State for Information and Communications  
The Executive Vice Chairman, Nigerian Communications Commission.

**13 December, 2010.**

The Honourable Minister,  
Federal Ministry of Environment,  
Mabushi-Abuja.

Dear Sir,

**RE: THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) IMPROVEMENT WORKSHOP AND ASSOCIATED MATTERS – SUBMISSION BY THE ASSOCIATION OF LICENSED TELECOMMUNICATIONS OPERATORS OF NIGERIA (ALTON).**

The Association of Licensed Telecommunications Operators of Nigeria (ALTON) wishes to congratulate you on the well thought out Workshop held 16 – 17 September, 2010 on how to improve on the Environmental Impact Assessment (EIA) process in Nigeria.

We refer to our letter of 22 April, 2010 on Streamlining Environmental Regulations in Nigeria, the recently published Communiqué on the above subject and the just concluded review of Draft Regulations on Telecommunications by the National Environmental Standards and Regulations Enforcement Agency (NESREA). We have considered the contents of the said NESREA Draft Regulations and the recommendations at the Federal Ministry of Environment (FME) organized Workshop, and, as ALTON, we observe and state as contained in the attached Submission.

The submission reviews the initiatives and associated matters in relation to the continuing development of Telecommunications and its expected contribution as a crucial national infrastructure and social overhead capital that engenders overall national development of Nigeria. It gives consideration to:

- Telecommunications as an emerging Sector.
- The overwhelming focus on Telecommunications Operations.
- Multiple Regulation and Taxation of Telecommunications Operations.
- The Conduct of EIA in the Telecommunication Sector.

Recommendations are made in the following areas to address the observed concerns thus:

- Sector Specific Guidelines, Process Streamlining and Cost Reductions.
- Review of the EIA Timelines.
- Stakeholder Engagement.
- Multiple Regulations.
- Power Generator Guidelines and Standards.




ALTON counts on your favorable consideration of our recommendations even as our Members pledge their continuing commitment to contribute to the development of regulatory frameworks that will ensure good governance, transparency and an enabling environment for Telecommunications and indeed other businesses and sectors of the economy to continue to contribute to national development.

Please accept the assurances of our high regards.

Yours faithfully,

**For: Association of Licensed Telecommunications Operators of Nigeria (ALTON)**

  
**Engr Gbenga Adebayo**  
Chairman

  
**Kazeem Oladepo**  
Executive Secretary

cc: The Director General, NESREA

NB: Find enclosed the USB Flash Drive containing the following

- Extract of EIA Regulations in Zambia.
- Extract of EIA Guidelines in Uganda.
- Extract of IEE-EIA Guidelines in Pakistan.
- Extract of EIA Process in Chile.

Association of Licensed Telecommunications Operators of Nigeria (ALTON)

Submission on

Environmental Impact Assessment (EIA) Improvement  
Workshop and Associated Matters



December 2010

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multiplication of fees, charges and taxes on Telecommunications operations. These erode revenues and curtail widespread deployment of Telecommunications infrastructure, with attendant inhibition of our socio-economic and national development.

(d) **Conduct of EIA**

The times pan for conducting the EIA is a major challenge for the industry. The two-season requirement for the conduct of an EIA, if applied to the Telecommunications Sector, will mean that the exercise will take a period of about 8-9 months: at least 6 months on the exercise as well as additional 2-3 months allowance for stakeholders' review and the certification processes. The EIA Act specifies about 11 steps for the conduct of an EIA with their attendant cost implications that aggravate the timeline. While operators are committed to compliance with the EIA process, going fully with the Directive that every new Site should be certified before it is built implies that on-going Site build would have to be put on hold for the next 8-9 months. This will have the following undesirable impacts:

- *Inhibition of Public Safety and Security:*

The absence of Telecommunications facilities means that persons in the affected locations will not be able to make emergency (distress) calls and the response agencies will also be denied the use of Telecommunications services to effectively coordinate emergency services to save lives.

Similarly, the ability of the Police and other Law Enforcement Agencies (LEAs) who rely on Telecommunications facilities and services to coordinate national security, viz tracking, investigating and prosecution of crimes in such locations will be severely constrained in carrying out their duties.

Also, the absence of Telecommunications facilities in parts of the country will further disrupt execution of Government's Directives for the registration of Telecommunications Subscribers (otherwise known as SIM Card Registration) – an initiative which seeks to improve public safety and security.

- *Inhibition of Telecommunications and National Development:*

Delayed expansion of the Telecommunications Network to various Communities across the country would negatively impact on the Universal Service Objectives of the Government which are aimed at bringing telephone service to un-served or under-served Communities across the country. This will inhibit educational, social and economic activities in those areas and negatively impact national development.

- *Quality of Service Disruption:*

Suspension of network deployment implies that capacity upgrades to necessary to meeting growing demand for Telecommunications services across the country and assure quality cannot be met. This will put pressure on the existing infrastructure as demand surpasses supply, leading to congestion, dropped calls, internet browsing disruptions. This will also lead to the disruption of banking and financial transactions

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including the now very popular Automatic Teller Machines (ATM); as well as other e-Government activities such as e-payments to Government and between Government Agencies. The disruptions will also affect other e-commerce transactions such as aviation and travels - ticketing, reservations, etc. These disruptions will translate to lost revenue and increased cost to individual and corporate subscribers who rely on Telecommunications for their business and personal transactions.

- *Loss of Business and Revenue:*

Adherence to the two-season timeline for the conduct of site specific EIA will translate to loss of business (and revenues) to businesses that increasingly rely on Telecommunications as a key utility for their business transactions within and outside the country. This is just as much as it will affect Telecommunications Operators and players in the value chain. This will negatively impact the ability of Telecommunications Operators to improve efficiencies that will accrue much desired reduction in tariffs. It will erode revenues accruable to government through taxes and levies as a result of business and revenue losses sustained by companies. Government's diversification of its revenue base will thus be severely impacted.

- *Operational Challenges and Implications on Project Implementation:*

A two-season lifecycle for an EIA would mean prolonged storage of equipment already imported or otherwise acquired for planned network expansion under conditions that may be detrimental, leading to damages from inappropriate handling; decline in quality; increased cost from demurrage; pilfering or vandalism, etc. This will exacerbate the issues discussed above – inhibition of public safety and security and Telecommunications and national development; disruption of quality of service and loss of business and revenues to Companies and the Government.

In view of the foregoing, we respectfully seek that the following recommendations be incorporated in executing a holistic review of the EIA process in Nigeria:

1. **Sector Specific EIA Guidelines, Process Streamlining and Cost Reductions**

Sector specific EIA Guidelines being instituted for the Telecommunications Sector should address the peculiar nature of the Telecommunication Industry and operations vis a vis project type, size and existing baseline data. It is also necessary for the proposed Guideline to provide clear and unambiguous directives on implementation which invariably facilitate timely execution of the EIA studies. These should include the procedure for registration taking cognisance of the nature of telecommunication project sites, modalities for conducting Social and Health Impact Assessment, Report format and workshop modalities, among others. The eleven stages in the EIA guidelines should be streamlined. This will reduce the time line and cost associated with the process. The new fees introduced for the EIA project should be reviewed downwards as it imposes huge financial burden which adds to the complaint of the cumbersome nature of the EIA process in Nigeria. The cumulative fees, charges and other attendant expenditure which the operators would need to bear under the proposed EIA structure makes it almost impracticable to execute.



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We also recommend that provisional approvals for the EIA of Telecommunications should be issued in respect of ongoing site build once FME has established that a proponent has awarded the EIA contract and the Consultant has commenced the study.

## 2. Review of the EIA Timelines

The review process for the EIA of telecommunications infrastructure should be made less cumbersome. Research on EIA review process shows that the timeline in Pakistan is within 90 days, Uganda 120 days, Zambia 87 and 40 days for full and limited EIAs respectively and Ghana 100 days. With the online clearance initiatives introduced by India's Standing Advisory Committee on Radio Frequency Allocation (SACFA) and Department of Telecommunication (DoT) (<http://voicendata.ciol.com/content/vndtoday/106062901.asp>), Site build clearances in India which hitherto took approximately 1-2 years is now done within 3-6 months. The Guidelines should consider the implementation of the *"Rapid EIA" a one-season data collection study or "Limited EIA" currently being practiced in India and Zambia respectively*. Attached herewith are research documents supporting these recommendations.

ALTON offers to collaborate with the FME to create a data base for Telecommunications projects which will assist in reducing the timeline needed for EIA of projects executed in the industry.

We pray that Government will be guided by these research reports in determining new timelines for the conduct of EIA in the telecommunications industry in Nigeria.

## 3. Stakeholder Engagement

The Federal Ministry of Environment should take leadership of this by educating all stakeholders that the fundamental factors behind all EIA predictions are still the best professional judgment and/or experiences with similar projects implemented elsewhere.

We also note that the continued misapprehensions about the perceived health concerns or alleged "negative effects" over the proximity of telecommunications infrastructure remains an issue of concern to the general public; this is despite the global industry efforts to educate the public that these fears are unfounded. Accordingly, we therefore urge the Ministry to undertake a comprehensive engagement and education programme on the Health, Security and Social Implications of Telecommunications infrastructure across Nigeria

## 4. Multiple Regulation

The Ministry should endeavour to streamline the conduct of Environmental authorities to avoid the cases of multiple regulations currently being experienced in the

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environmental protection and management sector in Nigeria. To this end, we suggest that the FME should take the lead on this and in particular that:

- The FME should issue a pronouncement and engage State and Local Government MDAs through the execution of a Memorandum of Understanding (MoU) with them which makes it clear that the possession of an EIA certificate duly issued by it suffices and satisfies all other stakeholders. These stakeholders should be encouraged to sight same in the possession of Telecommunications operators or otherwise defer to the FME for further clarity rather than seek to issue their own certificates. This is feasible as the FME is represented at the regional and state levels.
- NESREA alone should be responsible for enforcement of perceived breaches against extant environmental laws. Again, NESREA is represented in all the States so the States and Local Governments should, where breaches occur, bring these to the attention of NESREA or the FME for necessary action.
- FME and NESREA should work towards harmonizing the Draft NESREA Guideline for Telecommunication and Broadcasting Industries with the NCC Guidelines on Installation of Masts and Towers as we have previously advocated.

**5. Power Generator Guidelines and Standards:**

The FME is respectfully invited to intervene to ensure that NESREA presents for review, the Generator Guidelines and Standards that will apply to all users in the country instead of inserting same in a regulation that will bind only those in the Telecommunications Industry.

Multiple regulations in this regard also need to be harmonised for effective implementation. In doing so, we urge that realistic noise thresholds be set taking cognisance of product availability and the baseline noise in the environment in which these equipment operate. These are extraneous factors which contribute to noise levels besides the generators themselves and this should be taken into account. The collaboration of the Standards Organisation of Nigeria (SON) is also important here as operators can only acquire specifications which are readily available in the Nigerian market. The generators allowed into the Nigerian market mostly have noise levels which are already above the proposed limit which thus makes it impossible to achieve the low limits being proposed. We recommend a graduated approach over a reasonable period of time agreed with stakeholders to meet the desired specifications.

Furthermore, determining setback for Generators from building is a structural issue which should be determined empirically with reference to civil engineering best practices. We urge due consideration in this regard.

We sincerely hope our Submission will be given due consideration. We are available to discuss further and to provide greater clarity should this be requested.

**ALTON**  
December 2010

