



TEMPLARS



Nigeria 2023 Tech Outlook:

Sailing through
the Headwinds



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Introduction

The Nigerian tech sector has grown significantly in recent years. According to Nairametrics, in Nigeria, funding raised by tech startups in 2022 was an estimated \$1.3 billion (a slight decrease from the estimated \$1.5 billion raised in 2021). Data from the National Bureau of Statistics buttresses the landmark growth of the tech sector in Nigeria, as the Information and Communication Technology (ICT) sector contributed 20.32% to Nigeria's GDP in Q3 of 2022 (as compared to 15.35% in Q3 of 2021), representing the sector's highest contribution to the country's real GDP in 5 years. There have also been several notable regulatory changes with respect to data protection and privacy, digital advertising, social media/ internet platform regulation, and much more.

In 2023, we anticipate increased investment in the tech industry, as well as renewed interest from stakeholders and regulators who seek to keep up with the advances in technology, while protecting their consumers, stimulating growth, and promoting competition.

This report, prepared by TEMPLARS' Media, Entertainment, Technology and Intellectual Property team, highlights the major legislative and regulatory events that shaped the tech sector in 2022 and analyzes some potential developments that will help drive the industry this year. It also offers positive recommendations to help maintain this development and maximize the opportunities within the industry for both government and stakeholders.



Ijeoma Uju

Partner

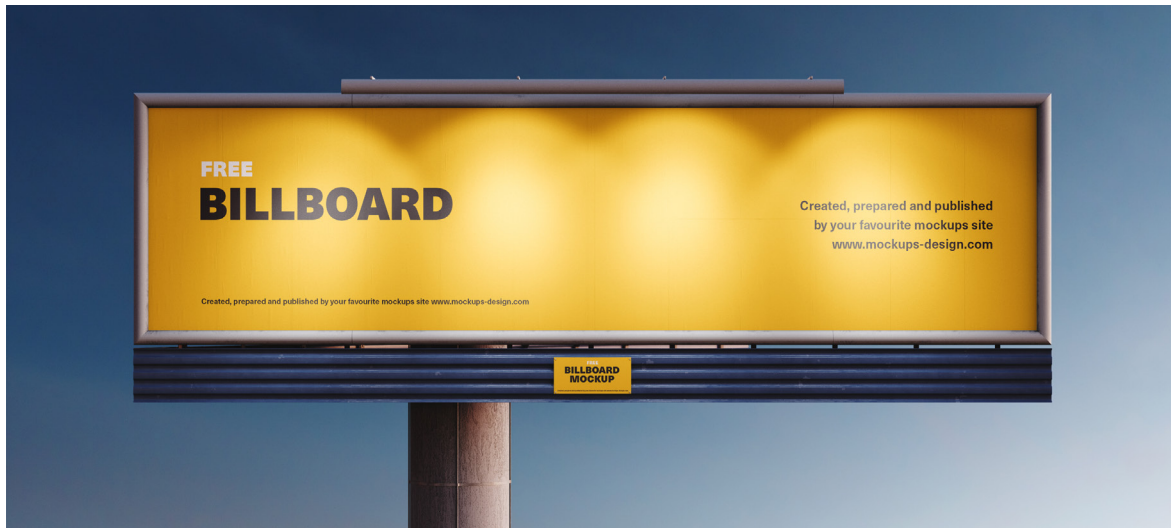
METI (Media, Entertainment, Technology & Intellectual Property)



Sectors



2.1. ADVERTISING



Nigeria is one of Africa's largest advertising markets, with 425 million US dollars in ad revenue in 2017.¹

In 2022, there was a revitalized push to regulate advertising in Nigeria. These regulatory efforts have been motivated by the need to promote local content, reduce the display of unvetted advertisements, and create a strong regulatory framework for advertising and advertising business in Nigeria, especially considering the rapid growth of digital advertising. The notable developments are set out below.

The ARCON Act

In August 2022, Nigeria repealed the Advertising Practitioners (Registration,

etc) Act (APCON Act)², and enacted the Advertising Regulatory Council of Nigeria (ARCON) Act, 2022. The ARCON Act empowers ARCON to determine, administer, monitor and enforce compliance by persons and organisations on matters relating to advertisements, advertising and marketing communication in Nigeria, whether of a general or specific nature. Notably, unlike the previous APCON Act regime, which focused on traditional advertising methods and advertising practitioners, the ARCON Act applies to a broader range of stakeholders, including an increased focus on enforcement against foreign advertising content, digital advertising (i.e. including on social media and other web platforms) and entities

¹ <https://www.statista.com/statistics/614932/nigeria-advertising-spending-medium/>

² Cap A7, Laws of the Federation of Nigeria, 2004

that are not directly engaged in the practice of advertising, but sponsor or benefit from any advertisement or marketing communications services.

Furthermore, the ARCON Act gives ARCON a wide range of enforcement powers including giving takedown orders and undertaking dawn raids. It also provides for a strong financial penalty regime that could be exercised by the ARCON discretionally with limited recourse to the courts.

ARCON has been on an enforcement drive since the signing of the ARCON Act, introducing new directives / notices, instituting lawsuits (most notably, its suit against Meta), and promising more to come.

ARCON bans foreign models and voice-over artists from appearing in Nigerian ads

On 22 August 2022, ARCON issued a notice requiring advertisements and marketing communications materials to only use Nigerian models or artists.³ The directive was said to be in line with the federal government's policy of developing local talent, inclusive economic growth, and the need to take the necessary steps and actions to grow the Nigerian advertising industry, as well as its powers under

the ARCON Act. However, local and foreign stakeholders have major concerns around the mandatory local content, the difficulty in practically implementing this requirement and the potential adverse consequences for advertising business.

The ban became effective on October 1, 2022.

ARCON Local Content Policy

In October 2022, ARCON also issued another notice on the implementation of a policy to mandate a minimum of 75% (seventy-five percent) cumulative local content of all advertising, advertisement, and marketing communication materials, with effect from 1 January 2023.

In implementing the local content requirements, ARCON provides the following guideline:

1. Models and voice-over artists must be Nigerian.
2. Production of advertising, advertisement, and marketing communication materials must be done in Nigeria.
3. Ambience should reflect Nigeria as much as possible
4. Production crew may include foreigners. However, Nigerians and Nigerian organisations must partake in the production.

³ <https://www.thecable.ng/fg-bans-use-of-foreign-models-voice-over-artists-in-nigerian-adverts/amp>

5. Post-production may be done in any location (within or outside Nigeria) It is unclear how ARCON intends to enforce these regulations, specifically, with respect to foreign digital ads that are not materially localized or necessarily targeted at the Nigerian market but are exposed to or accessible to Nigerians via various digital platforms.

ARCON sues Meta

In October 2022, the ARCON announced that it instituted a suit against Meta Platforms Incorporated (owners of Facebook, Instagram and WhatsApp platforms) and its agent AT3 Resources Limited at the Federal High Court, Abuja Judicial Division. ARCON claims that the continued publication and exposure of various advertisements directed at the Nigerian market through Facebook and Instagram platforms by Meta Platforms Incorporated without without vetting and approval by the advertising standards panel (ASP) established by section 53 of the ARCON Act. ARCON demanded N30 billion as a penalty for Meta's (in)actions.

2023 Outlook

In 2023, we anticipate that ARCON will continue to expand its regulatory reach and enforcement activity. In this vein, we expect to see more compliance direction and regulatory action in the course of the year. As a

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result, individuals and organizations engaged in the business of advertising, advertisements, and marketing communications in Nigeria are advised to ensure compliance with the provisions of the Act as they relate to advertising to avoid the attendant penalties / fines that may be imposed for non-compliance.

To aid stakeholder compliance, we recommend that ARCON make stakeholder engagement a core component of its regulatory processes, especially with respect to the mandatory vetting of all advertisements in the digital space and the onerous difficulties involved in compliance with same. Furthermore, in carrying out its oversight functions, the ARCON Act's policies and regulations must be clear, and the assessments used to determine enforcement must be transparent.



2.2 EMERGING TECHNOLOGIES



In recent years, Nigeria has joined the rest of the world in channeling resources to emerging technologies like artificial intelligence (AI) and machine learning, Internet of Things (IoT), cloud and edge computing, and blockchain. Different regulators across different sectors appear to be embracing the possibilities and disruptions that the deployment of these emerging technologies can bring to their sectors. Expectedly, in 2019, the Federal Ministry of Communications and Digital Economy issued the [National Digital Economy Policy and Strategy \(2020-2030\)](#) and one of the pillars of the strategy was digital society and emerging technologies. In November 2022, the Nigeria Communications Commission

(NCC) through its executive vice chairman committed to driving the deployment and adoption of emerging technologies such as the Internet of Things (IoT), utilisation of value of big data, blockchain, robotics and virtual reality, fintech, artificial intelligence (AI), telemedicine, among others, to stimulate the greater contribution of the sector to the economy.

African Data Centers

The race for African data centers and cloud computing continued in 2022 and Nigeria was not left behind. Amazon Web Services (AWS) in November opened its first office in Lagos, Nigeria, five years after its first office in Johannesburg was opened in 2017 and in December, Liquid Intelligent

Technologies officially launched operations in Nigeria.

AI and Blockchain

In the area of AI, as a follow up to the establishment of the National Centre for AI and Robotics (NCAIR) (set up in November 2020) to support the development of AI systems in Nigeria, NITDA issued a [call for contributions](#) to the National Artificial Intelligence Policy (NAIP). The NAIP is being created to establish a framework for the planning, research, development, standardization, application, coordination, monitoring, evaluation, and control of IT practices, activities, and systems in Nigeria.

2022 also saw the launch of the NITDA Blockchain Scholarship Scheme to train 30,000 Nigerians on blockchain technology for developing career skillset in the emerging technologies. This scholarship scheme falls well within the 4th initiative of the [National Blockchain Adoption Strategy](#) (Promotion of Blockchain digital literacy and awareness) issued by NITDA. The Blockchain Adoption Strategy outline six initiatives for the growth of blockchain adoption in Nigeria including the establishment of a blockchain consortium.

Virtual Reality and the Metaverse

The deployment of virtual reality also gained traction in Nigeria in 2022. In February 2022, Africa's largest telco MTN bought 144 plots of digital land in the Africarare metaverse UbuntuLand for

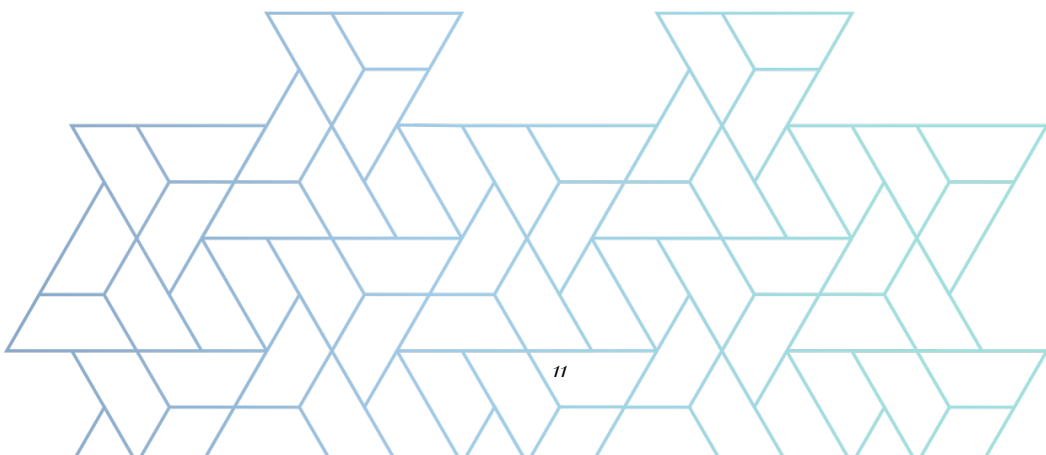
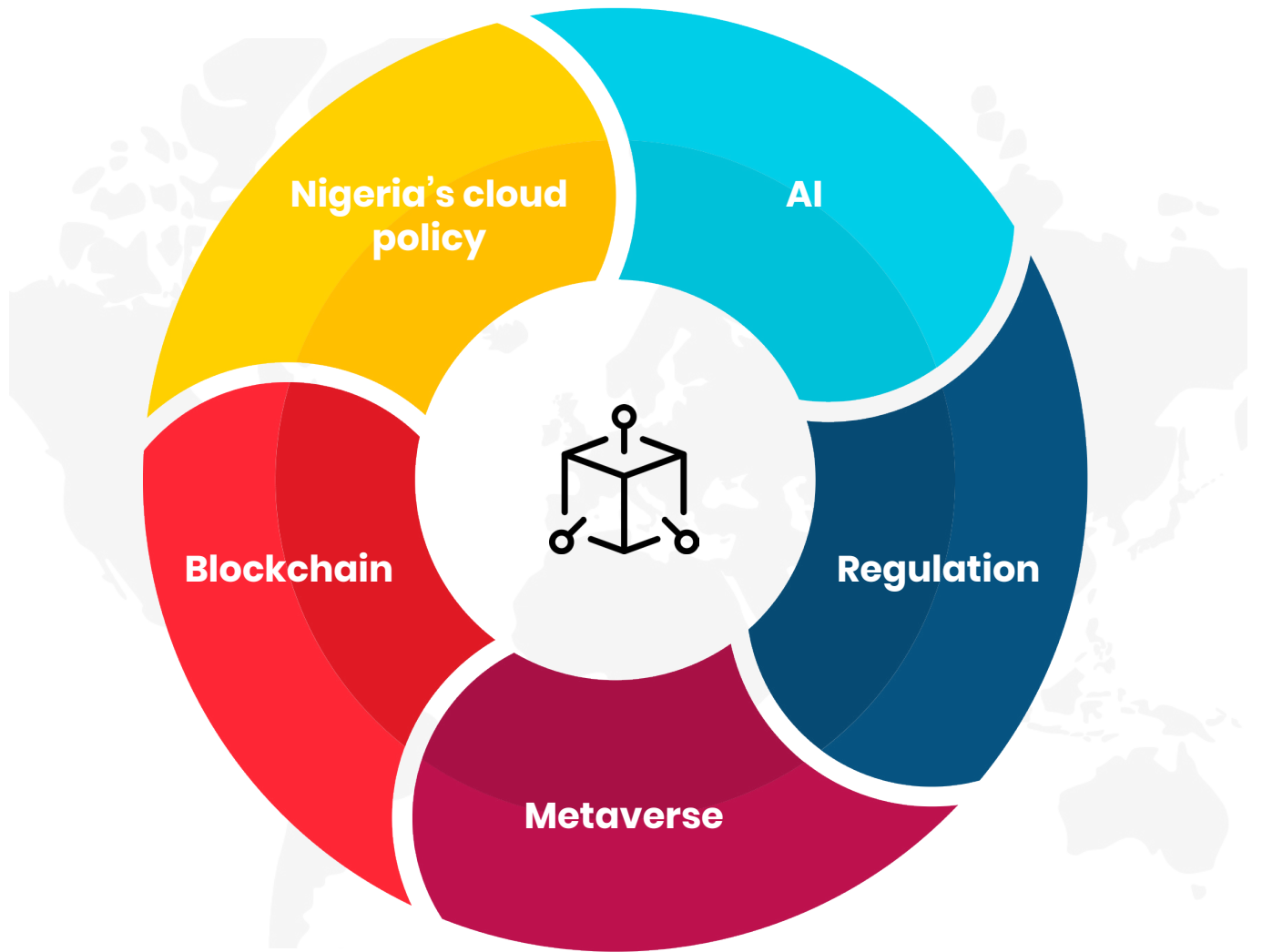
an undisclosed sum, becoming the first African company to do so. MTN again in November made another giant stride in the metaverse when it hosted an Africa-first virtual concert in UbuntuLand in partnership with The Mic Africa on November 30, 2022.

Meta unveiled '#FlexNaija' in Nigeria: a first-of-its-kind 360 Campaign focused on Metaverse entry points for African creators, which included an incubation program which brought together leading content creators across comedy, tech, lifestyle, fashion, and art.

Nigeria also had its first state government hosted live event on the Metaverse in 2022; the Kaduna State Government hosted the Kaduna Economic and Investment Summit (KADINVEST) 7.0.

In the area of fundraising, metaverse companies in Nigeria were not left out, with DAO Metaverse Magna (MVM) raising \$3.2 million in a seed sale token offering with a \$30 million fully diluted valuation. In 2022, Nigeria witnessed a number of "firsts" in several of the emerging technologies and we anticipate an upward spiral of activities and regulations within the space in 2023.

2023 Outlook



2023 Outlook

(a) Nigeria's cloud policy

As we inch closer to 2024, we anticipate that there will be increased, and even aggressive policy measures set in motion to meet the 2024 goal of achieving 30% increase in adoption of cloud computing among Federal Public Institutions (FPIs) and SMEs that provide cloud services to the government and 35% growth in cloud computing investments.

(b) Blockchain

In addition to the developments in the financial services sector which are discussed in the fintech section of this report, we anticipate greater efforts by NITDA to kick off and establish the initiatives in the Blockchain Adoption Strategy.

(c) AI

We anticipate the issuance of the draft NAIP as soon as practicable in 2023 followed by extensive consultations with relevant stakeholders and subsequently the final issuance of the NAIP in the last quarter or earlier.

(d) Metaverse

We project that there will be even more activities in the metaverse space in Nigeria. We anticipate new metaverse focused startups, multiple rounds of fund raising and increased corporate adoption of metaverse platforms in Nigeria. With Meta's plans to invest over 19 Billion Dollars into the metaverse in the year 2023, we anticipate a domino effect of disruption in virtual and augmented reality in 2023. For a brief introduction to the metaverse and its associated legal issues, please watch our video [here](#).

(e) Regulation

As the adoption rate of these emerging technologies grows, we anticipate the introduction of laws at the federal, state and sectoral levels. The introduction of adoption strategies and policies are the first step in this direction and before the end of the year we project that draft regulatory framework for these technologies will begin to emerge.



2.3 DATA PROTECTION



2022 was an interesting year for data protection in Nigeria. The year saw the introduction of a new data protection authority and a new national data protection bill.

Nigeria Data Protection Bureau

The Minister of Communications and Digital Economy on the 4th of February 2022 announced the creation of the Nigeria Data Protection Bureau (the “NDPB”). According to the minister, the NDPB was established by the Federal Government as the principal data protection regulatory body to implement the objectives of the Nigeria Data Protection Regulation 2019 (the “NDPR”), replacing the National Information Technology Development Agency (NITDA) as the data protection regulator in Nigeria.

Although the NDPB’s early days were rocked with a lot of questions and controversies around its legitimacy, it appears to have gradually settled into its role as the national data protection regulator. In April, the NDPB had the official launch of its logo, [website](#) and core values in Abuja.

In October, the NDPB released the [Nigeria Data Protection Bill 2022 \(the “Bill”\)](#) for consultations and comments. This is Nigeria’s 3rd data protection bill in 4 years.⁴ The Bill seeks to establish a Nigeria Data Protection Commission (the “Commission”) the successor-in-title in every way to the power, duties, and functions of the existing Nigeria Data Protection Bureau.⁵ The Bill, although containing largely similar foundational provisions with the NDPR,

⁴ There was a Data Protection Bill in 2019, another in 2020 and the most recent in 2022. Prior to that NIMC issued a Protection of Personal Information Bill in 2016.

⁵ Section 64 of the Data Protection Bill

attempts to fill some of the regulatory gaps in the NDPR.

Still in the month of October, the NDPB issued its first [official compliance notice](#) (the “Notice”) to data controllers in Nigeria. The Notice was issued, amongst other things, to remind data controllers and processors of their obligations under the NDPR and other data protection laws applicable to all organizations in their capacity as data controllers/processors in Nigeria. The Notice also introduced the National Data Protection Adequacy Programme (“NaDPAP”) Whitelist for the first time and organisations were required to notify the NDPB of their data protection/privacy measures by 25 November 2022, or risk being omitted from the NaDPAP Whitelist. The November 23 deadline has however been extended to January 20, 2023.

National Data Strategy

Another interesting development in 2022 was the issuance of the Draft National Data Strategy (the “NDS”) by NITDA in November 2022. Although this strategy is not primarily a data protection document, personal data falls within the definition of “Data” under the NDS and is therefore subject to any overarching policy on the management of data in Nigeria.

Generally speaking, 2022 can be

described as setting the stage for further development of data protection in Nigeria for the next couple of years and moving Nigeria into more substantive data protection regulation and legislation, as compared to the previous years which have been regulated primarily under the NDPR framework.

2023 Outlook

Our projections for 2023 are that the year will be a landmark year for data protection in Nigeria and we have highlighted below some of these projections:

(a) Legislations

We anticipate passage of the Data Protection Bill given the high enthusiasm of the relevant stakeholders about the Bill. Although the head of the NDPB stated that the Bill would be passed before the end of 2022, the Bill is yet to be introduced to the legislature. We however anticipate that the Bill will be passed before the end of the current National Assembly’s term, as the Senate committed to passing the Bill within 30 days of its introduction. We also anticipate the passage of the Lagos State Data Protection Bill. The Ogun State version of the law should also make some progress, and we will not be surprised if other states follow suit. We also

anticipate some activity in sector-specific guidance on data protection.

(b) Regulatory action

It is interesting to note that unlike in 2020 and 2021, the data protection authority did not issue any sanctions. There were, however, a number of court judgments with data protection implications. We anticipate that in 2023, the NDPB will become increasingly active with the issuance of notices, guidelines, guidance notes and the conduct of investigations and issuance of penalties. With the issuance of the Federal Government [Directive](#) to Ministries, Departments and Agencies (MDAs) of government to comply with the NDPR, we also increased scrutiny of the data processing practices of these MDAs. We also note that a number of notable cases are before Nigeria courts and the ECOWAS Court and we look forward to how these cases will shape Nigerian Data Protection jurisprudence.

(c) The Future of the NDPR

It currently remains unclear how the NDPR regime will run concurrently with the Data Protection Act if passed given some conflicting provisions under both laws. We however note that the Bill contains transitional provisions that retain the validity of existing regulation until repealed, replaced, reassembled or altered. Given the wide powers of the Commission under the Bill, we project

the amendment of the NDPR to reflect the intentions and the provisions of the Data Protection Act or a total repeal of the NDPR and issuance of new guidelines and regulations to reflect the structure of the Data Protection Act.

(d) Regulatory Collaborations

We anticipate that the NDPB will broker even more strategic partnerships with other regulators and non-regulatory stakeholders in 2023. This is reflective of NDPB's current collaboration with the Federal Competition and Consumer Protection Commission (FCCPC) through the establishment of a Joint Mutual Enforcement Desk.



2.4. E-COMMERCE



The E-commerce sector of the Nigerian Tech Ecosystem is a critical part of the flourishing tech industry, ranking as the 38th largest market for e-commerce with a revenue of US \$7.6 billion in 2021. E-commerce is a digitalized system of buying and selling goods and services through electronic means and funds transfer. There are various types of e-commerce business models, and they include:

- **Business to Consumer (B2C):** This model involves a transaction between a seller/business and their direct consumers.
- **Business to Business (B2B):** This model involves transactions between two businesses.
- **Consumers to Consumers (C2C):** This is a business model where individual consumers transact directly

with other consumers.

- **Consumer to Business (C2B):** This is a transaction wherein the consumer offers goods or services to a business.

The top players in the Nigerian e-commerce spaces are Jumia, Konga, and Jiji, with over 220 million web visitors cumulatively². With a teeming youth population, the growth of e-commerce in Nigeria can be attributed to various competitive advantages, including round-the-clock service availability, convenience, competitive pricing, internet penetration, less paperwork, and the elimination of boundary restrictions.

Countries worldwide are moving towards developing a framework for the regulation of e-commerce in their

jurisdictions, and in like manner, Nigeria, through the NITDA, is making similar efforts. The NITDA has disclosed that it is working with stakeholders to formulate a National Policy on e-commerce. This policy will ensure that adequate regulation exists to ensure fairness in dealings and consumer protection, as well as protecting all the players in the industry.

Due to the lack of specific legislation/regulation to regulate this industry, the players in the e-commerce space have resulted to different laws that provide some form of guide for its activities. For instance, the Cybercrime Act 2015 prohibits and prevents fraud in e-commerce.

Significant efforts have been made in the past to provide a regulatory framework for e-commerce business in Nigeria; however, such attempts have been unsuccessful. This makes the NITDA plans for the e-commerce industry a welcome and much-needed development.

Despite the increasingly promising opportunity that the Nigerian e-commerce industry presents, it is not without its challenges. However, a regulatory framework will anchor e-commerce companies to navigate the tides of the business. It is expected that this framework will provide for consumer protection, online privacy,

data protection, crime prevention, and anti-trust laws to guide all the players in this industry.

2023 Outlook

We expect major players to continue to expand into the Nigerian e-commerce industry. We also predict that there would be increased regulation of the e-commerce sector in 2023, although it remains uncertain whether this would be done by a single regulator or through regulatory overlap.

To tap into this growing industry, Nigeria needs to consider the e-commerce regimes in other developed countries, understand the existing system and come up with ways in which this can be tailored to fit the peculiar needs of the country.



2.5 FINANCIAL TECHNOLOGY



The Nigerian fintech sector is undoubtedly the leader in the booming startup ecosystem in Nigeria. So far, the fintech sector has attracted the highest amount of foreign investment into Nigeria and boasts of being the largest employer of labour within the ecosystem. Notwithstanding the significant strides made, financial technology still remains unavailable or mysterious to many Nigerians. To bridge this gap, startups and other technology enabled companies are stepping up to the challenge of ensuring financial inclusion and banking the unbanked through various innovations.

Fundraising

Notable fund raises in the Nigerian

fintech sector in 2022 include the following:

- A. Flutterwave raised \$250 million in its Series D round;
- B. Interswitch secured \$110 million in a joint venture deal with Leapfrog Investments and Tana Africa Capital in its efforts to expand its digital payment services across Africa;
- C. TeamApt raised \$50 million in its pre-series C round;
- D. Healthtrack raised \$1.5 million; and
- E. Vendease secured a Series A equity round of \$20 million.

Regulatory activities

Considering the unique and constantly expanding nature of the financial services sector, the regulators

have also been busy. Key regulatory innovations are set out below:

(a) Contactless Payment

Contactless payment has become the most preferred means of payments in Nigeria especially with prevalence of point-of-sale machines, e-commerce websites and scan to pay codes (QR codes) as a means of payment. Companies operating within this niche have also been making significant progress in technology adoption.

In 2022, Interswitch in partnership with Providus Bank, Mastercard and Thales Group announced the launch of a new Tap-to-Pay service in Nigeria⁶.

A fintech startup, NowNow Digital Systems has also raised \$13 million to scale and expand its payment solutions to include contactless payments offerings.⁷

In response to this widely adopted payment method, the CBN in 2021 had issued a framework for a contactless payment method in Nigeria – payment by QR Codes⁸. More recently, the CBN issued the Exposure Draft of the CBN Guidelines for Contactless Payments in Nigeria (“the Guidelines”).⁹

(b) Cryptocurrency

In 2017, the CBN took a hard stance against cryptocurrencies when it ordered all commercial banks in Nigeria not to use, hold, trade in or transact in cryptocurrencies¹⁰. The CBN emphasized its position in this regard by a circular which it released in 2021¹¹. To buttress this point, the CBN in 2022 imposed fines on commercial banks found to trade in and transact in cryptocurrencies¹². The effect of the CBN’s stance remains the ongoing exclusion of cryptocurrency exchanges from the Nigerian banking system.

In what seemed to be a direct contrast to the disposition of the CBN, the Nigerian Securities and Exchange Commission (SEC) had a more progressive approach. In 2020, the SEC set out a regulatory regime for the classification and treatment of digital assets in Nigeria which assets it classifies as securities.¹³ However, following the CBN’s 2021 circular, the SEC in a reactionary move excluded cryptocurrency exchanges and all such persons affected by the CBN’s circular from admission into its Regulatory Incubation Framework.¹⁴

⁶ CBN issues draft guidelines for contactless payment in Nigeria (benjamindada.com)

⁷ <https://techcabal.com/2022/09/07/nownow-raises-13-million-in-seed-funding-to-expand-services-across-africa/>

⁸ FRAMEWORK FOR QUICK RESPONSE (QR) CODE PAYMENTS IN NIGERIA.pdf (cbn.gov.ng)

⁹ <https://www.cbn.gov.ng/Out/2022/CCD/Draft%20Guidelines%20for%20Contactless%20Payments%20in%20Nigeria.pdf>

¹⁰ AML January 2017 Circular to FIs on Virtual Currency.pdf (cbn.gov.ng)

¹¹ Letter to Banks on Crypto (2).jpg (cbn.gov.ng)

¹² CBN fines Nigerian Banks N800 million for facilitating cryptocurrency transactions - Nairametrics

¹³ https://sec.gov.ng/wp-content/uploads/2020/09/SEC-STATEMENT-ON-DIGITAL-ASSETS-AND-THEIR-CLASSIFICATION-AND-TREATMENT_11920.pdf

¹⁴ The Securities and Exchange Commission, Nigeria

Despite the foregoing, the SEC in 2022 issued “New Rules on Issuance, Offering Platforms and Custody of Digital Assets”¹⁵, a comprehensive rulebook for the regulation of the issuance of digital assets as securities, the registration of Digital Assets Offering Platforms (DAOPs) and Digital Asset Custodians (DACs), and for the regulation of Virtual Assets Service Providers (VASPs) and Digital Assets Exchanges (DAX). Until recently, the SEC rulebook provided some hope that someday the CBN would align itself with the SEC’s progressive approach. Things have however gone full circle as the SEC has indicated that it does not plan to include cryptocurrency in its plan to improve trading in digital assets until there is some consensus amongst regulators on the best way to protect investors trading in cryptocurrencies.¹⁶

(c) Mobile Money

Kenya’s “M-Pesa” is usually a ready reference in discussions on how mobile money aids financial inclusion. Considering the developments

in this regard, Nigeria also aims to advance the participation of telecommunication companies in the rendering of payment services in Nigeria, in a bid to greatly improve financial inclusion in Nigeria.

In 2022, the CBN granted its final approval for two leading telecommunication companies – MTN and Airtel – to operate as payment service banks in Nigeria¹⁷. MTN launched the MoMo Payment Service Banks Limited (MoMo) and Airtel launched the Smartcash Payment Service Bank Limited (Smartcash).

Not long after the approval of its license by the CBN, MoMo Payment Service Banks Limited instituted an action for refund against 18 commercial banks in Nigeria for erroneously transferring a total sum of NGN22.3 billion naira to 8,000 bank customers. To mitigate the impact, MoMo restricted access to the use of its service for a while but has since continued to operate normally.¹⁸ While incidences of this nature can be limited with more organizational

¹⁵ The Securities and Exchange Commission, Nigeria

¹⁶ Nigeria SEC to Avoid Cryptocurrencies in Digital Assets Push – Bloomberg

¹⁷ With Two PSB Licences, Telcos Set To Intensify CBN’s Financial Inclusion – Economic Confidential; CBN approves MTN Nigeria’s Momo Payment Service Bank (benjamindada.com)

¹⁸ Why MTN’s MoMo PSB is suing 18 Nigerian banks (benjamindada.com)

checks, it would appear that this is a mere teething problem characteristic of operations in the Nigerian financial sector.

(d) The Regulatory Sandbox

In an effort to stay abreast of innovations within the Nigerian fintech ecosystem while balancing the need to promote a safe, reliable and efficient payment system and delivering on its mandate, the CBN, in 2021, set out a Framework for Regulatory Sandbox Operations.¹⁹ The Regulatory Sandbox is a formal process for companies within the Nigerian Payments System to conduct live tests of new, innovative products, services, delivery channels or business models in a controlled environment, with regulatory oversight, subject to appropriate conditions and safeguards.

Eligibility for participation in the sandbox is open to both existing CBN licensees and other local companies which may include financial sector companies as well as technology and telecom companies intending to test an innovative payments product or service industry deemed acceptable by the CBN. Considering the uniqueness of the financial services sector, the CBN's initiative of a regulatory sandbox presents an advantage to companies operating in the financial services sector as companies participating in the sandbox can access and benefit

from the CBN's expertise to improve their products.

In December 2022, the CBN launched the Sandbox²⁰ and called for applications. In its list of FAQs, the CBN indicated that the areas of interests acceptable into the Sandbox are innovative financial service/products which it deems acceptable. The Sandbox is also open to technologies which are currently not covered under existing CBN regulations. Considering the current stance of the CBN on cryptocurrency, it is unlikely that companies operating in or trading in cryptocurrencies will be admitted into the Sandbox.

2023 Outlook

1. Expansive financial inclusion:

With the involvement of large telecommunications company in the CBN drive to improve financial inclusion and literacy in Nigeria, we project huge success in this regard more than ever before and the adoption of the MTN MoMo and the Airtel Smartcash in the otherwise underserved areas.

2. Fund raising:

It is difficult to tell with certainty whether there would be an increase in the foreign investment attracted by Nigerian fintechs especially as the global economy is predicted to experience a deeper slow down this year.²¹

¹⁹ framework for regulatory sandbox operations.pdf (cbn.gov.ng)

²⁰ Home | Regulatory Sandbox (cbn.gov.ng)

²¹ Here's what could tip the global economy into recession in 2023 | CNN Business



2.6. INTELLECTUAL PROPERTY



Now more than ever, the increasingly digital global economy has emphasized the importance of intellectual property and intellectual property rights. This is particularly as technological innovations are underpinned by creative, innovative and inventive works which are protected by intellectual property laws. The Nigerian intellectual property framework leaves much to be desired as the existing laws are archaic and thus struggle and fail at attempts to cater to the present-day realities.

Notwithstanding the above, the following Bills which are currently been examined by the Nigerian legislature have come up as promising, recent, and important in strategic discussions on the improvement of the legal

framework on the protection and regulation of intellectual property in Nigeria.

Copyright Bill

At the core of the Copyright Bill is an attempt to bring Nigerian copyright law in alignment with global realities. For instance, in consideration of technological innovations, the Bill grants the author of an artistic work the exclusive right to make the work available to the members of the public on-demand whether by wire or wireless means²².

The Bill contains an intriguing provision to the effect that the author of a three-dimensional work or manuscript shall have an inalienable right to a share in the proceeds of any sale of that work

²² Section 10 of the Copyright Bill

or manuscript by public auction or through a dealer²³. This provision raises many questions including the question of traceability. How is the original author to be traced and/or located where the original of the relevant work is to be sold by public auction or through a dealer? The Bill is also not specific as to the exact share of the proceed due to the original owner. In addition, it is hard to tell how the first-sale doctrine fits into this provision.

The Bill recognises compulsory license as a tool for the resetting of the market forces of demand and supply by providing that the Nigerian Copyright Commission may authorise the use of a work by any person for the purpose of rectifying the abuse of a dominant market position. In some other instances, such licenses would be granted for the interest of the public²⁴.

In response to the infringement of protected works aided by technology, the Bill prohibits the intentional circumvention of the technological protection measure(s) installed for the protection of an eligible work. The Bill further criminalises the manufacture, importation and sale of technology, products and services primarily designed and/or offered for the purpose of circumventing technological protection installed for

the protection of an eligible work²⁵. Impressively, a section of the Bill is dedicated to the establishment of a legal framework for the protection of online content²⁶. By the provisions of the Bill, anyone whose eligible work is being infringed online may issue a notice to the service provider requesting for a takedown of the content or a disabling of the link to the content²⁷. Where a service provider receives such a notice, the Bill mandates that the service provider promptly notifies the subscriber directly responsible for the infringement of the existence of such notice. The Bill requires the service provider to take down an infringing content within 48 hours of the receipt of a notice, where the subscriber is unable to provide any justification for the continued keeping of the content complained of²⁸. The Bill also extends the powers of the service provider to suspend the accounts of repeat offenders.

Patents and Designs²⁹

The Patents and Designs Act 1971 constitute the legal framework for the regulation and registration of patents and industrial designs in Nigeria. This is despite the several calls and the equally numerous attempts at its amendment. The latest attempt to amend the Patents and Designs Act of 1971 is the “Bill for an Act to Repeal

²³ Section 17 of the Copyright Bill

²⁴ Section 35 of the Copyright Bill

²⁵ section 50 of the Copyright Bill

²⁶ Part VII of the Copyright Bill

²⁷ Section 54 of the Copyright Bill

²⁸ Section 55 of the Copyright Bill

²⁹ 11067.pdf (nass.gov.ng)

the Patents and Design Act Cap P2 LFN 2004 and Enact the Patents Act 2022 to provide for the protection of inventions and other related matters, 2022” (the “Bill”).

A major improvement contained in the bill is the recognition of international patent applications. Thus, applications filled under designated international or regional Conventions and Treaties may designate Nigeria as a jurisdiction of choice for the registration of the relevant patent or utility model.³⁰ Although intellectual property rights are strictly territorial, international patent applications are generally preferred considering that they grant the inventors flexibility and time to decide the countries in which protection would be sought. Conversely, Nigerians or residents of Nigeria may file international patent applications with the Nigerian patent office which shall act as a receiving office.³¹ In this regard, the Bill recognizes the Patent Cooperation Treaty³² and the Harare Protocol.³³

The Bill also extends its provisions on patents to utility model and applications for utility model. According to the Bill, an invention qualifies for a utility model where it is new and industrially applicable.³⁴

The Bill designates the validity period of a utility model as 7 years from the date

of application. Considering that the requirement for the registration of a utility model is less stringent compared to the process for the registration of a patent, an application for patent may, upon the payment of the prescribed fee be converted to an application for a utility model certificate which shall be deemed to be filed on the date of the initial application. Conversely, the Bill also provides for the conversion of an application for the registration of a utility model to an application for a patent.³⁵

The Bill further establishes a registry for the registration of ownership interests in patents and utility models. Depending on the interest of the relevant parties, the Bill provides for the lodgement of a request for the recording of the change in the ownership of a patent or a utility model³⁶. In this regard, the change in ownership which is required to be published by the Registrar of the Patent Office shall have no effect against third parties until it has been recorded.³⁷

2023 Outlook

In 2023, we anticipate an increase in innovations and technology fusion which will further emphasize the need for an overhauling of the existing intellectual property regime. However, considering antecedents, we can only hope that this is the year that the Bills, as examined above, are passed.

³⁰ Section 19 and 22 of the Patents Bill

³¹ Section 21 of the Patents Bill

³² Section 41 of the Patents Bill

³³ Section 27 of the Patents Bill

³⁴ Section 16 of the Patents Bill

³⁵ Section 17 of the Patents Bill

³⁶ Section 29 of the Patents Bill

³⁷ Section 29 of the Patents Bill



2.7. MEDIA AND ENTERTAINMENT – Film & TV



In 2022, Nigeria's film industry, which has long been one of the world's largest producers of film and video, became a full-fledged key area of interest for subscription-based video-on-demand streaming platforms (SVoD platforms). The struggle for market share became inevitable given the rising demand for streaming services, the influx of new players³⁸ into the local streaming market (most notably, Amazon Prime Video), as well as the expansion efforts of existing platforms.

As a result of this market competition, streaming platforms began to invest in more Nigerian original movies and shows, with many more locally-produced films breaking box office records across the country. More of these investments are expected in 2023.

2023 Outlook

As global interest in Africa's film industry grows, more funding sources will become available. As a result, movies will have higher budgets, which will improve their quality and boost the industry's profitability.

We anticipate increased enforcement of current regulations as well as new regulations and reforms to address the productivity expansion and economic growth. Therefore, it is crucial that projects are carried out with the appropriate guidance.

It is important to note that digital media (particularly social media platforms) and other internet intermediaries would be affected by the recently finalized Code of Practice for Internet

³⁸ <https://techcrunch.com/2022/08/04/amazon-prime-video-launches-local-service-in-nigeria/>

Intermediaries and it is critical to see how regulators aim to enforce this Code against such platforms. Please refer to our review of the Code in Section 5. Advertising in the media and entertainment industry would also

be heavily impacted by the ARCON Act and ARCON local content policies. Please refer to our review of advertising regulatory developments in Section 2.1.

 2.8. TELECOMMUNICATIONS



In comparison with conventional sectors, the Nigerian telecommunications sector is fast becoming the proverbial cash cow of the Nigerian economy considering its contribution to the Nigerian economy in recent years. The Nigerian Investment Promotion Commission (NIPC) estimates that in the first quarter of 2022, the boost in foreign direct investment to the tune of N23.982 Billion Naira is directly traceable to the telecommunications sector.³⁹

The Nigerian telecommunications sector recorded a lot of highs in 2022 including the allocation of the 3.5GHz spectrum for the deployment of the Fifth Generation (5G) network⁴⁰ in regard of which the NCC rolled out a National Policy on Fifth Generation (5G) Networks for Nigeria’s Digital Economy⁴¹ as well as the CBN’s approval of the rendering of payment services by designated telcos.⁴²

³⁹ Nigeria Records N23.982 Billion FDI From Telecom Sector In the First Q1 of 2022 – Nigerian Investment Promotion Commission (nipc.gov.ng)

⁴⁰ News Release: FG officially Hands Over 5G Spectrum Allocation to NCC

⁴¹ National policy on 5G.cdr (ncc.gov.ng)

⁴² With Two PSB Licences, Telcos Set To Intensify CBN’s Financial Inclusion – Economic Confidential

In 2022, the NCC published the drafts of following proposed regulations and guidelines:

- The draft Type Approval Regulation which sets out the parameters within which the connection of communication equipment with connection networks would be approved in Nigeria.⁴³

- The draft Type Approval Business Rules which define the parameters within which the business persons, whether natural or corporate, must operate to validly and legally use or supply communications equipment in Nigeria.

- The draft Guidelines on promotional advertisements which specifies minimum standards and requirements in respect of advertisements of products and services by licensees for the purpose of protecting customers and ensuring ethical marketing and promotional standards by licensees.⁴⁴

- The draft Guidelines on short code operation in Nigeria which sought to replace the existing guidelines for the purpose of ensuring the efficient management of the standard short code service framework in Nigeria and for the prevention of all forms of misuse.

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- The draft Guidelines on technical specifications for the deployment of infrastructure in the communications sector in Nigeria which sets out the standards to be adhered to by stakeholders, players, and operators in the Nigerian communications sector for the purpose of ensuring environmental safety and sound engineering practices.⁴⁶

- The draft consumer code for practice regulations. By the provision of Section 106 of the Nigerian Communications Act 2003, the NCC is vested with the power to designate an industry body to be a consumer forum and to prepare a model consumer code subject to the approval of the NCC. The NCC may also prescribe that licensees (of the NCC) prepare individual consumer code for their respective customers subject to the approval of the NCC. In this regard, the draft regulation prescribes the procedures to be followed by a licensee in preparing approved consumer codes of practice.⁴⁷

43 file (ncc.gov.ng)

44 Guidelines on Advertisements and Promotions _2_ (ncc.gov.ng)

45 file (ncc.gov.ng)

46 file (ncc.gov.ng)

47 file (ncc.gov.ng)

2023 Outlook

In the year 2023, we project the following:

1. **Expansive financial inclusion:** With the involvement of large telecommunications company in the CBN drive to improve financial inclusion and literacy in Nigeria, we project huge success in this regard more than ever before and the adoption of the MTN MoMo and the Airtel Smartcash in the otherwise underserved areas and the new. We also anticipate that this will be further driven by the introduction of CBN's cash withdrawal limit of N500,000 weekly for individual and N5,000,000 weekly for corporate organisations which took effect on January 9 2023.⁴⁸

2. **Detailed legislation on complex and emerging technologies:** The Nigerian Communication Commission (NCC) under the auspices of the Federal Ministry of Communications and Digital Economy is known to be active in keeping up with global realities. Considering that telecommunications is fast moving from physical infrastructure to digital content platforms, in 2023, we anticipate more legislation and/or regulations by the NCC and in other instances, in collaboration with relevant agencies such as the NITDA specifically on complex and emerging technologies such as IoT, AI, Robotics, Blockchain and Quantum Computing.

⁴⁸ <https://www.cbn.gov.ng/Out/2022/CCD/ReNairaRedesignPolicyRevisedWithdrawal.pdf>



Important Filings and Timeline Applicable to Entities in the tech sector

Regulatory Authority	Details of requirement	Timeline
NDPB	Compliance (by all organizations processing personal data) with the NDPR Notice (highlighted above) for whitelisting on the NaDPaP list.	Before January 20 2023
SEC	Annual registration renewal for capital market operators- Issuing Houses/ Merchant Bankers; Underwriters; Brokers/ Dealers; (digital) Sub-Brokers; Receiving Bankers; Registrars; Trustees; Investment Advisers (Corporate and Individual); Fund/ Portfolio Managers; Rating Agencies; Market Makers; Custodians.	January 01- 31, 2023
FIRS	Annual Returns of Pay As You Earn (PAYE) (By Employers)	31st January
	PAYE Returns (By Employers)	10th of every month (following the month of deduction)
	Withholding Tax (WHT>Returns	21st of every month (following the month of the transaction)
	Value Added Tax (VAT>Returns	six (6) months after the end of the company's accounting year (old companies)

	Companies Income Tax	eighteen (18) months from the date of incorporation or six (6) months after the end of the company's first accounting period whichever is earlier. (new companies)
	National Information and Technology Levy	same as above
	Education Tax	same as above
CBN	Application for CBN Regulatory Sandbox Cohort- (highlighted above)	On or before 1st February 2023
NDPB	NDPR Audit filing- Data Controllers that process the personal data of more than 1000 Data Subjects in 6 months are required to submit a soft copy of the summary of a required audit to the NDPB. Where a Data Controller processes the Personal Data of more than 2000 Data Subjects in 12 months shall, the Data Controller is required to submit a summary of its data protection audit to the NDPB.	Before March 15th of every year
CAC	Annual Returns- Company or registered corporate entities are required to file returns annually in the prescribed form provided by CAC.	Within the CAC calendar year which ends on 30th June



Startups

The Nigerian Start Up Act 2022

Since its enactment, the public perception of the Startup Act (the Act) has been that of optimism as it is seen as a step in the right direction – particularly in the technology space. With the enactment out of the way, implementation is the next step in the plan for a sustainable and enabling environment for startups in Nigeria.

A key provision in the Act is the Startup Investment Seed Fund⁴⁹. This fund was established to provide early-stage finance for labelled startups, and relief to technology, laboratories, accelerators, incubators, and hubs. The fund is to be managed by the National Sovereign Investment Authority (NSIA), and it is to be financed annually with a sum of not less than N10,000,000,000 from sources to be approved by the council. While the Act does not specify the source of the financing, it gives the council the discretion to make such a provision. The council must clarify the source of financing the fund to ensure that implementation and utilization of this fund kicks-off.

With the emergence of the Act, there is an increasing need for synergy among

regulators to effectively implement the Act. The Act contains provisions requiring the CAC, NITDA, CBN, SEC, and other regulators to work together to achieve the objectives of the Act.⁵⁰

An exciting practical example of this is the startup support and engagement portal,⁵¹ which is expected to facilitate the issuance of licenses and permits and serve as an interaction point between startups and regulators, investors, accelerators, and other members of the start-up ecosystem.

You can read an in-depth review by Templars of the Start-Up Act [here](#).

The implementation of the NGX Rules for listing Startups and Big Tech

The Nigerian Tech Ecosystem is a burgeoning industry, with startups securing at least US\$2,068,709,445 in funding from 2015 to 2022, making it the highest funding recorded by any country¹. With the growth of Nigerian tech companies and the emergence of unicorns, there is a clamour for these companies to go public and list their shares on the stock exchange. This has led tech companies to consider listing on foreign tech exchanges. In 2019, Jumia, a Nigerian e-commerce

49 Section 19 of the Startup Act

50 Part VIII of the Startup Act

51 Section 10 of the Startup Act

platform, became the first African-focused company to list on the New York Stock Exchange (NYSE).⁵²

In an attempt to attract these tech companies to list on the Nigerian Stock exchange, the Nigerian Exchange Group (NGX) in December 2022 announced

that the Securities and Exchange Commission (SEC) had approved the Rules for Listing on a specialized platform known as the NGX Technology Board (Tech Board).

One of the impediments of

the previous regime operated under the Nigerian Stock Exchange (NSE) Rulebook 2015 is the requirement that companies must have broken even, in their operations before they can list on the main board, they must have a cumulative pre-tax profit from continuing operations of not less than N600 million over the last one or two years or N300 million over the previous three years with at least N100 million pre-tax profit in two years, depending on the listing standard.⁵³

The Tech board allows the Nigerian public to invest in high-tech companies with a high valuation. Under the proposed rules for listing, the Tech Board

is categorized into two segments:⁵⁴

1. Start-up Tech Segment; and
2. Big Tech Segment.

To list on the startup Tech segment of the Tech Board, the issuer shall make a written application to the exchange and execute the appropriate general

undertaking. The exchange might approve the listing of the issuer's securities if the issuer complies with the following⁵⁵:

- The issuer is a public company limited by shares or a private company that registers a public

company or an SPV or Holding company as the company to be listed;

- The issuer has a core investor or technical partner with a minimum of one-year operating track record;
- Has a minimum of two shareholders or such number as determined by the exchange;
- Has been in operation for at least twelve months preceding the application for listing;
- Has an estimated minimum market capitalization of not less than One Million United States Dollars but not above US\$1,000;
- if it is raising capital at the point of listing, has a minimum float requirement of 5% of its issued share capital, or has

Tech Board is categorized into two segments: Start-up Tech Segment; and Big Tech Segment.

⁵² Jumia listed on the New York Stock Exchange | Jumia Group

⁵³ NSE Rulebook 2015, Issuers' Rules, Rule 1.1 (a) (b) (iii)

⁵⁴ Rules for Listing on the Technology Board, Rule 1.3

⁵⁵ Rules for Listing on the Technology Board, Rule 1.1

the value of its free float equal to or above US \$50,000;

- Undertakes to ensure that its promoters or directors retain a minimum of 50% of their shares for a minimum of 6 months from the date of listing, and they do not undertake to sell or offer to sell such securities directly or indirectly during that period;
- Meet other listing requirements as stipulated by the exchange from time to time. Listing on the Big Tech Segment has similar criteria to listing on the startup tech segment save for the following differences⁵⁶.
 - Has a minimum of five shareholders or such number as determined by the exchange;
 - If it is raising capital at the point of listing, has a minimum float requirement of 10% of its issued share capital, or has the value of its free float equal to or above US\$5,000,000;
 - Has achieved a minimum market capitalization of above US\$100,000,000 or equal to \$1,000,000,000.

The creation and future implementation of the NGX tech board and its rules is a step in the right direction to deepen the Nigerian Market and attract capital to companies in the technology sector.

The National Council for Digital Innovation and Entrepreneurship

The Nigerian Startup Act 2022 provides

for establishing the National Council for Digital Innovation and Entrepreneurship (NCDIE)⁵⁷, a corporate body responsible for formulating policies and realizing the objectives of this Act and the overall harmonization of the laws and regulations that affect startups.

As part of the operational structure of the council, the NITDA shall serve as its secretariat and shall, among others, ensure that the Nigerian Digital Innovation, Entrepreneurship, and startup policy (NDIESP) is implemented for the development of the startup ecosystem. The implementation of this provision is reflected in a draft NDIESP policy covering 2020 to 2026 in circulation⁵⁸. The draft policy focuses on 6 priority areas: advancing human capital, unlocking funding, enabling infrastructure, boosting demand, accelerating research and development, and promoting entrepreneurship. The policy provides for establishing a Digital Innovation and Entrepreneurship Advisory Committee to monitor and evaluate the achievement in the Technology sector.

Furthermore, the Minister of Communications and Digital Economy has disclosed that the 12 billion Naira National Digital Innovation and Entrepreneurship Centre will be ready for use in 2023⁵⁹.

⁵⁶ Rules for Listing on the Technology Board Rule 2

⁵⁷ Section 3 of the Startup Act

⁵⁸ Digital Economy: NITDA Launches Policy To Leverage Digital Innovation, Entrepreneurship – NITDA

⁵⁹ N12bn National Digital Innovation, Entrepreneurship Centre to be ready by 2023 – Pantami – Daily Post Nigeria



Tech Regulation and Policy

NITDA Code of Practice for Interactive Computer Service Providers/Internet Intermediaries

The Code of Practice for Interactive Computer Service Platforms/Internet Intermediaries (the “Code”) is a regulatory instrument enacted by NITDA to set out the best practices and expectations of certain digital platforms to combat harmful practices online and make the digital ecosystem safer for Nigerians. The Code regulates Interactive Computer Service Platforms (ICSPs) and Internet Intermediaries (IIs) (together, referred to as “Platforms” under the Code).

ICSPs are electronic mediums or sites where a computer resource provides services for remuneration and on-demand and where users create, upload, share, disseminate, modify, or access information, including websites that provide reviews and gaming platforms.

IIs are defined as social media operators, websites, blogs, media-sharing websites, online discussion forums, streaming platforms, and other similar-oriented intermediaries where services are provided, transactions are conducted, and where users can create, read, engage, upload, share, disseminate, modify, or access information.

These Platform providers have users whose actions would be regulated by the Code, and the Code defines a User as any person resident in Nigeria who is registered or unregistered with a Platform and uses, accesses, publishes, shares, transacts, views, displays, engages, downloads, or uploads any information on the platform.

Thus, Nigerian users of social media platforms such as Twitter, Meta, Instagram, YouTube, etc. would have their content subject to the regulatory scrutiny and other review mechanisms under the Code. The operators of these Platforms are also now subject to regulatory oversight in Nigeria, especially with regards to the obligatory compliance provisions under the Code.

The Code prescribes obligatory provisions that platform providers are required to comply with that broadly relate to the actions of Platform providers where a court order or complaint notice from a user government agency is received, their expected response with respect to unlawful / harmful content, available channels to lodge a complaint, and the steps to take upon receiving such notice or court order. It also prescribes a timeline of 48 hours for takedown requests with respect to unlawful

content. Unlawful content is defined as “content that violates an existing law in Nigeria”.

The Code was signed on 26 September 2022, but will take effect in January 2023. After the execution of the Code, the President reportedly approved certain conditions for the operation of platforms in Nigeria (the “Conditions”). However, the Conditions do not appear to be issued under any express presidential instrument, and there is no specific clarity yet on whether they are issued further to the Code. The Conditions lay down a few additional obligations for compliance by platforms, some of which are already contained in the Code, while some are standard Nigerian law compliance obligations that would have been applicable even without the issuance of the Conditions.

The Draft NITDA Bill

The draft NITDA Bill (the “NITDA Bill”), which seeks to repeal and replace the existing NITDA Act, is another key piece of tech legislation that may be enacted in 2023.

The Bill grants extensive powers and functions to the Agency. Other than being responsible for the development of a framework for regulating the use, development, standardization, research, and application of information technology, merging technology, and digital services⁶⁰, unlike the Act,

the Bill provides that the agency will have the power to issue permits and authorisations for operators in the IT sector.⁶¹

The Bill also retained the provision for the National Information Technology Development Fund⁶², however, it gives the agency some discretion as to the companies that would be liable to pay such levy. This levy of 1% is payable on the profit before tax by companies and enterprises contained in the third schedule with an annual turnover of N100,000,000 (approx. \$221,000) and above.

The Bill also increases the list of companies contained in the third schedule to include foreign digital platforms targeting the Nigerian market, fintech companies, gaming and e-commerce companies, and mobile and telecommunications companies. This provision seeks to capture a larger part of the tech economy under the umbrella of the Agency, thus making all such entities liable to pay the NITDA levy if they meet the annual turnover threshold.

On Friday, 22 December 2022, the National Assembly postponed the public hearing on the NITDA Bill. There has been a lot of controversy surrounding the bill by stakeholders as it is seen as a deviation from the expectation and possibly incompatible with other tech-related laws. The Bill would have notable impacts on the information technology

⁶⁰ Section 10 of the NITDA Bill

⁶¹ section 15 of the NITDA Bill

⁶² Section 16 of the NITDA Bill

industry and digital economy in Nigeria.

NITDA Draft National Data Strategy

With the ever-growing importance of data to a country's economy, the NITDA in its commitment to standardize and develop regulatory frameworks for information technology in Nigeria, in line with the National Digital Economy Policy and Strategy (NDEPS) has developed a draft National Data Strategy (NDS). The strategy aims to provide an action plan for the protection of the personal data of Nigerian citizens and the citizens of other countries. The aim of this is providing a pathway on how the use of data can bring about a positive impact on the future of Nigeria.

NDS describes data as a part of a hierarchy linked to information and knowledge. Data is broadly classified under the NDS as follows:

1. Personal or non-personal data;
2. Private and public data;
3. Data for commercial purposes, governmental and development purposes in different sectors and industries;
4. Real-time data collected from sensing technologies;
5. Data used by companies, including corporate data, human resources data, technical data, and merchant data;
6. Non-structured and structured data;
7. Instant and historic data;

8. Volunteered, observed, and inferred data;

9. Sensitive and non-sensitive data about the country; and

10. Business to business, business to consumer, government to consumer, or consumer to consumer.

The NDS recognizes that there are some challenges facing the country in its attempt to take advantage of the data economy. These challenges include the culture of privacy wherein entities have a natural tendency to keep data to themselves, trust deficits among citizens, data illiteracy, and lack of digital identity.

Despite these challenges, there are various opportunities which will serve as an incentive to drive the implementation of the data strategies and achieve accessibility and economic gains through data. Some of the opportunities are:

- **Population:** The population of the country is a key advantage to the utilization of a data economy. Nigeria, being the largest population in Africa, is the sixth most populous country in the world with about half of the population consisting of youth, there arises a need to provide services to this teeming market. This will drive socio-economic activities and will be a source of opportunity for data in this digital age.

- **Increase in mobile penetration and digital platform services:** The increase in mobile phones and smartphone users in Nigeria as well as the surge in the provision of digital services to our market provides a viable data economy and an opportunity for data utility and data protection.

- **Increase digitalisation of data:** Data has become increasingly digital as most sectors have moved from storing data in their manual form to being solely digital. This digitalization makes data more valuable and promotes a viable data economy.

Ultimately, the goal of NDS is to make data as accessible, shareable, and actionable as possible for all categories of stakeholders who need it for economic and social gains.

To properly utilize the opportunities available, the NDS has espoused seven guiding pillars to help in its pursuit. The pillars are data literacy and skills, data security, data sovereignty, open data, data infrastructure/technology, data harmonization, and data usability.

National Artificial Intelligence Policy

Artificial intelligence as a technological innovation promises an immense impact on socio-economic development on a global scale. The use of AI can increase productivity, create jobs, and have an overall positive impact on the economy. It has been reported that the use of AI can lead to a 14% increase in the global GDP by 2030⁶³.

Due to the immense benefits of AI, countries like the United States, the United Kingdom, China, and others have developed AI frameworks to govern the applicability of AI within their jurisdictions.

In a bid to tap into this emerging technology,

the Minister of Communications and Digital Economy has directed the NITDA to develop a National Artificial Intelligence Policy (NAIP). The objective of this policy is to provide a regulatory framework for Artificial Intelligence, maximize its benefits, mitigate potential risks and address various issues that may arise in the use of AI in our daily lives.

Stemming from its powers under the NITDA Act⁶⁴, the Agency has invited the public and various stakeholders to contribute to the development of this policy.

“It has been reported that the use of AI can lead to a 14% increase in the global GDP by 2030”.

⁶³ <https://www.bloomberg.com/news/articles/2017-06-28/ai-seen-adding-15-7-trillion-as-game-changer-for-global-economy#xj4y7vzkg>

⁶⁴ Section 6 of the Act

Furthermore, the Agency through its special purpose vehicle, the National Center for AI and Robotics (NCAIR), is charged with the responsibility of improving Artificial intelligence, Robotics, the Internet of Things, and other emerging technologies.

2023 Outlook

The Code is arguably the most critical regulatory development from a tech policy perspective in terms of immediate impact in 2023. Considering the high volume of usage of social media and other internet platforms, and the rapid spread of information on such platforms, we may see individuals or government agencies using the Code to file complaints or reports against allegedly infringing content on various internet platforms. Particularly, because Nigeria is in an election year, this could result in internet platforms being inundated with large volumes of controversial political information, which could result in increased numbers of take-down complaints and associated matters in the early part of 2023.

It is crucial to watch how NITDA and other regulatory bodies enforce the Code, how stakeholders react to (or comply with) any complaints made under the Code, and any potential litigation or disputes stemming from the Code, as they would impact on the general usage of many internet platforms in Nigeria.

The NDS is an interesting development which formalized in the latter end of 2022. Critical to the lofty goals of the NDS is feedback and dialogue from stakeholders, a community of data beneficiaries, and data-driven value-creating entities. In November 2022, the NITDA began receiving feedback and submissions on the implementation of the NDS from stakeholders.

Each sector will have its NDS leadership and governance structure, and there will be an overall consolidation of the NDS ecosystem. The NITDA will be responsible for ensuring the coordination of the NDS implementation. We anticipate further developments in the crystallization of the pillars for implementation of the NDS and urge collaboration by all interested parties in this regard.

Recommendations

Government

- (a) We recommend the adoption of more robust stakeholder engagement and consultation processes by regulators with respect to tech eco-system facing laws. Due to the dynamic and consistently changing nature of the digital economy, regulation always plays catchup to innovation and it is important that the drivers of these innovations are right in the center of the consultation process, so that laws that come out of these processes are not just reactionary but also proactive and anticipatory.
- (b) We recommend that more regulatory agencies tow the path of the CBN and the SEC and adopt regulatory sandboxing to encourage innovation and the growth of emerging technologies within their sectors.
- (c) Nigeria is in an election year and a general election and subsequent change of government typically signifies a change in policy direction. We recommend that regulatory agencies as much as possible push for continuity especially with policies and laws that have had great impact on the tech eco-system as a whole.
- (d) Similar to the above, the expiration of the term of legislators has resulted in the stalling of very promising bills before the legislature. We therefore recommend that the current legislature do all that is possible to pass critical bills before them before the expiration of the current tenure.

Big Tech and Start-ups

We anticipate that several laws and regulations will come into force (or be actively enforced) in 2023. Therefore, tech companies should take this waiting period to evaluate their business processes and operations in the light of these laws in their current forms and come up with internal compliance strategies.

Developing internal compliance mechanisms and evaluating any potential difficulties or challenges is particularly crucial for tech companies with respect to key legislation such as the Start Up Act, the Code of Practice for Internet Intermediaries and the draft Data Protection Bill. This will enable ecosystem participants to adapt as quickly as possible to these policy changes as they come, take advantage of any incentives they may provide and prepare for any potential disputes or issues that may arise.

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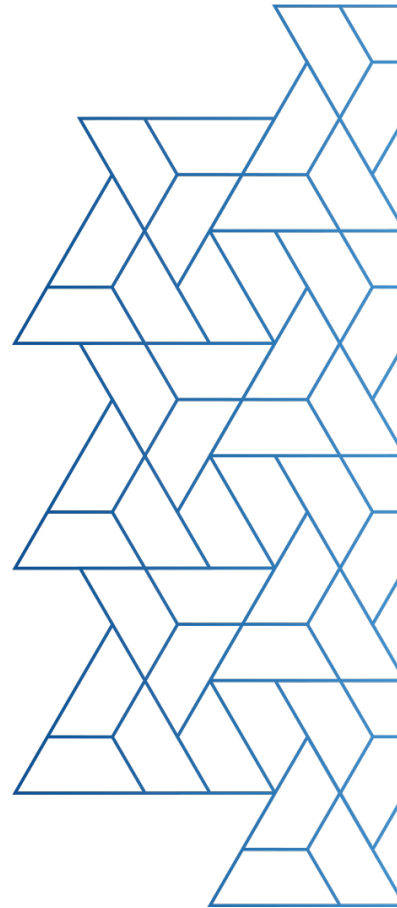
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