

# Nigeria's Imposition of Excise Tax on Phone Calls, Text Messages and Data Usage – Implications on Businesses

22 August 2022

## Introduction

Taxation is not just a tool to generate revenue for the government. It is also deployed to encourage businesses, fight social vices, lift majority of the citizenry out of poverty, and, overall, balance social and economic needs of the society. When a country focuses its attention solely on raising revenues, by all means necessary, for temporal fiscal relief – a path Nigeria currently toes – it destroys long term value for the nation at large since businesses are weakened, shut down and/or migrate to countries with favourable economic climate for profitable business operations.

Nigeria does not have a high rating for “Ease Of Doing Business”. The situation gets worse when overtaxation and unpredictable fiscal policy are found in the mix. Expectedly, this makes it more difficult for businesses to thrive in such environment. Since this is the case, is it justifiable to continue to impose all manner of taxes (such as the recently proposed excise tax on phone calls, text messages and data usages) with the direct consequence of increasing the burdens of running businesses in Nigeria?

We advocate that since Nigeria is desirous of improving its revenue base in this critical period of global economic downturn, it must always conduct regulatory impact assessment on any of its proposed legislations – especially fiscal laws – to determine both the positive and negative implications of such proposed laws before enacting and/or enforcing them. Government must ensure that businesses are not overtaxed because of the wider and negative implications of doing the opposite. Currently, many businesses are closing shops due to inclement conditions of doing businesses in Nigeria. When businesses quit the country, many are thrown into the already saturated labour market to search for non-existent jobs. The implication is the unenviable existence of endemic poverty in the country making it extremely difficult for Nigeria to realise its commitment to the United Nation’s Sustainable Development Goals (“SDGs”), which is a shared blueprint amongst member countries for global peace and prosperity designed for economic prosperity and end to poverty.

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### Nigeria's Imposition of Excise Tax on Phone Calls, Text Messages and Data Usage

Recently, the Federal Government of Nigeria made a call for the imposition of 5% excise tax on phone calls, text messages and data usage. The government is relying on section 21 of the *Customs and Excise Tariff, Etc. (Consolidation) Act* as amended by section 37(2) of the *Finance Act 2020*. This section provides that: “Telecommunication services provided in Nigeria shall be charged with duties of excise at the rates specified under the duty column in the schedule as the President may by Order prescribe pursuant to section 13 of this Act”. Relying on this provision, the President – as announced by the Minister of Finance – approved the imposition of 5% excise duty on mobile calls, text messages and data usage. The minister insisted that this tax must be implemented to the letters – despite opposition to it.

It must be noted that the rate of VAT was raised from 5% to 7.5% in 2020. In addition to the newly introduced excise tax, 7.5% VAT also applies to same GSM calls, text messages and data usage. This brings the total tax on calls, text messages, and data usage to 12.5%. There is no segregation in the application of these taxes. It is flat and blanket in nature.

### Effects of the 12.5% VAT and Excise Duty on businesses in Nigeria

Prompted by the drastic reduction of revenues accruing from the sale of crude oil and intractable rise of the country's debt profile, it seems to the economic managers of Nigeria that one foolproof way of raising money is to increase both tax rate and subject matter taxation – and not necessarily widening the tax net.

Unfortunately, this practice is dangerous to businesses already contending with multiple taxation and unrestrained rise in the cost of doing business in the country. In addition to the strangulation of businesses through overtaxation, the Central Bank of Nigeria (“CBN”) has consistently raised its Monetary Policy Rate (“MPR”). In May this year, the apex bank moved its MPR from 11.5% to 13%. Not up to two months after the hike to 13%, the Monetary Policy Committee of the CBN met in July and further increased its MPR to 14%. The implication of this is a rise in prime lending rate and other lending rates by banks. This further impacts negatively on businesses and the populace at large.

Fortunately, a voice in the Federal Executive Council who understands the negative implications of the Excise Tax on the economy has spoken against it. That voice is Dr. Isa Pantami, the Minister of Communications and Digital Economy. At the recently organised Telecommunication Forum by the Nigeria Office for Developing the Indigenous Telecoms Sector (“NODITS”), the Minister argues that the excise tax is uncalled for. He maintains that the tax will place more burden on the telecommunication industry that is already doing well; and this will further make things difficult for businesses and the populace who are already battling with harsh economic conditions.<sup>1</sup>

Indeed, a responsible government must not only be fixated on the amount of revenue it will generate through taxation. It must also consider the social and economic consequences of such taxes on the economy and the governed in general. Currently, Nigerians are facing severe economic downturn which has left many unemployed in the face of hyperinflation. The latest July 2022 Consumer Price Index (CPI) published by the National Bureau of Statistics confirms the high rise of goods and services with no corresponding rise in earnings of businesses and the populace.

<sup>1</sup> See Sunnewsonline, “Ministers at Loggerheads Over 5% Telecoms Tax Implementation”, online: Sunnewsonline < [Ministers at loggerheads over 5% telecoms tax implementation – The Sun Nigeria \(sunnewsonline.com\)](https://www.sunnewsonline.com/news/ministers-at-loggerheads-over-5-percent-telecoms-tax-implementation/) >

In addition to the galloping inflation, businesses contend with lack of basic amenities. Virtually all social amenities and other basic conditions needed for smooth operation of businesses are lacking in Nigeria. Businesses provide power, water, and security for themselves. Bad road network in the country leads to severe wear and tear that cost businesses a lot. All these frustrate businesses leading many to close shops or migrate to other countries with less bottlenecks. Of note is that there is a global tax competition amongst countries; and Nigeria cannot afford to create a tax-hostile environment in the face of its lack of social amenities that ought to support economic growth. This supports the idea that national tax policy choices create significant externalities that can cause non-state participants behave one way or the other. Such behaviour may not be palatable to the country – especially if it will lead to severe unemployment and endemic poverty amongst the populace.

### Conclusion

Obviously, the imposition of 12.5% tax on mobile calls, text messages and data usage will further exacerbate the already tensed inflationary trend and further squeezes life out of many businesses or forces many to migrate to other countries with favourable economic climate.

Therefore, we advocate that our government should conduct a thorough regulatory impact assessment on the proposed Excise Tax to determine the degree of negative externalities that will accompany it. In fact, from what is on the ground, we contend that the Federal Government should rescind the idea of going ahead with the Excise Tax on mobile Calls, Text Messages and Data Usages.